

Act Number:	09-164	
Bill Number:	6447	
Senate Pages:	5694-5700	7
House Pages:	1637-1665	29
Committee:	Banks: 446-447 Insurance: 1638-1642, 1773-1775	10
	Page Total:	46

S – 594

**CONNECTICUT
GENERAL ASSEMBLY
SENATE**

**PROCEEDINGS
2009**

**VOL. 52
PART 18
5683 – 5943**

mhr
SENATE

290
June 2, 2009

THE CHAIR:

Mr. Clerk.

THE CLERK:

Calendar Page 5, Calendar Number 458, Files
Number 40 and 691, substitute for House Bill 6447, AN
ACT MITIGATING FIRE LOSSES FOR HOMEOWNERS AND BUSINESS
OWNERS, as amended by House Amendment Schedule A,
favorable report of the Committee on Insurance.

THE CHAIR:

Senator Crisco.

SENATOR CRISCO:

Thank you, Mr. President. I move acceptance of
the joint committees' favorable report and passage of
the bill, in concurrence with the House.

THE CHAIR:

Acting on acceptance and approval of the bill,
sir, would you remark further?

SENATOR CRISCO:

Yes, Mr. President. Mr. President, this makes --
this bill makes numerous changes to the standard fire
insurance policy that insurers by law must write in
the state. Specifically, it shortens the time period
that an insurer has to pay a claim from 60 to 30 days.
It allows an insured person and the insurer to agree
in writing to a partial claim payment in advance of

mhr
SENATE

291
June 2, 2009

final claim adjudication, which does not affect the 30-day time period for total payment. It requires an insurer to reduce the total amount due to an insured by an amount of any advanced, partial payment that is made and increases the statute of limitations for filing a lawsuit with respect to a claim under the policy from 12 to 18 months after sustaining a loss.

Mr. President, and members of the circles, House Amendment A clarifies the written agreements for partial claim payments in advance of final claim adjudication be between the insurer and the insured and requires insurers to meet the 30-day time period for total payment, regardless of any advanced payments made.

THE CHAIR:

Thank you, sir.

Will you remark further on House Bill 6447, in concurrence with the House? Senator Caligiuri.

SENATOR CALIGIURI:

Thank you, Mr. President. Mr. President, if I may, I have just a few questions through you to Senator Crisco.

THE CHAIR:

Senator Crisco.

SENATOR CRISCO:

Yes, Mr. President.

SENATOR CALIGIURI:

Thank you, Mr. President. Senator Crisco, the last section of the bill deals with the fire coverage for a condominium policy. And my first question, through you, Mr. President, is: It's my understanding that this coverage is available through a terrorism rider, currently, and that these master policies at issue here have been priced with that in mind.

Through you, to Senator Crisco, why are we making this change and won't making this change have the effect of changing the nature of the products and the way that they were priced in the first instance? Through you, Mr. President.

THE CHAIR:

Senator Crisco.

SENATOR CRISCO:

Thank you, Mr. President. Through you, to Senator Caligiuri, I think first we have to distinguish between commercial and residential. Condominiums are not considered to be residential, and that's an issue that I believe we should address later on. But because of that, the bill requires a condominium master insurance policy to cover a loss directly or indirectly by terrorism, as the Insurance

mhr
SENATE

293
June 2, 2009

Commissioner defines it, until the federal Terrorism Risk program expires. The current law, commercial risk policies including those issued to a condo association may exclude coverage for such a loss if the premiums charged for the policy reflect projected savings from the exclusion and until the Federal Terrorism Insurance Program expires.

Now, the Commissioner has adopted the definition of terrorism used in the 2007 federal law, reauthorizing the federal program.

THE CHAIR:

Senator Caligiuri.

SENATOR CALIGIURI:

Thank you, Mr. President, and I thank Senator Crisco for that response.

Through you, Mr. President, this section will take effect on October 1, '09, if memory serves. My question, through you, Mr. President, to Senator Crisco is whether -- if this takes effect in the middle of a policy year, will the insurer be required to effectively rewrite their policy midstream or will this only affect -- take effect once that policy has come to an end and it's time for renewal? Through you, Mr. President.

THE CHAIR:

mhr
SENATE

294
June 2, 2009

Senator Crisco.

SENATOR CRISCO:

Well, Mr. President, through to
Senator Caligiuri, that is my understanding.

THE CHAIR:

Senator Caligiuri.

SENATOR CALIGIURI:

Just to be clear; just I want to be clear, for
the record. Is it Senator Crisco's understanding that
it will not take effect until the renewal period for
the policy? Through you, Mr. President.

THE CHAIR:

Senator Crisco.

SENATOR CRISCO:

Mr. President, through you, to Senator Caligiuri,
yes.

THE CHAIR:

Senator Caligiuri.

SENATOR CALIGIURI:

Thank you, Mr. President, and I thank
Senator Crisco. I have no further questions for
Senator Crisco.

I would just say by way of comment that I think
overall the bill is a good bill, but this particular
section gives me concern because, as I indicated, the

mhr
SENATE

295
June 2, 2009

market already provides for this coverage in the form of a rider, and I'm concerned that we will be changing the market for this product and for the way that they're priced in a way that ultimately may not be in the best interest of consumers. And that's why I will be voting against this legislation. Thank you, Mr. President.

THE CHAIR:

Thank you, sir.

Will you remark further on House Bill 6447? Will you remark further on House Bill 6447?

Senator Crisco.

SENATOR CRISCO:

Let's -- I would ask for a roll call vote, Mr. President.

THE CHAIR:

A roll call vote will be ordered. Any further discussion on House Bill 6447? If not, Mr. Clerk, please call for a roll call vote. The machine will be open.

THE CLERK:

Immediate roll call has been ordered in the Senate. Will all Senators please return to the chamber. Immediate roll call has been ordered in the Senate. Will all Senators please return to the

mhr
SENATE

296
June 2, 2009

chamber.

THE CHAIR:

Have all Senators voted? If all Senators have voted, please check your vote. The machine will be closed. The Clerk will call the tally.

THE CLERK:

Motion is on passage of House Bill 6447:

Total Number Voting	36
Those voting Yea	24
Those voting Nay	12
Those absent and not voting	0

THE CHAIR:

The bill passes.

Senator Looney.

SENATOR LOONEY:

Thank you, Mr. President. Mr. President, would move for immediate transmittal to the House of Representatives of Calendar Page 3, Calendar 247, House Bill 5177, as amended in the Senate.

THE CHAIR:

Seeing no objection, sir, so ordered.

SENATOR LOONEY:

Thank you, Mr. President. Mr. President, would now ask the Clerk to call the Consent Calendar.

THE CHAIR:

H – 1042

**CONNECTICUT
GENERAL ASSEMBLY
HOUSE**

**PROCEEDINGS
2009**

**VOL.52
PART 6
1609 – 1946**

rgd
HOUSE OF REPRESENTATIVES

62
April 14, 2009

locked and the Clerk will please take a tally. Clerk will please announce the tally.

THE CLERK:

House Bill 6235, as amended by House A.

Total Number Voting 145

Necessary for Passage 73

Those voting Yea 97

Those voting Nay 48

Those absent and not voting 6

SPEAKER DONOVAN:

The bill as amended passed.

Will the Clerk please call Calendar Number 91.

THE CLERK:

On page 2, Calendar 91, substitute for House Bill Number 6447, AN ACT MITIGATING FIRE LOSSES FOR HOMEOWNERS AND BUSINESS OWNERS, favorable report of the Committee on Insurance and Real Estate.

SPEAKER DONOVAN:

Representative Megna.

REP. MEGNA (97th):

Thank you, Mr. Speaker. I -- Mr. Speaker, I move for acceptance of the joint committee's favorable report passage of the bill.

SPEAKER DONOVAN:

rgd
HOUSE OF REPRESENTATIVES

63
April 14, 2009

The question before the chamber is acceptance of the joint committee's favorable report and passage of the bill. Will you remark?

REP. MEGNA (97th):

Thank you, Mr. Speaker. Mr. Speaker, in statute, we have what we call a standard fire insurance policy. And what that does, that creates a minimum policy that is to be underwritten for home owner and commercial lines insurance policies here in the state.

What this bill does, Mr. Speaker, is it establishes certain changes -- minimums that are in that standard fire insurance policy. What it does is it says the insurer shall issue a check within 30 days, not 60 days, which is currently the statute, following an -- reaching an agreement and establishing a proof of loss. The bill also puts into language that the policyholder can ask for an advanced payment, if so, and that will be credited against the total amount of the claim payable under the policy. And the reason why we're doing that is under the policies that are written in this state, there really is no language in terms of advanced payments -- that we wanted to put that into language to allow homeowners and commercial property owners to request an advanced payment if they

need it. Quite often, after a devastating fire or some other casualty, money is needed immediately and an advanced payment really is helpful to the homeowner or two that business owner.

Number three, this bill sets a minimum of 18 months that a policyholder can bring an action against a carrier following the loss. Currently, there's a one-year minimum. This will raise it to 18 months and the reason why we are doing that is quite often, on large losses, the loss, the adjustment of the claim, the handling of the claim goes on for several years, in fact. And sometimes, the policyholder may be forced to bring an action when there's no action needed just to protect himself under the policy once the one-year limit goes by.

Number four, what this bill does, Mr. Speaker, is reinstates the peril of fire for terrorism for the condominium association master policies. Several years ago we passed a law this chamber that pulled out the peril of fire as a result of terrorism for commercial policies. This reinstates it for master policies, condominium association master policies. And really all it does is just say -- just says if, as a result of a peril of terrorism, the building somehow

burns, that the peril of fire is covered. It doesn't prevent an insurer from deny -- not covering for terrorism for other perils, whether it's vehicle damage or even explosion or -- ever what it might be. But in the event that the condominium association building catches fire as a result of terrorism, then it would be covered under the basic policy issued in the state.

The peril of fire, Mr. Speaker, is really an important peril, which I believe is why we have the standard fire policy put into law. And we need to protect that peril to make sure that that basic peril is covered under policies here in the state.

Mr. Speaker, the Clerk is in possession of the LCO 5608. I ask that it be called and I be permitted to summarize.

SPEAKER DONOVAN:

Will the Clerk please call LCO Number 5608, which will be designated House Amendment Schedule A.

THE CLERK:

LCO Number 5608, House A, offered by
Representatives Fontana and Megna.

SPEAKER DONOVAN:

Representative seeks leave of the chamber to

rgd
HOUSE OF REPRESENTATIVES

66
April 14, 2009

summarize. Is there any objection to summarization?
Hearing none, Representative Megna, you may proceed
with summarization.

REP. MEGNA (97th):

Thank you, Mr. Speaker. Mr. Speaker, this
amendment simply clarifies the intent of the
underlying proposed bill with regard to advanced
payments. Just clarifying that the payment is due
within 30 days, even though an advanced payment is
requested by the policyholder. I move its adoption,
Mr. Speaker.

SPEAKER DONOVAN:

The question before the chamber is on adoption of
House Amendment Schedule A. Do you care to remark on
the amendment? Care to remark on the amendment? If
not, let me try your minds. All those in favor of the
amendment, please signify by saying, aye.

REPRESENTATIVES:

Aye.

SPEAKER DONOVAN:

All those opposed, nay.

The ayes have it. The amendment is adopted.

Remark further on the bill as amended? Remark
further on the bill as amended? Representative

rgd
HOUSE OF REPRESENTATIVES

67
April 14, 2009

Cafero.

REP. CAFERO (142nd):

Thank you, Mr. Speaker. Mr. Speaker, a question through you to the proponent of the bill.

SPEAKER DONOVAN:

Please proceed.

REP. CAFERO (142nd):

Thank you. Through you, Mr. Speaker, Representative Megna, is -- do I understand this too -- Will this now require condominiums to carry terrorism insurance? Through you, Mr. Speaker.

SPEAKER DONOVAN:

Representative Megna.

REP. MEGNA (97th):

Through you, Mr. Speaker, no it does not, Representative Cafero. It just simply says that under the basic policy that a condominium association will have, the peril of fire is covered and can't be excluded if it's the result of terrorism. The condominium association can still go out and purchase a terrorism policy, which would be for other perils that result from terrorism, say, vehicle damage or possibly even explosion. But the peril of fire, if it resulted from terrorism, would be covered.

rgd
HOUSE OF REPRESENTATIVES

68
April 14, 2009

So, to clarify, through you, Mr. Speaker, that the association can still go out and purchase terrorism insurance but that would be for all other perils, aside from the peril of fire.

SPEAKER DONOVAN:

Representative Cafero.

REP. CAFERO (142nd):

Okay. I think I understand what you're saying. Through you, Mr. Speaker, right now, you're saying a typical condominium policy has coverage for fire, perilous fire, however, the way our laws are, an insurance company, if that fire was a result of a terrorist attack, our insurance companies could claim that they don't have to pay. Is that correct, through you, Mr. Speaker, and we're saying that they now do? Through you, Mr. Speaker.

SPEAKER DONOVAN:

Representative Megna.

REP. MEGNA (97th):

Yes. With regard -- current -- that's currently the practice with personal lines, which would be a homeowner policy. And that would also hold true with, if this bill passes, with condominium associations. If the peril of fire is a result, it will be covered,

rgd
HOUSE OF REPRESENTATIVES

69
April 14, 2009

because that will be the -- within a standard fire insurance policy by statute. I don't know if I answered your question. Through you, Mr. Speaker.

SPEAKER DONOVAN:

Representative Cafero.

REP. CAFERO (142nd):

Thank you. Through you, Mr. Speaker, I think you did, Representative Megna. My question is, do you anticipate that the premiums for policies, because of the change in this law, will now go up to condominium associations? Through you, Mr. Speaker.

SPEAKER DONOVAN:

Representative Megna.

REP. MEGNA (97th):

Through you, Mr. Speaker, no, I do not.

SPEAKER DONOVAN:

Representative Cafero.

REP. CAFERO (142nd):

And through you, Mr. Speaker, I guess I would ask why, only because it seems that we're saying to an insurance company, you now have to cover an incident that you, at least, beforehand, did not have to cover. I have to make that assumption, because otherwise, we wouldn't be doing this bill. But -- so then, I'm

wondering why that wouldn't be an additional risk in the mind of the insurance company to cause them to raise their premium. Through you, Mr. Speaker.

SPEAKER DONOVAN:

Representative Megna.

REP. MEGNA (97th):

The -- a few people, through you, Mr. Speaker, a few had approached me and said, hey, is this a mandate? Are we mandating that they have fire insurance for terrorism? And my response was that fire, the basic policy covered fire since the start of issuing property policies. And we thought it was important that the peril of fire be protected and that it be equal to that personal lines policies, because for people who live in condominium associations, that is their homeowner policy.

Unfortunately, it's called a commercial policy and when we passed the law a few years ago, it excluded that for the peril of fire for terrorism. And we had agreed at that time that we should not disrupt the peril of fire for personal lines, but since a master policy is a commercial policy, it kind of fell by the wayside, which is why we decided to do that this year. But I didn't receive much opposition

or analysis through the industry in terms of an increase in premiums as a result of this. Through you, Madam Speaker.

Deputy Speaker Kirkley-Bey in the Chair.

DEPUTY SPEAKER KIRKLEY-BEY:

Representative Cafero.

REP. CAFERO (142nd):

Good morning, Madam -- good afternoon, Madam Speaker. Madam Speaker, through you, I guess, now, I'm really confused because I think what I heard Representative Megna say is a few years ago we passed a law that specifically excluded from coverage perilous fire as a result of terrorism, and now we are including it. So it sounds to me that, at one point, there was an affirmative decision made by this General Assembly, and thereupon, relied on by insurance companies that that would not be covered. And now we're making a policy decision saying it should be covered. So I guess my question is, why would that not be considered an additional mandate, if you will, on condominiums and insurance companies to cause the price to go up? And my second question would be, and

I have to assume this is not the case, but I don't know, has there been an incidence of terrorism where a condominium was damaged; they made a claim and it was denied based on the fact that the insurance company said, we don't have to cover fire from terrorist attack? Through you, Madam Speaker.

DEPUTY SPEAKER KIRKLEY-BEY:

Representative Megna.

REP. MEGNA (97th):

Through you, Madam Speaker, I don't know of any incident or I haven't heard of any instant -- incident like that. Through you, Madam Speaker.

DEPUTY SPEAKER KIRKLEY-BEY:

Representative Cafero.

REP. CAFERO (142nd):

Thank you, Madam Speaker. I guess some of the frustration I have, especially at this time of the year, is why do we do these things? If there was never a question about terrorism and coverage for a condominium association, one way or the other, then what the heck are we doing? Why are we doing this, especially, running risk that it might be seen as a mandate and therefore, require the cost to go up? Why are we doing this? Is there an incident of terrorism

that affected a condominium that they made a claim and the insurance company said, no, we don't have to pay that because we don't cover terrorism. I think I got the answer that, no, it never happened.

So why are we doing it? And that's what I guess my question, my final question, through you, Madam Speaker, would be to the good Representative.

DEPUTY SPEAKER KIRKLEY-BEY:

Representative Megna.

REP. MEGNA (97th):

Through you, Madam Speaker, in fact I'll -- I actually didn't answer one of your last questions, but I think it's sort of the same. When that law was passed in this chamber several years ago it was the intent to not do it for condominium associations, because it was believed that, hey, we're not doing it to homeowners because we don't believe we should pull the peril of fire for terrorism out of the standard fire policy for homeowners and we shouldn't do it for homeowners who live in condominium associations.

Their master policies are commercial policy, so the idea behind this or the premise behind it, one of it is, through you, Madam Speaker, is the original intent of the law that was passed in this chamber

rgd
HOUSE OF REPRESENTATIVES

74
April 14, 2009

three or four years ago. Through you, Madam Speaker.

DEPUTY SPEAKER KIRKLEY-BEY:

Representative Cafero.

Thank you. Will you remark further?

Representative D'Amelio, you have the floor, sir.

REP. D'AMELIO (71st):

Good afternoon, Madam Speaker.

DEPUTY SPEAKER KIRKLEY-BEY:

Good afternoon.

REP. D'AMELIO (71st):

It's nice to see you up there this afternoon.

Madam Speaker, just to continue the discussion on the terrorism bill, through you, to Representative Megna.

All commercial properties in the state purchase terrorism insurance. How does that differ with the condominium associations?

DEPUTY SPEAKER KIRKLEY-BEY:

Representative Megna.

REP. MEGNA (97th):

Through you, Madam Speaker, the basic policy is the same, whether it's a commercial building or a, more or less, a condominium association. When they -- when a company goes out and purchases terrorism insurance, an association can purchase it or they

rgd
HOUSE OF REPRESENTATIVES

75
April 14, 2009

don't have to purchase it. So there, really, through you, Madam Speaker, there really is no difference. The actual language -- the policy can be the same, whether it's a commercial policy or it's a condominium association policy, master policy.

DEPUTY SPEAKER KIRKLEY-BEY:

Representative D'Amelio.

REP. D'AMELIO (71st):

Through you, Madam Speaker, so we're not mandating that condominium associations purchase this insurance. They have the option to purchase it, and if that's so, what excludes them from purchasing it now without this bill?

DEPUTY SPEAKER KIRKLEY-BEY:

Representative Megna.

REP. MEGNA (97th):

Actually, that's a good point. Through you, Madam Speaker, that even with the passage of this, there will -- I'm sure there will be associations that purchase terrorism insurance, because this actually, really, just protects the peril of fire and there can be many different types of perils that result by terrorism.

So this bill may not, and probably does not

impact too much whether or not they have to purchase terrorism insurance. Through you, Madam Speaker, a condominium association.

DEPUTY SPEAKER KIRKLEY-BEY:

Representative D'Amelio.

REP. D'AMELIO (71st):

Thank you, Madam Speaker. Representative Megna, you stated two years ago we didn't allow condominium associations to purchase this coverage. I couldn't hear right. Am I correct in saying that?

REP. MEGNA (97th):

No. Through you, Madam Speaker, no, actually, probably all along -- the standard fire policy is really just a minimum. What's sold out there on the marketplace can differ greatly. It can include many perils, including but not limited to terrorism. And prior to 911, it probably did, but after 911, some of the insurers may have started excluding terrorism and selling it separately from the basic policy, pulling it out of the basic policy and selling it separately as an endorsement or another policy. That still will go on with the passage of this bill. This bill really just deals with the peril of fire on condominium associations that result from terrorism.

rgd
HOUSE OF REPRESENTATIVES

77
April 14, 2009

DEPUTY SPEAKER KIRKLEY-BEY:

Representative D'Amelio.

REP. D'AMELIO (71st):

Okay. Just so I could understand it, through you, Madam Speaker, I believe it was in 2002, the federal government passed the Terrorism Risk Insurance Act, and they basically backed any losses of -- through act of terrorism. Are we now changing policy in the state where, even if a condominium association does not have this insurance, this terrorist insurance backed by the federal government, that we will now be paying for it through just fire loss -- they will be paying for it, the insurance company? Through you, Madam Speaker.

DEPUTY SPEAKER KIRKLEY-BEY:

Representative Megna.

REP. MEGNA (97th):

I'm not very knowledgeable on the federal terrorism insurance act, and so I can't really comment on it, but I would imagine it would fall under that act even though it's included under the basic standard fire insurance policy. Through you, Madam Speaker.

DEPUTY SPEAKER KIRKLEY-BEY:

Representative D'Amelio.

REP. D'AMELIO (71st):

Through you, Madam Speaker, commercial properties out there are given a choice to buy coverage regarding terrorism. And to my knowledge, is backed by the federal government. If there's a terrorist act and your property was consumed by fire or, you know, whatever, because of an act of terrorism, it would be fully covered, but that coverage actually comes from the federal government, the way I understand it.

Now, if we're changing policy, saying that if a condominium association doesn't purchase this terrorism insurance, but they have a fire that is due to a terrorist act, that they're still be covered. I'm just wondering where that money is going to come from. Is it coming through the insurance company, from the insurance company? If they choose not to buy this coverage, this terrorist coverage, who's going to pay that?

DEPUTY SPEAKER KIRKLEY-BEY:

Representative Megna.

REP. MEGNA (97th):

Through you, Madam Speaker, condominium associations can still buy terrorism insurance. And they may buy it to cover themselves for perils as a

result of terrorism. If there's a terrorist act and a condominium association burns, more or less, then the insurer would have to pay for it under the base, the standard fire insurance policy, which is the basic limitation of the policy that's issued in the state. Through you, Madam Speaker.

DEPUTY SPEAKER KIRKLEY-BEY:

Representative D'Amelio.

REP. D'AMELIO (71st):

No further questions, Madam Speaker. I want to thank Representative Megna for his answers in trying to clarify this issue. Unfortunately, I will not be supporting this bill because I believe there's too many unanswered questions when it comes to that part of it regarding the terrorism. To my knowledge, all commercial properties in the state of Connecticut can purchase, along with condominium associations, can purchase terrorism insurance. However, I believe if there is an act of terrorism, the money to pay for any loss because of that act comes from the federal government and this actually changes the policy. And I don't know what it will do to our fire rates here in the state of Connecticut by passing this legislation. So, you know, for that reason I'll be opposing this

rgd
HOUSE OF REPRESENTATIVES

80
April 14, 2009

bill. Thank you.

DEPUTY SPEAKER KIRKLEY-BEY:

Thank you. Representative Sawyer, you have the floor, ma'am. Representative Megna, prepare yourself for possible questioning.

REP. SAWYER (55th):

Thank you, Madam Speaker. Through you to Representative Megna, please.

DEPUTY SPEAKER KIRKLEY-BEY:

Please proceed.

REP. SAWYER (55th):

Thank you, ma'am. I've been listening to the debate, Representative Megna, and then I went to the bill analysis. And I guess I'm even more confused than I was before.

If I might, it says, and I apologize for reading, but it says that the 2002 Federal Terrorism Risk Insurance Act was passed. And then in 2007, there was a reauthorization act that was passed. And then it says under the federal act, insurers must offer coverage for loss caused by terrorism to all commercial insureds, at the initial policy offer and at renewal. The act prohibits the coverage from differing materially from the terms amount in

limitation application to losses arising from
non-terrorist acts.

Madam Speaker, my question is, having read that,
doesn't federal law already mandate that these
policies, at their renewal, will have this in it
already? Through you, Madam Speaker.

DEPUTY SPEAKER KIRKLEY-BEY:

Representative Megna.

REP. MEGNA (97th):

I apologize, Madam Speaker, could you please
repeat that?

DEPUTY SPEAKER KIRKLEY-BEY:

Representative Sawyer.

REP. SAWYER (55th):

Absolutely. In looking at the bill analysis, it
says that under the federal act, in -- and this is
referring to the reauthorization act of 2007, that
insurers must offer coverage for loss caused by
terrorism to all commercial insured at the initial
policy offer and at the renewal. So what I believe
that says is that the federal government already says
that they have to include it in the policy the next --
at the next offer, if I'm reading that correctly. And
I wondered if Representative Megna could share with me

rgd
HOUSE OF REPRESENTATIVES

82
April 14, 2009

if I'm reading it correctly. Through you, Ms. --
Madam Speaker.

DEPUTY SPEAKER KIRKLEY-BEY:

Representative Megna.

REP. MEGNA (97th):

Yes, Madam Speaker, that's correct. Through you,
Madam Speaker.

DEPUTY SPEAKER KIRKLEY-BEY:

Representative Sawyer.

REP. SAWYER (55th):

Okay. Then if it's required by the federal
government, that it's already going to be there, why
do we have to put it this bill and have it placed here
if it's already a requirement? Through you, Madam
Speaker.

DEPUTY SPEAKER KIRKLEY-BEY:

Representative Megna.

REP. MEGNA (97th):

Through you, Madam Speaker, this is the peril of
fire and a terrorism policy would cover for many, many
perils, if not all perils. Maybe there's, generally
speaking -- I mean, I don't know how many perils can
be a result of terrorism. So it's referring to a
comprehensive terrorism insurance policy, which still

would be purchased. However, with the passage of this bill, if it passes, the peril of fire would be covered. The association would not have to purchase terrorism insurance if they felt comfortable that they didn't want to purchase it, that their basic peril of fire is covered and they have coverage for other perils. They may not want to purchase it. That gives them the ability to really not purchase it, but when you pull the peril of fire out of the standard fire insurance policy, it kind of, more or less, creates more of a marketplace for terrorism insurance. And we're just trying to protect that basic peril of fire and if an association would like to go and purchase terrorism insurance, they could. Through you, Madam Speaker.

DEPUTY SPEAKER KIRKLEY-BEY:

Representative Sawyer.

REP. SAWYER (55th):

Thank you, Madam Speaker. Okay. I appreciate the answer. I don't think it helps me understand the clarity, because it also says in this piece that we have under the analysis that the federal act prohibits the coverage from differing materially in terms, amounts and other limitations applicable to losses

rgd
HOUSE OF REPRESENTATIVES

84
April 14, 2009

arising from non-terrorist acts. So it's putting terrorists and non-terrorist acts on the same footing, so that you'd be covered if it were a terrorist act or a non-terrorist act, which makes sense. But the federal government has already done it.

So I guess, I'm confused as to why fire is being carved out for condominiums under commercial when it's already, according to the Office of Fiscal Analysis or OLR, describes it this way. And maybe I'm missing a piece to that. Through you, Madam Speaker.

DEPUTY SPEAKER KIRKLEY-BEY:

Representative Megna.

REP. MEGNA (97th):

I'm sorry, Madam Speaker. Please rephrase the question. Through you, Madam Speaker.

DEPUTY SPEAKER KIRKLEY-BEY:

Please keep your voices down. The debate going on between these two legislators; neither of them are hearing very well. I would greatly appreciate it.

Representative Sawyer, could you please repeat your question for Representative Megna?

REP. SAWYER (55th):

Yes, ma'am, and I'll try and speak up. The third paragraph under the report says that the act -- I

apologize. The last sentence of the second paragraph, the act prohibits the coverage from differing materially from the terms, amounts and other limitations applicable to losses arising from non-terrorist acts. So it's putting non -- from what I'm reading, putting -- is it, Representative, putting non-terrorist acts and terrorist acts then on the same playing field? Through you, Madam Speaker.

DEPUTY SPEAKER KIRKLEY-BEY:

Representative Megna.

REP. MEGNA (97th):

Yes, that could be, Madam Speaker. But please remember that there are many different perils. Through you, Madam Speaker.

DEPUTY SPEAKER KIRKLEY-BEY:

Representative Sawyer.

REP. SAWYER (55th):

Thank you, Madam Speaker. Then why did -- why is it necessary, under Connecticut law, this is what I'm trying to understand, why under Connecticut law is fire being specifically carved out? Through you, Madam Speaker.

DEPUTY SPEAKER KIRKLEY-BEY:

Representative Megna.

rgd
HOUSE OF REPRESENTATIVES

86
April 14, 2009

REP. MEGNA (97th):

Through you, Madam Speaker, the intent, when we did that law, was to not impact personal lines. So if you'd notice that section of the law just refers to commercial policies. Unfortunately, a condominium association master policy is really the homeowner policy for somebody who owns a condominium. We wanted to protect the peril of fire for all homeowners, whether you live in an association or you're a homeowner, hence, is the reason why we're protecting the peril of fire under the standard fire insurance policy. Through you, Madam Speaker.

DEPUTY SPEAKER KIRKLEY-BEY:

Representative Sawyer.

REP. SAWYER (55th):

Thank you, Madam Speaker. Would not the federal law, as I read it, have mandated, with or without the passing of this bill, that all policies at their renewal have to cover terrorism? Through you, Madam Speaker.

DEPUTY SPEAKER KIRKLEY-BEY:

Representative Megna.

REP. MEGNA (97th):

Through you, Madam Speaker, I believe they're

rgd
HOUSE OF REPRESENTATIVES

87
April 14, 2009

referring to a terrorism insurance policy that would have to be purchased in addition to the basic property policy of the association. Through you, Madam Speaker.

DEPUTY SPEAKER KIRKLEY-BEY:

Representative Sawyer.

REP. SAWYER (55th):

I thank the gentleman for his answer because that's -- if -- and that being the case, that certainly was not made clear in the underlying analysis, which I think is where the confusion came from.

And one further question, through Representative -- to Representative Megna, through you, Madam Speaker, is this intended to supplant, then, terrorism insurance as a type of insurance that people can buy? Through you, Madam Speaker.

DEPUTY SPEAKER KIRKLEY-BEY:

Representative Megna.

REP. MEGNA (97th):

I -- through you, Madam Speaker, no, it's not. It's just intended to protect the association from the peril of fire. Many of the associations do not purchase terrorism insurance because they weigh out

rgd
HOUSE OF REPRESENTATIVES

88
April 14, 2009

the risk, but it's just meant to protect them from fire under the standard fire insurance policy.

Through you, Madam Speaker.

DEPUTY SPEAKER KIRKLEY-BEY:

Representative Sawyer.

REP. SAWYER (55th):

Thank you, Madam Speaker. Well, I guess I would say then -- through -- ask a question, one further question then, Representative Megna, if this does -- is included, and I heard you say to Representative Cafero that you did not think it was going to increase an insurance policy -- would this actually save condominium owners from having to buy terrorism insurance, through the master policy? Through you, Madam Speaker.

DEPUTY SPEAKER KIRKLEY-BEY:

Representative Megna.

REP. MEGNA (97th):

Through you, Madam Speaker, it could, in a sense, or it could weigh out their ability or assessment of it and analysis of it. And they may say hey, we're protected for fire. I know we're not protected for vehicle damage, airplane damage or whatever other peril may be caused, even possibly explosion, if

rgd
HOUSE OF REPRESENTATIVES

89
April 14, 2009

there's not the peril of fire incorporated with it. And it may help them determine whether or not to have that extra expense of going out and purchasing a terrorism policy. Through you, Madam Speaker.

DEPUTY SPEAKER KIRKLEY-BEY:

Representative Sawyer.

REP. SAWYER (55th):

Thank you, Madam Speaker and I appreciate the Legislator's time. And I'm still a little confused about the requirements out of the federal government, but I thank him for his answers.

DEPUTY SPEAKER KIRKLEY-BEY:

Will you remark? Will you remark further on the bill as amended? Will you remark further on the bill as amended? If not, staff and guests please come to the well. Members take your seats. The machine will be open.

THE CLERK:

The House of Representatives is voting by roll call. Members to the chamber. The House is voting by roll call. Members to the chamber, please.

DEPUTY SPEAKER KIRKLEY-BEY:

Have all members voted? Have all members voted? Please check the board to see that your vote has been

rgd
HOUSE OF REPRESENTATIVES

90
April 14, 2009

properly cast. The machine will be locked and the Clerk will prepare the tally. Will the Clerk please announce the tally?

THE CLERK:

House Bill 6447 as amended by House A.

Total Number Voting 146

Necessary for Passage 74

Those voting Yea 107

Those voting Nay 39

Those absent and not voting 5

DEPUTY SPEAKER KIRKLEY-BEY:

The bill as amended passes.

Will the Clerk please call Calendar Number 306.

THE CLERK:

On page 15, Calendar 306, substitute for House Bill 6512, AN ACT CONCERNING THE ELECTRIC CONTRACT PROCUREMENT PROCESS, favorable report of the Committee on Energy and Technology.

DEPUTY SPEAKER KIRKLEY-BEY:

Representative Nardello, you have the floor, ma'am.

REP. NARDELLO (89th):

Thank you, Madam Chair. I move acceptance of the joint committee's favorable report and passage of the

**JOINT
STANDING
COMMITTEE
HEARINGS**

**BANKS
PART 2
282 – 487**

2009

RICHARD BLUMENTHAL
ATTORNEY GENERAL



55 Elm Street
P.O. Box 120
Hartford, CT 06141-0120

Office of The Attorney General
State of Connecticut

**TESTIMONY OF
ATTORNEY GENERAL RICHARD BLUMENTHAL
BEFORE THE BANKS COMMITTEE
FEBRUARY 24, 2009**

I appreciate the opportunity to comment on Senate Bill 953, An Act Concerning Hedge Funds, House Bill 6447, An Act Concerning the Licensing of Hedge Funds and Private Capital Funds and House Bill 6480, An Act Requiring the Disclosure of Financial Information to Prospective Investors in Hedge Funds and Private Capital Funds.

These legislative proposals seek to establish a regulatory framework and investor protections for hedge fund which currently operate without any meaningful legislation or oversight by federal or state governments. Hedge funds inhabit a regulatory black hole. I urge the committee to consider the attached legislative proposal as an alternative to Senate Bill 953 and House Bills 6447 and 6480.

Hedge fund integrity is critically important to our country's economy. Increasingly, retailization of hedge funds means that ordinary investors -- no longer only the wealthy, sophisticated ones -- have a material stake in them. So do charitable institutions, school endowments and pension funds. Hedge funds account for a huge proportion -- some statistics say about one half -- of all trading on major exchanges. And as we have learned to our sorrow, they use leveraging and debt devices that raise both their sway and susceptibility in market shifts. They are also activist shapers of corporate strategy and management.

The challenge is to achieve greater accountability and disclosure -- appropriate investor protections -- without stifling or impeding their contributions to market efficiency and capital accumulation.

Federal measures are preferable. National standards and rules are appropriate because federal agencies have the resources and expertise as well as the authority to make enforcement effective. But, in the current regulatory black hole, states must act.

The trend toward increasing transparency is inevitable. As hedge funds themselves raise capital in more conventional ways -- going public, selling bonds and unsecured securities -- they must play by rules requiring disclosure. Risk disclosure and risk control are two key elements. There must be adequate, accurate transparency as to how much risk, in what forms, an investor can anticipate and whether controls exist to assure that risk strategies are followed and internally enforced. Investor due diligence may achieve such disclosure for many but not all investors. Some hedge fund investors need help.

The legislative measure requires state registration by any hedge fund based in Connecticut or soliciting or providing services to investors here. The burdens of registration would be minimal, but the benefits in accountability and enforcement could be substantial. Registration would not be required if the hedge fund registers with the United States Securities and Exchange Commission pursuant to the Investment Advisors Act of 1940.

This proposed legislation requires hedge fund managers to disclose to each investor and prospective investor any financial or other interests that the manager has which may conflict with the interests of the hedge fund or its investors. The manager also must disclose to current investors on a quarterly basis the hedge fund investment strategy and philosophy.

Annually, the manager must provide a schedule of fees paid by the hedge fund, including management and brokerage fees, as well as the total amount of such fees and consultant contract fees paid during the previous year.

Hedge fund managers must disclose to prospective investors and to current investors within thirty days of entering into any side letters that provide preferential treatment to some of the fund's investors.

Finally, the legislation limits investors in hedge funds to those required by the Securities Exchange Commission which are currently \$2.5 million in investment assets for individual investors and \$5 million in assets for institutional investors.

This proposal guarantees hedge fund investors with important information concerning their investment. Potential conflicts of interest must be disclosed as well as any change in investment strategy. Investors may wish to withdraw funds exposed to new, potentially greater risks. As an example, Amaranth apparently shifted its investment strategy to concentrate funds in natural gas futures without alerting investors.

The legislative proposal also requires disclosure of any major litigation that may materially affect the hedge fund's performance within 7 days of management's knowledge of such litigation. This disclosure is similar to information that bondholders demand as part of any bond offering statement.

I urge the committee's favorable consideration of the proposed amendment.

**JOINT
STANDING
COMMITTEE
HEARINGS**

**INSURANCE AND
REAL ESTATE
PART 6
1612 - 1937**

2009

This will cause the cost of insurance to increase, as insurers will have to recoup the assessment through premium increases. Because the time of insolvencies is unknown that presents a particularly problematic issue for insurers. Just as a matter of fact 44 states allow premium tax offsets for life and health insurers, with 39 states at 100 percent offset. Most spread over 5 years like Connecticut is right, and on the property casualty side, 22 states have premium tax offsets, with almost all provided -- providing for a full offset. In fact NIAC is developing a Property and Casualty Model Act, right now, which in it, drafters still being developed, but the drafters have agreed, as we understand it, that states providing tax credits for assessments, the credits would operate would operate to fully recoup investments.

We may be subject, Connecticut insurers may be subject to retaliatory taxes, if this bill passes because it's changing the balance of taxation from one state to another. And, we would submit, it would make us lose three times. Losing business to someone who low bids on a premium, losing and having to pay the assessment, and losing and we don't recoup all of it. We urge rejection of 6278.

SENATOR CRISCO: Thank you Mr. Kehmna, any questions, any questions, thank you very much.

BOB KEHMNA: Thank you.

SENATOR CRISCO: Any other speakers on 6278, if not we will proceed to 6447 -- Susan.

HB 6445

SUSAN GIACALONE: Good afternoon Senator Crisco, Representative Fontana, members of the

11
mg

INSURANCE AND REAL ESTATE
COMMITTEE

February 19, 2009
12:00 P.M.

insurance and real estate committee, for the record, my name is Susan Giacalone and I'm here on behalf of the Insurance Association of Connecticut in opposition to House Bill 6447. I submitted written comments, so I'll try to keep my comments brief.

This bill does several things, the first thing it does is shortens the time an insurer has to pay once it's been given a proof of loss from 60 days to 14 days. The time that we have to investigate a claim once we get proof of losses as a formal demand of payment to shorten it to 14 days, and that's calendar days, there is no way we can comply with that. Especially if there is a situation where you had a not a catastrophic event, huge ice storm, there is no way we could even comply with that, and have multiple losses coming in all at the same time and be able to do it. Also, proof of losses can be used in large complicated claims. The 60 days pretty much gives us right now time to properly evaluate a claim and make payment.

It also provides a option to provide a partial payment which seems to imply that if you make a partial payment, we would be in compliance with that 14 day requirement, however if we make a partial payment that's making a representation to the insurer that we're accepting their claim based upon the information they've provided us so it really gives us nothing more than a promise that we're going to pay you on the claim, which needs to be investigated, and may also lead into fraud.

It also increases the time for a suit that can be brought by insured against an insurer under these provisions from 12 to 24 months. I will

12

February 19, 2009

mg INSURANCE AND REAL ESTATE
COMMITTEE

12:00 P.M.

quickly summarize, the statute of limitations is there because its types to the ordinances of blight ordinances that want quick repair. It also is against the insurer because the shortened, the 12 month, brings faster resolution on a claim.

And, quickly, lastly the terrorism provision, not really clear on that because right, it would mandate that all condominium associations have to have terrorism coverage right now that is an option. They can opt into it, or they can opt out of it, and if they opt out of it, they have to do waivers. It is determined by the condominium board, and I think they are the best ones, elected the condominium owners and they're the ones that decided what's at the best interest condominium association. Thank you.

SENATOR CRISCO: Thank you so much Susan.
Representative Megna.

REP. MEGNA: Thank you Mr. Chairman. Hi Sue.

SUSAN GIACALONE: Hi.

REP. MEGNA: Actually the State of New Hampshire, five business days after a proof of loss has been agreed upon and accepted, a check needs to be in possession of the property owner either way. What we're trying to get at here is advanced payments, trying to get some language together to ensure that people that are burned out of their home or businesses that are burned out of the businesses get payment very soon, following an agreement, we're not talking about, when they read the language about the proof of loss that says after an agreement has been ascertained. And, the way I understand it, following a loss a

reserve is set up, the insurer is supposed to put aside a certain amount of money and then they go through whole dance on the inspection, and coverage, and all that stuff, and then when they come to an agreement, and they ascertain a proof of loss, they have up to sixty days. In the case of an advance payment, that could really cripple a property owner that's staying in a hotel, or an apartment, or business owner that needs to mitigate the loss to its business, get back in business. So we're looking at, to get together some kind of language to deal with that which maybe you can could help us do so.

In terms of the terrorism piece, about 4 years ago, we passed a law here that pulled the fire coverage out of the standard fire policy as a result of a loss by terrorism. We didn't do it for personal alliance, only there for commercial policies. Unfortunately, to people that live in condominiums, their personal alliance policy is that master policy so it was our intent at the time not to pull away fire coverage, and fire coverage only. We're not talking about vehicle, or airplane, or any other type of peril that could result as terrorism. We did it for homeowners, personalized people, and we just wanted to stay in sync and that's really what is clarifying the intent of that bill that we did originally.

SUSAN GIACALONE: We certainly would like to see if we can work with you on the language on the underlying bill as far as its time and making it clearer that getting proof of loss as a demand of payment and to say that we have to make payment in 14 days. I said to ascertain that means, once, we use that time to investigate where that 60 days gives that

there is no question there. I don't believe there are a lot of complaints on this issue.

As far as the terrorism, we were reading that this is mandating that condo policies have to have terrorism coverage. Right now it is an option, for -- they can have if they want it, its available, its not that they can't get it, they can get it, or they can opt out of it under the waivers. So, that's why I think that its more of a mandate on that they have to provide the coverage and again I think that should be left to the people of whoever, left that to the board of directors to make that decision. Terrorism was left to commercial properties because of the constant act of terrorism actually impact effecting that property that the impact that it could have on it, and commercial properties are highly more exposed then personal properties.

REP. MEGNA: Ok, thank you, I would forward to working with you on this bill.

SENATOR CRISCO: Thank you Representative, any other questions, if not -- anybody else to speak on this Bill, if not we'll proceed to the next Bill 6445, Susan.

SUSAN GIACALONE: Ok, next Bill is 6445, again the Insurance Association has submitted testimony on this bill, an opposition to the bill, for several reasons, it's not really clear, we don't think it's necessary and some of the provisions are unduly burdensome.

Right now, it says that we wouldn't be able to do a rate increase for a home -- 53a-100aa home invasion. As insurers, we don't into the classifications that an agency or an outside source puts on an event. We cover certain

Statement**Insurance Association of Connecticut**

Insurance and Real Estate Committee

February 19, 2009

HB 6447, An Act Mitigating Fire Losses For Mitigating
Fire Losses For Homeowners and Business Owners

6447

The Insurance Association of Connecticut is opposed to HB 6447, An Act Mitigating Fire Losses For Homeowners and Business Owners, as it is impractical and unnecessary.

HB 6447 seeks to unjustifiably shorten the time period in which an insurer has to pay after receipt of a proof of loss from 60 days to 14 days. A proof of loss is a formal demand for payment, typically used in large complicated property losses that involve extensive claim management. This provision does nothing more than drastically shorten the time period in which an insurer has to properly adjust a claim. Fourteen days is far too short of a period of time for an insurer to complete an investigation and properly assess the value of a loss. HB 6447 will only result in leading to higher incidents of fraud. Insurers are faced with stiff interest penalties if they do not comply with the time mandates prescribed by this section. Additionally, the shortened timeframe of 14 calendar days would apply to all losses, even those associated with a high volume event, like the recent ice storm. Under such circumstances an insurer would not be able to comply with terms of this provision. Such an application is completely impractical and unnecessary.

Additionally, HB 6447 would seemingly permit an insurer the ability to make a partial payment to meet the above-noted reduced timing requirement. However, any payment made by an insurer is predicated upon an agreement that the insurer has accepted the terms of the insured's demand. That agreement can only be made once an insurer has had ample time to properly investigate and assess the loss. A partial payment would simply bind the insurer and provides no relief from the shortened time to complete an investigation.

HB 6447 also seeks to increase the amount of time an insured has to bring an action against an insurer, pursuant to this act, from 12 months to 24 months. The purpose behind the statute of limitations is to encourage speedy resolution of such claims to the advantage of the insured and the public at large. Most cities and towns have anti-blight ordinances that require a property owner to repair structural damage within a specified timeframe. The ordinances have been adopted to protect the public from the dangers presented by damaged buildings. Extending the time an insured can bring an action against an insurer runs contrary to the public policy behind the ordinances by only delaying resolution and repair, and jeopardizing the public safety by the dangers presented by the damaged buildings.

Finally, HB 6447 seeks to exempt Condominium Master Policies from the terrorism exclusion contained in most commercial policies. We do not understand the rationale behind this proposal. The application of the terrorism exclusion was based upon the likelihood that such properties would be impacted by an act of terrorism. It is not to say the property itself had to be the target of terrorism but impacted by a terrorist event. Condominium complexes were

deemed a risk, like many other commercial ventures. Right now all condominium complexes can purchase terrorism coverage or exclude terrorism coverage for a reduced premium after signing the appropriate waiver form provided for under the terrorism act. The condominium board of directors is best suited to decide whether or not terrorism coverage is needed for the complex. It should not be determined by the legislature. HB 6447 will only result in increasing the premiums for those condominium complexes that chose not to purchase terrorism coverage.

The IAC urges your rejection of HB 6447.