

Act Number:	09-048	
Bill Number:	764	
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**CONNECTICUT
GENERAL ASSEMBLY
SENATE**

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2009**

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PART 4
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THE CLERK:

On calendar page 4, Favorable Reports --
correction, calendar 3, Favorable Reports, Calendar
101, File Number 19, Senate Bill Number 827, An Act
Concerning Blood Donation by Minors, favorable report
of the Committee on Public Health.

THE CHAIR:

Senator Looney.

SENATOR LOONEY:

Yes, Mr. President, that item might be passed
temporarily.

THE CHAIR:

Seeing no objections, so ordered, sir.
Clerk.

THE CLERK:

Calendar page 4, Calender Number 116, File Number
48, Senate Bill 764, An Act Concerning Derivative
Financial Transaction Controls, favorable report of
the Committee on Insurance. Clerk's in possession of
an amendment.

THE CHAIR:

Senator Crisco.

SENATOR CRISCO:

Thank you very much, Mr. President. Mr.

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President, I move acceptance of the Joint Committee's favorable report and passage of the bill.

THE CHAIR:

Acting on approval of the bill, sir, will you remark further?

SENATOR CRISCO:

Thank you, Mr. President. Mr. President, the Clerk is in possession of an amendment, LCO 5565. I ask that it be called and I be given permission to summarize and I move its adoption.

THE CHAIR:

Mr. Clerk.

THE CLERK:

LCO 5565, which will be designated Senate Amendment Schedule A, is offered by Senator Crisco of the 17th District, et al.

THE CHAIR:

Senator Crisco.

SENATOR CRISCO:

Thank you, Mr. President. Mr. President, we are all painfully aware of the economic conditions that we are experiencing in this state and other states. It has been stated that the basic reason for our financial difficulties has been the subprime mortgage

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market. But as one reviews what has happened, what is even a greater problem has been the element of derivative financial transactions, considering credit default swaps, consolidated debt obligations, and other such instruments.

This bill will provide protection for those domestic insurance companies in the state. It will require the Insurance Commissioner to approve the involvement of our insurance carriers in derivatives. There will be certain requirements, including a statement by CPAs who will qualify that the company is undertaking a specific derivative transaction, and currently CPAs only conduct this type of analysis as part of their annual review of carriers. But this will make it (inaudible) only to -- in addition to derivatives.

There will be other such internal controls that will continue to solidify the financial base of our insurance companies in the state of Connecticut. Connecticut is not only number one in the insurance industry in regards to volume and number of companies, but also based upon our regulation and cooperation of the industry. The Commissioner will look at these activities of domestic insurance companies, and make

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sure that there's a nexus with the Insurance Department's financial examination statutes.

It also steps up our regulatory oversight through the promulgation of regulations, provide more direction on investment practices.

THE CHAIR:

Thank you, Senator Crisco.

Will you remark? Will you remark further on Senate Amendment A?

Senator Caligiuri.

SENATOR CALIGIURI:

Thank you, Mr. President. Just a question, through you, to the proponent of the bill and the amendment.

THE CHAIR:

Senator Crisco.

SENATOR CRISCO:

Yes, Mr. President.

SENATOR CALIGIURI:

As amended under proposed Senate A, how would what we're proposing to do in this legislation compare to what other states are proposing? Where would this put us vis-a-vis other states, especially surrounding states? If the Senator knows.

THE CHAIR:

Senator Crisco.

SENATOR CRISCO:

Thank you, Mr. President. Through you to Senator Caligiuri, the Ranking Member of the Insurance Committee. It would put us in the forefront of being (inaudible) throughout the state. I believe there are about six or seven other insurance companies -- that even our neighbor, the state of New York, which has a history of very stringent regulation is embarking upon this.

In addition, the National Conference of Insurance Legislators is presently working on model legislation for all states in regards to derivatives in this particular situation. There are certain situations where -- particularly in credit default swaps, where we have covered credit swaps, we have naked credit default swaps -- some may require regulation, others will not. And so to protect our states and the people of the particular state, this is legislation that should have been in place, perhaps, years ago.

THE CHAIR:

Senator Caligiuri.

SENATOR CALIGIURI:

Thank you, Mr. Chairman. Just two more questions, if I may, before I comment on the amendment. Through you, Mr. President, some have raised concerns in discussions with me that this would somehow place Connecticut domiciled insurers at a disadvantage relative to insurers in other states, because we would be among the first to adopt this regulatory scheme. Through you, Mr. President, Senator Crisco, is the Chairman of Insurance concerned that that would be the effect of this bill?

THE CHAIR:

Senator Crisco.

SENATOR CRISCO:

Mr. President, through you to Senator Caligiuri, no, that's not my concern. As I stated earlier, there are states already who have derivative legislation in place. And we have worked with the Commissioner of Insurance, obviously who has a great concern about how the state of insurance is run in Connecticut, and based on his input we have adopted this amendment.

THE CHAIR:

Senator Caligiuri.

SENATOR CALIGIURI:

Thank you, Mr. President. One final question and

I believe Senator Crisco has alluded to it. But just for the record, it's my understanding that the Insurance Department has reviewed the amendment and has signed off on it and doesn't and doesn't see any problems with it and isn't opposing it. And just for the sake of the record, I would ask if Senator Crisco can confirm that understanding.

THE CHAIR:

Senator Crisco.

SENATOR CRISCO:

Yes. Through you to Senator Caligiuri, that is not only correct, but we originally had different language which really would have, perhaps, placed a burden upon the Insurance Department. And working with the Insurance Commissioner and the department, we have come up with language that will be a great help to the state, and also will not hinder the workings of the Insurance Department.

THE CHAIR:

Senator Caligiuri.

SENATOR CALIGIURI:

Thank you, Mr. President. And if I may, just by way of comment, I thank Senator Crisco for answering my questions. I was one of the members of the

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committee who originally voted against the bill, but I believe the amendment, especially with the department's input, has made the bill a better one. And for that reason, I intend to support the amendment and ultimately the underlying bill. Thank you, Mr. President.

THE CHAIR:

Thank you, Senator Caligiuri.

Will you remark further on Senate Amendment A?

Will you remark further?

If not, I will try your minds. All those in favor signify by saying aye.

VOICES:

Aye.

THE CHAIR:

Opposed, nay.

The ayes have it.

Senator Crisco.

SENATOR CRISCO:

Well thank you, Mr. President. Mr. President, I have summarized the amendment which has become the bill and if no objection, I would ask that this historical legislation be placed on the Consent Calendar.

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THE CHAIR:

The motion is on consent --

Senator Boucher.

SENATOR BOUCHER:

Thank you, Mr. President. I do not rise to oppose this legislation or not to agree to have it be put on consent. But I would make one cautionary remark, and that is that anytime we do look at the regulation of insurance industries, their products, and also the finance industries, they are two of the leading industries of our state or at least have been, and we should look very carefully at our move to regulate it or to be the first state to start the regulation process. Because oftentimes even though we do put sound policies in place, we also are calling a great deal of attention to ourselves in our drive to do the right thing, it possible we can also be placing deterrents in place, as our state may be perceived as being unfriendly in some regard.

So I am glad that there comments made to the extent that we are no longer requiring -- I believe if I am correct, and through you, Mr. President, that we're not requiring registration through our Insurance Department for these products, as I assume, unless the

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Chair has a different opinion of this.

THE CHAIR:

Is that a question to Senator Crisco?

SENATOR BOUCHER:

Yes. Yes, Mr. President. Through you, just to clarify, please.

THE CHAIR:

Question to you, sir.

SENATOR CRISCO:

Thank you, Mr. President. Through you to Senator Boucher, let me say that I greatly appreciate her comments, but we have a policy on the Insurance Committee, we do not proceed with reckless abandon. We're very mindful of the 70,000 jobs that the insurance industry is responsible for in the state of Connecticut and we have as an objective to remain the number one insurance state in the country and at the same time, protect the consumer as possible. But this does not create an additional burden for insurance companies, as I stated earlier, the amendment was worked to make sure it's as convenient as possible to companies and wouldn't be a hindrance to (inaudible). But what it does do is not only protect -- might I add the insurance companies themselves -- but also the

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people of Connecticut, not that the insurance companies need protection.

THE CHAIR:

Thank you, Senator.

Senator Boucher.

SENATOR BOUCHER:

Thank you, Mr. President. And I appreciate those comments very much, but I again, do wish to make a comment for the record in that we should proceed very carefully and really discern if some these policies should be done on a national level or it should be on a state by state. Many cases it's very important to have our states have the oversight over this, but oftentimes many policies should be done on a national level. Thank you, Mr. President.

THE CHAIR:

Thank you, Senator Boucher.

There's a motion on the floor to place this item on consent.

Senator Fasano, do you object?

The item (inaudible) consent.

Mr. Clerk -- would anyone else like to comment?

If not, Mr. Clerk, please call for a roll call vote. The machine will be open.

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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
chamber.

THE CHAIR:

Have all Senators voted? If all Senators have
voted, please check the board, the machine will be
locked. The Clerk will call the tally.

THE CLERK:

Motion to pass, Senate Bill 764 as amended by
Senate Schedule A. Total number voting, 34; those
voting yea, 29; those voting nay, 5; those absent/not
voting, 2.

THE CHAIR:

The bill as amended passes.

Mr. Clerk.

THE CLERK:

Calendar page 6, Calendar Number 177, File Number
185, Senate Bill Number 748, An Act Concerning
Connecticut Banks, favorable report of the Committee
on Banks.

THE CHAIR:

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Those absent and not voting 8

SPEAKER DONOVAN:

Bill passes in concurrence with the Senate.

Will the Clerk please call Calendar Number 371?

Excuse me. Garey, don't do that.

Will the Chamber stand at ease for a moment?

Thank you.

[AT EASE]

SPEAKER DONOVAN:

Will the Chamber please come back to order and
will the House Clerk please call Calendar Number 540.

THE CLERK:

On page 20, Calendar 540, Substitute for Senate
Bill Number 764, an Act Concerning Derivative
Financial Transaction Controls, favorable report of
the Committee on Insurance and Real Estate.

SPEAKER DONOVAN:

The distinguished chair of the Insurance
Committee, Representative Fontana, you have the floor,
sir.

REP. FONTANA (87th):

Thank you, Mr. Speaker.

Mr. Speaker, I move for acceptance of the Joint
Committee's favorable report and the passage of bill
in concurrence with the Senate.

SPEAKER DONOVAN:

The question before the chamber is acceptance of the Joint Committee's favorable report and passage of the bill in concurrence with the Senate.

Will you remark, sir?

REP. FONTANA (87th):

Yes, thank you, Mr. Speaker.

Mr. Speaker, this bill improves the ability of our Insurance Department to monitor the activities of US insurers doing business in Connecticut that enter into derivative financial transactions, including swaps, options, forwards, futures, caps, floors, collars, and similar instruments or combinations of them.

The bill requires an insurer to include in its statutorily-required audited financial report, written by the independent certified public accountant, or CPA, that audited the insurer, a statement regarding the CPA's assessment of the insurer's internal controls relative to derivative financial transactions.

Internal controls include mechanisms detailing how frequently a company reviews its own data, its cash-flow testing, who monitors the relevant transactions and other modeling and forecasting

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issues.

Finally, if a CPA determines the internal controls are deficient, the bill requires, one, that the CPA's statement describe the deficiencies, and, two, that the insurer attach a remedial action plan identifying actions the insurer has taken or will take to correct the deficiencies if the CPA's statement does not include a description of the deficiencies.

The intent of this bill, Mr. Speaker, is simple. It's to provide for more frequent and regular information being submitted to the Insurance Department for the purposes of, one, enabling the Department to assess whether domestic insurers have adequate internal controls; two, monitoring these transactions more effectively; and, three, ensuring that any necessary remedial actions are taken in a timely manner.

Mr. Speaker, the Clerk has an amendment LCO 5565, I ask that he call it, and that I receive permission to summarize.

SPEAKER DONOVAN:

Will the Clerk please call LCO number 5565, previously designated Senate Amendment A?

THE CLERK:

LCO number 5565 Senate A, offered by Senator

Crisco and Representative Fontana.

SPEAKER DONOVAN:

Representative Fontana seeks leave to summarize the amendment before us? Is there any objection? If not, please proceed with summarizing the amendment.

REP. FONTANA (87th):

Thank you, Mr. Speaker.

Mr. Speaker, this amendment worked out with the Insurance Department, one, eliminates the requirement that the insurance commissioner authorize derivative financial transactions; two, allows rather than requires the commissioner to adopt regulations on the subject; and, three, moves the bill's underlying requirements from the section of the insurance statute dealing with accounting matters to the section dealing with investment matters.

I move for its adoption.

SPEAKER DONOVAN:

Thank you, sir.

Will you remark further on Senate Schedule A?
Will you remark? If not, I'll try your minds.

All those in favor of Senate Amendment Schedule A, please signify by saying aye.

All those opposed nay.

The ayes have it, Senate A is adopted.

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Will you remark further on the bill as amended?

Will you remark further on the bill as amended?

Representative Bacchiochi, the distinguished ranking member of the Insurance Committee.

REP. BACCHIOCHI (52nd):

Thank you, Mr. Speaker.

Actually, our distinguished ranking member is not here today so I'm pitch-hitting for him.

Through you, Mr. Speaker, just a question or two to the chairman of the Insurance Committee, please.

SPEAKER DONOVAN:

Representative Fontana, prepare yourself.

Gentlelady, you have the floor.

REP. BACCHIOCHI (52nd):

Thank you, sir.

I and a few others originally voted against this bill in committee because of concerns that the Department of Insurance expressed. I heard you mention that you worked out some of those concerns. I just wanted to confirm that was the case.

Through you, Mr. Speaker.

SPEAKER DONOVAN:

Representative Fontana.

REP. FONTANA (87th):

Yes, indeed, Mr. Speaker. We worked out the

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corrective changes and sent Amendment A with the Department, and it is my understanding they support the bill.

Through you.

SPEAKER DONOVAN:

Representative Bacchiochi.

REP. BACCHIOCHI (52nd):

Thank you.

I also wanted to know, on line 39, where it talks -- begins to speak about derivative financial transactions. Are insurance companies currently allowed to enter into these transactions?

Through you, Mr. Speaker.

SPEAKER DONOVAN:

Representative Fontana.

REP. FONTANA (87th):

Through you, Mr. Speaker, I believe that they are.

SPEAKER DONOVAN:

Representative Bacchiochi.

REP. BACCHIOCHI (52nd):

Thank you.

And, regarding the audit requirement, am I correct that there currently is not an audit requirement? This would be something new that

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insurance companies enter -- entering into such transactions would now have to comply with?

Through you, Mr. Speaker.

SPEAKER DONOVAN:

Representative Fontana.

REP. FONTANA (87th):

Through you, Mr. Speaker, I understand that the audit requirement is a current requirement of our statutes, through you.

SPEAKER DONOVAN:

Representative Bacchiochi.

REP. BACCHIOCHI (52nd):

Could the Chairman please explain, just for clarification, what changes are being made to the audit requirement?

Through you, Mr. Speaker.

SPEAKER DONOVAN:

Representative Fontana.

REP. FONTANA (87th):

Through you, Mr. Speaker, we are adding a requirement, and I will try to find the line numbers, but we are requiring that the CPA -- if I may just stand at ease for a second so I can find the line number, Mr. Speaker.

Through you, Mr. Speaker, if may, the

requirements on the auditors are contained in paragraph 2, in lines 47 through 53, essentially, requiring the company to detail any remedial action plan necessary and that the accountant determine whether there are sufficient or adequate financial -- internal financial controls or that the remedial action plan has been included and disclosed to address the deficiencies.

Through you.

SPEAKER DONOVAN:

Representative Bacchiochi.

REP. BACCHIOCHI (52nd):

Thank you. Thank you, Mr. Speaker.

So, while we currently do require domestic insurance companies engaging in derivative financial transactions to do an audit, what this bill is doing is requiring the CPA to provide additional information with the audit to determine the strength of said insurance company?

Through you, Mr. Speaker.

SPEAKER DONOVAN:

Representative Fontana.

REP. FONTANA (87th):

Through you, Mr. Speaker, yes.

SPEAKER DONOVAN:

Representative Bacchiochi.

REP. BACCHIOCHI (52nd):

Thank you. I also -- I seem to understand that we are only allowing domestic insurance companies to enter in such transactions, not foreign insurance companies?

Through you, Mr. Speaker.

SPEAKER DONOVAN:

Representative Fontana.

REP. FONTANA (87th):

Through you, Mr. Speaker, insurance is a state-by-state matter for regulation so we can only regulate those insurance companies that either domicile in Connecticut or do business in Connecticut to the extent they do business in Connecticut.

Through you.

SPEAKER DONOVAN:

Representative Bacchiochi.

REP. BACCHIOCHI (52nd):

So an insurance company that's not domiciled in the state of Connecticut would not be required to do the audits that we are outlining in this bill?

Through you, Mr. Speaker.

SPEAKER DONOVAN:

Representative Fontana.

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REP. FONTANA (87th):

Through you, Mr. Speaker.

I believe the lady is correct. If a company is domiciled in another state, the state in which it is domiciled will have regulations that will address its reporting and disclosure requirements.

Through you.

SPEAKER DONOVAN:

Representative Bacchiochi.

REP. BACCHIOCHI (52nd):

Thank you, Mr. Speaker.

And I also want to thank the Chairman for his answers. I find these issues to be very complex, and I think it's helpful when he is able to, you know, share the details of the bill with the chamber. I'm grateful that some of the concerns of the Department -- the Insurance Department were addressed, and I plan now to support the bill.

Thank you, Mr. Speaker.

SPEAKER DONOVAN:

Thank you, Lady.

Are there any other persons who wish to remark on Senate -- on Senate Bill 764?

Representative Miller?

You have the floor, sir.

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REP. MILLER (122nd):

Thank you, Mr. Speaker.

I have a couple of questions to Representative Fontana.

Reinsurance companies, we have one here in Connecticut. They named the Civic Arena after -- the XL Center. They're a reinsurance company. I believe they have offices in Bermuda, as well, maybe, as Canada and often they buy or get involved with insurance companies. Would they be subject to this bill?

Through you, Mr. Speaker.

SPEAKER DONOVAN:

Representative Fontana.

REP. FONTANA (87th):

Through you, Mr. Speaker, my initial reaction is it would depend on whether they're domiciled here or not. There are certainly insurance companies that have offices in different states and in different countries. It would depend, I would imagine -- where that company identifies itself as domiciled, Connecticut, Delaware, Canada, Bermuda.

Through you.

SPEAKER DONOVAN:

Representative Miller.

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REP. MILLER (122nd):

And, through you, Mr. Speaker, I believe that company is domiciled in Bermuda. It has an office here in Hartford.

Through you, Mr. Speaker, would they be subject to this bill?

SPEAKER DONOVAN:

Representative Fontana.

REP. FONTANA (87th):

Through you, Mr. Speaker, as I understand it, if they are not domiciled in Connecticut, then, no, these provisions will not apply.

Through you.

SPEAKER DONOVAN:

Representative Miller.

REP. MILLER (122nd):

Thank you and, through you, Mr. Speaker.

Other reinsurance companies probably headquartered out of the islands, again, it maybe Bermuda, and have offices in New York, who purchased insurance companies throughout the United States, would they be subject, again, to this bill or is that the same answer you gave me before?

SPEAKER DONOVAN:

Representative Fontana.

REP. FONTANA (87th):

Through you, Mr. Speaker, if I could just back up a sec and maybe try to clarify the situation. As I understand it, the federal Sarbanes-Oxley law passed a few years back, requires that all audits done of a financial nature in this country have to provide certain information and that would apply nationwide.

That may or may not extend as far now as we are seeking to go with this bill because this bill is a response to some of the problems we've seen over the last year to 18 months with certain insurance companies participating in various questionable transactions. So the federal SEC law will seek to apply to everyone. We are seeking to apply a more stringent requirement to insurers based here in Connecticut.

Through you.

SPEAKER DONOVAN:

Representative Miller.

REP. MILLER (122nd):

Thank you and, through you, Mr. Speaker, I'd just comment that, these reinsurance companies are so sophisticated, not only are they buying other insurance companies, regular insurance companies, but they're getting involved in other businesses, as well,

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and often they have a lot of cash, a tremendous amount of money that they keep in the islands.

But I just want to make sure that there isn't a lot of things going on that may be not covered that should be covered by this State, as far as audits go, so I just inquire, and I think you answered my questions, as usual, very well.

Thank you.

Thank you, Mr. Speaker.

SPEAKER DONOVAN:

Thank you, sir for your remarks.

Will you remark further on the bill as amended? Will you remark further on the bill as amended? If not, will all members please check -- will all the members and staff and guests please come to the well of the House. Will the members please 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.

SPEAKER DONOVAN:

Have all the members voted? Have all the members voted? Will the members please check the board to determine if your vote is properly cast? All the

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members have voted, the machine will be locked and the Clerk will please take a tally.

Will the Clerk please announce that tally?

THE CLERK:

Senate Bill 764 as amended by Senate A in concurrence with the Senate

Total number voting	142
Necessary for passage	22
Those voting yea	142
Those voting nay	0
Those absent and not voting	9

SPEAKER DONOVAN:

Bill passes in concurrence with the Senate.

Are there any announcements or points of personal privilege?

Representative Carson of the 108th, you have the floor, madam.

REP. CARSON (108th):

Thank you, Mr. Speaker.

I rise for a point of personal privilege please.

SPEAKER DONOVAN:

Please proceed, madam.

REP. CARSON (108th):

Mr. Speaker, up in the gallery today, we're very honored to have nearly 40 students from the Kent

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COMMITTEE

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BRIAN QUIGLEY: That's fine.

REP. FONTANA: Just to give you the preview, I understand Mr. George's comment to be age specifically. Gender I think is more of a mixed bag because as I understand it, depending upon how old you are, the shift between one gender and the other goes in opposite directions. In other words, if you're young, women may cost more; if you're older, men may cost more. So, while there may be a shift at both age levels, it may be they cancel each other out or accommodate some sort of public purpose if we just try to balance the swing in gender.

So, again, I would just ask if you would mind if you have the time to just sort of allow me to ask a question on that.

SENATOR CRISCO: Any other questions of Brian? Any other questions? Thank you, Brian. Christine -- any public members who wish to speak on 6355? If not, we'll proceed to item number 4, Senate Bill 764. Are there any members of the public who wish to speak? If not, Bob Kehmna?

ROBERT A. KEHMNA: Thank you, Mr. Chairman, Representative Fontana, and members of the Insurance and Real Estate Committee. For the record, my name is Bob Kehmna from the Insurance Association of Connecticut, here today to speak briefly on Senate Bill 764, An Act Concerning Derivative Transaction Controls.

As it's drafted, it is difficult to comment specifically on the bill which would require the Insurance Commissioner to adopt regulations regarding report requirements for insurers that enter into derivative transactions.

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COMMITTEE

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We understand that the Department may have some ideas on amending the bill. If the Insurance Committee intends to go forward with legislation in this area, IAC would welcome the opportunity to sit down with the Committee and the Department to find alternative language that brings greater clarity to the legislation and its effect.

SENATOR CRISCO: Thank you. Mr. Chairman?

REP. FONTANA: Thank you, Mr. Chairman.

Bob, we welcome your input. I think it's fair to say we would like to do something on this subject this year. We do understand that the Insurance Department is interested in this area and is looking at it, so we'll be happy to try to facilitate whatever conversations we can and try to see what we can do to accommodate your perspective (inaudible).

ROBERT A. KEHMNA: Thank you.

REP. FONTANA: Thank you.

SENATOR CRISCO: Any other questions? Bob, do you think -- well, obviously, you agree that it is an insurance issue, derivatives?

ROBERT A. KEHMNA: This bill is certainly --

SENATOR CRISCO: The whole nature of derivatives.

ROBERT A. KEHMNA: Well, it is certainly within the purview of this Committee and the Department, yes.

SENATOR CRISCO: And, some experts contend that you should have capital in reserve for any derivatives in the state. Do you agree with

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that?

ROBERT A. KEHMNA: I am not prepared to answer that.

SENATOR CRISCO: Any questions? Thank you very much.

ROBERT A. KEHMNA: Thank you.

SENATOR CRISCO: Any members of the public? If not, we will proceed to item number -- bill number 6114. Any members of the public? Any lobbyists? No.

We'll proceed to item number 6, Senate Bill 822. Is there any member of the public? If not, Susan?

SUSAN GIACALONE: Good afternoon, Senator Crisco and Representative Fontana. For the record, my name is Susan Giacalone. I'm here on behalf of the Insurance Association of Connecticut. I am opposed to Senate Bill 822 in a limited sense.

The way the bill is drafted, it would appear to apply to long-term care, individual long-term care and disability products. These products are actually specifically exempted out under the group policy rating provisions, and we just ask that the same rationale extend to the individual premium -- rating provisions for the individual products in that we think they should also be exempted out from these provisions in this section.

Just going a little bit further, as far as the gender difference, based upon actuarial experience, there is a difference between male and female claims costs on disability products and long-term care products. For example, a

the efficacy and cost efficiency of our services, won't we just look foolish and, in fact, be foolish to eliminate MFT's as mandated providers from insurance premiums.

We urge you to oppose S.B. 821. Thank you for your time and consideration.

SENATOR CRISCO: Thank you, Phyllis. I have a question. If a person has a choice between a psychiatrist, psychologist, social worker and now an MFT, what is the deciding factor? I mean all are covered by an insurance policy.

PHYLLIS GORDON: They are covered, and some of that will certainly depend on what their needs are, and Master level therapists are reimbursed at a much reduced rate than psychiatrists and psychologists are. But, a lot of that will be determined by needs. More and more today people seek out psychiatrists for prescription medication that they need.

SENATOR CRISCO: The MFT's, do they prescribe medication?

PHYLLIS GORDON: No, they cannot prescribe.

SENATOR CRISCO: Any questions? It was very kind of you. Thank you very much.

PHYLLIS GORDON: Thank you.

SENATOR CRISCO: David Borzellino? David Borzellino? Any other members of the public? If not, we will proceed to the legislative agency agenda pursuant to 6240, 460, 6355, 764. Commissioner Sullivan?

THOMAS SULLIVAN: Good afternoon, Senator Crisco, Representative D'Amelio, and members of the Committee. I'm Thomas Sullivan, Commissioner

of the Connecticut Insurance Department. I'm here to testify on Raised Bill 764, An Act Concerning Derivative Transaction Controls.

This proposal has been introduced at the request of the Department, and I would like to thank the Committee for introducing the initiative on our behalf.

764 provides the Department with authority to require proof of adequate internal controls over derivative transactions. High-risk investment activities, coupled with a lack of internal controls to oversee those transactions, can create a hazardous financial condition. This has clearly been demonstrated by the recent volatility in the financial markets. To guard against these hazards, the Department's proposal mandates that insurers submit annual proof of adequate internal controls over derivative transactions.

By way of background, internal controls are those mechanisms such as how -- those mechanisms such as how frequently a company reviews its data; cash flow testing; and, forecasting mechanisms. Derivative transactions refer to different types of financial instruments such as futures, options and swaps, among others.

The Insurance Department currently has authority to receive quarterly and annual audited financial statements for each of its insurers operating in Connecticut to enable the Department to monitor and determine that the companies are solvent and can meet their financial obligations to policyholders. In addition, the Department conducts examinations of all domestic insurers doing business in the state every three to five years, or more frequently if needed, during which we assess

the company's internal controls over financial matters.

764 seeks to provide the Commissioner with explicit authority to require that as part of the annual financial analysis, the company will be required to include a statement from the independent Certified Public Accountant assessing the adequacy of these internal controls relative to derivative transactions. If the assessment is that the internal controls are deficient, the insurer will then be required to submit a description of any remedial actions taken or proposed to correct the action.

This assessment is mandated to be performed by the Sarbanes Oxley Act and, therefore, the company will incur no additional expense. We are now simply asking that the companies provide that assessment to the Insurance Department to help us discharge our oversight duties more actively.

We note the bill as drafted, rather than enacting a statute to provide this authority, grants the Department authority to promulgate regulations that would enable us to obtain this information. The Department already has rule-making authority and, in fact, recently updated these extensive and detailed regulations regarding the filing of audited annual financial statements by fully adopting the NAIC Model Law.

So, we respectfully request that the Insurance and Real Estate Committee enact a statute to stress the importance of this issue rather than to simply add this as a regulatory requirement that deviates from the model and, therefore, might be overlooked by carriers. We have attached the language we originally

submitted to the Committee for your consideration.

And, I thank you for your attention and will take any questions.

SENATOR CRISCO: Thank you. Commissioner, could you expand upon some specialists are recommending capital reserves for derivatives. Is that possible? How do you feel about that?

THOMAS SULLIVAN: Are you talking about reserves for credit default swaps specifically that's been in the news of late? Is that kind of where you're going?

SENATOR CRISCO: Uh-huh.

THOMAS SULLIVAN: When we talk about credit default swaps, Senator, those are highly unregulated instruments today that are used by financial institutions and others. Quite frankly, they lack transparency, and so if you are a holder of a credit default swap, you know, one of the solutions for some of the macro problems that have been created in the financial stress of the marketplace that we've seen is to either put CDS's out in an open market where they're exchanged as opposed to between two private parties where there is no transparency, and in so doing, have some capital, in effect, put up to support those products.

So, I would support that But, understand, today in our -- what we do, there already is quite a bit of transparency into a regulated insurance company's transactions, be it CDS's or anything else. Keep in mind the CDS's that got AIG in trouble were transacted at the holding company level, not within a regulated insurance subsidiary.

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INSURANCE AND REAL ESTATE
COMMITTEE

February 10, 2009
12:30 P.M.

SENATOR CRISCO: So, you would consider also language in regard to capital reserves?

THOMAS SULLIVAN: I don't know that we need any more than what we already have. Again, the CDS's that got AIG in trouble were non-regulated, a non-regulated holding company of AIG.

SENATOR CRISCO: Any questions of the Commissioner? Representative Fontana?

REP. FONTANA: Commissioner --

THOMAS SULLIVAN: Yes.

REP. FONTANA: -- good afternoon.

THOMAS SULLIVAN: Good afternoon.

REP. FONTANA: Mr. Kehmna of the AIC had asked to be able to provide input to you on this. Would you be opposed to our sharing with him your proposed statute (inaudible) back to you?

THOMAS SULLIVAN: Not at all. We welcome that. Great.

SENATOR CRISCO: Representative O'Connor?

REP. O'CONNOR: Thank you, Mr. Chairman. Thank you, Commissioner.

One of the questions I have is, you know, with some of these products with the pejorative transactions, will you have jurisdiction over, let's say, a bank or anything like that, or it would just be for insurance companies that, you know, participate in this marketplace?

THOMAS SULLIVAN: I would only have authority over licensed insurers, the domestic industry here

in Connecticut, and, you know, the bill that we've asked be raised or passed would give us more authority than exists today and would codify some things that were, frankly, you know, we think ought to be codified.

So, authority is limited to licensed insurers in the state, so I can't --

REP. O'CONNOR: Is it all -- is it all licensed insurers or just down Asylum?

THOMAS SULLIVAN: This tracks with a model, an NAIC model, but our authority as chief regulator for the domestic industry would give us this authority over domiciled insurers. I have counsel, too, from the Department if you want to maybe add a little more color. Why don't you identify yourself, Beth?

BETH COOK: I'm Beth Cook. I'm counsel at the Insurance Department.

This actually is simply to require that companies that do derivative transactions provide us with evidence of assessments that are already being done as part of the Sarbanes Oxley reporting of the internal control mechanisms over those derivative control transactions. And, Sarbanes Oxley requires that if an independent auditor's assessment of those controls indicates there's a deficiency in the controls, that there has to be a remediation plan included within that assessment by the independent auditor.

What this would do -- and I'm going to correct the Commissioner for a moment -- this is not part of the model law from the NAIC. This is actually a provision that we looked at and we extracted from a very extensive New York insurance law dealing with assessments and

oversight for investments, but what this would do would simply compel that that independent auditor's statement be provided to us as part of our quarterly and annual -- excuse me, not our quarterly -- part of our annual audited financial positions that are required under the law.

REP. O'CONNOR: So, I'm dealing with a review that the company will have to compile for your-- for the Department?

BETH COOK: No. The Department is already required to do this under federal law. That's part of their Protection 404 in the Sarbanes Oxley Act.

REP. O'CONNOR: Not the Department but the company?

BETH COOK: The company.

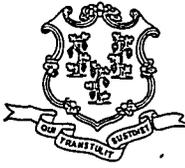
REP. O'CONNOR: Yes. Thank you, Commissioner. Thank you, Mr. Chairman.

SENATOR CRISCO: Thank you, Representative O'Connor. Any other questions? Thank you very much. Commissioner, since you're up next, there's no one on 6114 or 822, 6356. We'll proceed to Bill 823. Commissioner Sullivan?

SB 837

THOMAS SULLIVAN: Thank you, Mr. Chairman, Chairman Fontana and members of the Committee. I'm here to testify on behalf of Raised Bill 823, An Act Concerning Revisions to the Insurance Statutes and, again, I'm Thomas Sullivan, Commissioner of the Connecticut Insurance Department.

Raised Bill 823 modifies various insurance statutes to strengthen the Department's ability to regulate the industry and protect



STATE OF CONNECTICUT
INSURANCE DEPARTMENT

001165

Testimony of the Connecticut Insurance Department

**Before the
Insurance and Real Estate Committee**

Tuesday, February 10th, 2009

Raised Bill 764--An Act Concerning Derivative Transaction Controls

Raised Bill 764--An Act Concerning Derivative Transaction Control has been introduced at the request of the Connecticut Insurance Department. The Department would like to thank the Committee for introducing this initiative on our behalf. This bill provides the Commissioner of Insurance with the authority to require proof of adequate internal controls over derivative transactions to ensure that insurers can meet their financial obligations to policyholders.

High risk investment activities, coupled with a lack of internal controls to oversee those transactions, can create hazardous financial conditions which have been demonstrated by the recent volatility in the financial markets. To highlight the importance of maintaining those internal controls within an insurance company to guard against these hazards, the Insurance Department's proposal mandates that insurers submit annual proof of adequate internal controls over derivative transactions. Internal Controls are those mechanisms such as how frequently a company reviews its data; cash flow testing; who monitors the transactions and other modeling and forecasting mechanisms. Derivative transactions refer to different types of financial instruments such as futures, options and credit default swaps, among others.

The Insurance Department currently has statutory authority to receive quarterly and annual audited financial statements for each insurer operating in Connecticut to enable the Department to monitor and determine that companies are solvent and can meet their financial obligations to their policyholders. In addition, the Department conducts examinations of all insurers doing business in the state every 3-5 years, or more frequently if needed, during which we assess the company's internal controls over financial matters.

Raised Bill 764 seeks to provide the Commissioner with the explicit authority to require that as part of the annual financial analysis, the company will be required to include a statement from the independent certified public accountant assessing the adequacy of the internal controls relative to derivative transactions. If the assessment is that the internal controls are deficient, the insurer will be required to submit a description of any remedial

actions taken or proposed to correct the action if not already included in the independent accountant's report.

This assessment is mandated to be performed by the Sarbanes Oxley Act and therefore the company will incur no additional expense; we are now simply asking that companies provide that assessment to the Insurance Department to help us discharge our oversight duties more actively.

We note that the bill as drafted, rather than enacting a statute to provide this authority, grants the Department authority to promulgate regulations that would enable us to obtain this information. The Department already has regulation making authority and in fact recently updated these extensive and detailed regulations regarding the filing of audited annual financial statements by fully adopting the NAIC Model Law.

We respectfully request that the Insurance and Real Estate Committee enact a statute to stress the importance of this issue rather than to simply add this as a requirement that deviates from the model and therefore might be overlooked by the carriers. We have attached the language we originally submitted for the Committee's consideration.

Thank you once again, for introducing this concept on our behalf and for your consideration of amending this bill to reflect our original proposal. We would be happy to answer any questions you may have.

CONNECTICUT INSURANCE DEPARTMENT

Raised Bill 764--An Act Concerning Derivative Transaction Controls

Proposed substitute language to Raised Bill 764:

Be it enacted by the Senate and House of Representatives in General Assembly convened:

Section 1. (NEW) An insurer which enters into derivative transactions as authorized by the Commissioner shall be required to include, as part of the Department of Insurance financial analysis of accounting procedures and internal controls, a statement describing the assessment by the independent certified public accountant of the internal controls relative to derivative transactions. If the internal controls relative to derivative transactions are determined to be deficient, the insurer shall require the accountant to include in the evaluation a description of such deficiencies and the insurer shall append to the evaluation a description of any remedial actions taken or proposed to be taken to correct these deficiencies, if such actions are not already described in the accountant's report.

Statement

Insurance Association of Connecticut

Insurance and Real Estate Committee

February 10, 2009

SB 764, An Act Concerning Derivative Transaction Controls

The Insurance Association of Connecticut (IAC) has concerns with SB 764, An Act Concerning Derivative Transaction Controls.

As drafted, it is difficult to respond with specific comments regarding SB 764, which requires the Insurance Commissioner to adopt regulations regarding report requirements for insurers that enter into derivative transactions.

If the Insurance Committee intends to go forward with legislation in this area, IAC would welcome the opportunity to work with the Committee and the Insurance Department to develop alternative language that brings greater clarity to the legislation and its effect.