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HB6549

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Necessary for passage	67
Those voting Yea	133
Those voting Nay	0
Those absent and not voting	17

DEPUTY SPEAKER RITTER:

The Bill as amended is passed.

Will the Clerk please call Calendar Number 214?

THE CLERK:

Calendar Number 214 on page 10 of today's calendar. Favorable report of the Joint Standing Committee on Insurance and Real Estate. Substitute House Bill 6549, AN ACT ESTABLISHING A MEDIATION PROGRAM FOR CERTAIN INSURANCE POLICY CLAIMS ARISING FROM A CATASTROPHIC EVENT.

DEPUTY SPEAKER RITTER:

Representative Megna.

REP. MEGNA (97th):

Thank you, Madame Speaker. Madame Speaker, I move acceptance of the Joint Committee's favorable report and passage of the Bill.

DEPUTY SPEAKER RITTER:

The question is acceptance of the Joint Committee's favorable report and passage of the Bill.

Representative Megna, you have the floor.

REP. MEGNA (97th):

Thank you very much, Madame Speaker. Madame Speaker, this Bill originally came to our Committee from the department of Insurance and it was to establish a mediation program for homeowners who are having problems settling or -- over claim disputes with insurance companies for claims arising out of a catastrophic event.

This is a process that the Governor of New Jersey and Governor Cuomo of New York had implemented after Storm Sandy had hit and it turned out to be a very successful program and really helped resolve disputes for homeowners and maybe in those states as well as businesses. Madame Speaker, the Clerk is in possession of LCO 6001. I'd ask that it be called and I be permitted to summarize.

DEPUTY SPEAKER RITTER:

Will the Clerk please call LCO 6001, which will be designated House Amendment Schedule "A".

THE CLERK:

Yes, Madame Speaker. House Schedule "A", LCO 6001, introduced by Representative Megna and Senator Crisco.

DEPUTY SPEAKER RITTER:

The Representative seeks leave of the Chamber to summarize the Amendment.

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

REP. MEGNA (97th):

Thank you very much, Madame Speaker. Madame Speaker, this is a strike all Amendment. When the Bill initially came out of the Committee, there were some issues with it that we had worked out with the Department as well as the industry and I want to thank my Ranking Member, Representative Sampson for working along with some of those issues.

What the Amendment does is it creates a -- makes a shall you may. It just simply empowers the Department of Insurance to create this mediation program which I might as well explain to the Chamber. It's really a process where an individual is brought in -- a professional from a mediation company is brought in, the two parties are put together; the insurance company, their representatives, and the homeowner and the mediator tries to bring the two parties together into an agreement.

This process would be available to homeowners

when their claim disputes -- there is a difference of about $5,000 and it would also apply to condominium master policies under homeowner associations. The cost of the mediation would be borne by the insurance industry. Traditionally and by statute, when you have a dispute with your insurer on your home or on your business, there's a process called appraisal where you hire an appraiser and the insurance company hires and appraiser, those two hire an umpire and the dispute is resolved that way.

That's a very costly to the homeowner or the business owner -- very costly process and sometimes very time consuming. So, what this will do is, this will put a process in place or empower the Department to establish regulations and put a process in place in the event the Governor calls a state of emergency and the Commissioner feels as though this mediation process is needed, it can be enacted.

By preparing for it now and doing this -- enabling legislation for the Department, I think it really puts a jump on it. I know New Jersey and New York did it, maybe by executive order, if that's the correct term, in response to a backlog or a bottleneck of complaints on the claim process by homeowners

within those two states. With that, Madame Speaker, I move adoption of the Amendment.

DEPUTY SPEAKER RITTER:

The question before the Chamber is adoption of House Amendment Schedule "A".

Will you remark further?

Representative Sampson of the 80th District, you have the floor, sir.

REP. SAMPSON (80th):

Thank you, Madame Speaker. I think the Chairman of the Insurance Committee did a fine job of explaining the Bill and of course the strike all Amendment which is much like the underlying Bill except it made several changes that I think improve the language dramatically.

I want to thank the Chairman for working with me and the members of the Committee to make a far better final product. I think the major sticking point was not so much whether or not mediation would be a good idea, but at what threshold it could occur at and the final result was a threshold of $5,000 difference between the insurance company and the policy holder in a disagreement about the amount of a claim.

And, I think that will result in very few

situations where mediation is required, but I think it's an appropriate response to that situation and I would urge my colleagues to support this Amendment and with that, Madame Speaker, I am done. Thank you very much.

DEPUTY SPEAKER RITTER:

Will you remark further on the Amendment?

Representative Smith of the 108th District.

REP. SMITH (108th):

Thank you, Madame Speaker. Just a few questions to the proponent of the Bill?

DEPUTY SPEAKER RITTER:

Please proceed.

REP. SMITH (108th):

I just heard Representative Sampson talk about the $5,000 threshold which I'm scanning through the Amendment quickly, I did not see, so if the good Chairman could just explain that once again in case I didn't hear it correctly? Through you, Madame Speaker.

DEPUTY SPEAKER RITTER:

Representative Megna.

REP. MEGNA (97th):

Through you, Madame Speaker, I'm on line 18, it

states when the parties -- where the actual cash value or the amount of the loss is $5,000 or more -- the terms actual cash value or amount of loss are in statute under the standard fire policy and kind of what it refers to is when there's a difference of $5,000 or more on the depreciated value of the property or the replacement cost of the property. That's what those two words mean. But, it's on line 18, the $5,000 amount. Through you, Madame Speaker.

DEPUTY SPEAKER RITTER:

Representative Smith.

REP. SMITH (108th):

Thank you to the Chairman for that. I do see it now. So, as I understand it, what he just stated, anything less than $5,000 would not be subject to the mediation that would be allowed for under this Bill. Through you, Madame Speaker.

DEPUTY SPEAKER RITTER:

Representative Megna.

REP. MEGNA (97th):

Yes, that is correct and that was one of the issues that we resolved with the Ranking Member. Originally the Bill from the Department of Insurance, I believe, was $500 or more or $200 or more and we

felt that just -- it just didn't make economic sense to do it at that threshold and I believe the estimated cost of a mediation is somewhere around seven or $800. So, that is correct, Through you, Madame Speaker.

DEPUTY SPEAKER RITTER:

Representative Smith.

REP. SMITH (108th):

And, I think the threshold makes sense and I agree with that -- just I didn't catch it initially, so I appreciate the answers. I'm wondering, Madame Speaker, through you if the good Chairman can also explain, was there any thought to open this up to more than a catastrophic event or why was it limited to just a catastrophic event? Through you, Madame Speaker.

DEPUTY SPEAKER RITTER:

Representative Megna.

REP. MEGNA (97th):

There is a process in place, Through you, Madame Speaker -- there's a process a place with every contract, every policy sold in the state, probably under the unregulated portion, but in the regulated homeowner marketplace there's a process in place when you buy a contract.

That process is set in statute so essentially, it's identical in everybody's homeowner policy and, you know, from time to time it has come up that it's a very costly process and people, you know, may have $1,000 claim they want to resolve and it's just not cost effective to go through it. But, I guess for all intents and purposes we felt that the current process is okay.

In the event of a catastrophe you have individuals that come in from out of state to handle these claims, they're very busy individuals, they're running, and running and running, they overlook items, they leave homeowners stranded, they leave an amount of money there and disappear and hear a homeowner doesn't have the ability to repair their home.

So, we thought that this process would be appropriate in the event of catastrophe, Madame Speaker, and to reiterate, there already is a alternative dispute resolution process in every property policy sold within the state. Through you, Madame Speaker.

DEPUTY SPEAKER RITTER:

Representative Smith.

REP. SMITH (108th):

I thank the Chairman for his answers and I'm becoming educated in the insurance law here as we speak. So, I was thinking about a fire, you have a house fire where, you know, your house is completely destroyed or even partially destroyed. We all know how devastating that can be and the damage that goes into that and the loss that goes into it and trying to identify and put a value on the items that were lost. Everything from paintings to clothing to appliances and you know, unless you're as diligent as some people are, most of do not go around room to room and take a video of what's here, how many socks did you have in this drawer, the jewelry on top of the dresser.

All that is subject to proof, most of it is loss. Just from experience, I've been involved with many claims where it's very difficult to resolve those claims without getting involved with litigation to make a proof of claim and ultimately come into a resolution which is cost -- of course expensive and costly and time consuming and emotionally draining for the homeowner.

And, while I understand it's not part of this bill, I would hope maybe in the future we could make it part of the bill. I think mediation is always a

good idea. Even though I as a lawyer make money litigating cases, mediation is really the way to go and it's a good policy, it looks like a good bill and I just have one more question.

On lines 22 to 25, I notice flood claims, at least as I read it, would not be provided for under this bill and I just want to make sure I'm reading that correctly and if so, why not? Through you, Madame Speaker.

DEPUTY SPEAKER RITTER:

Representative Megna.

REP. MEGNA (97th):

Yeah, through you, Madame Speaker, the National Flood Insurance, although they call it National Flood Insurance, is really just a federal program. We have no regulatory authority over it at all. We have no real ability to impact the way those claims are handled because it's a federal program.

I know after Hurricane Irene a few years ago, it was a tremendous issue in front of our Committee and we even had the folks from the regional flood operation provide an informational meaning to our Committee and the bottom line is there's really nothing we could do as much as we would love to,

impact that process, we cannot do it through our regulatory process or our regulatory process is only for what insurance policies are sold that are regulated in the marketplace.

Which, if I could take that a step further, you have this unregulated marketplace that is out there too, they call it surplus lines. That would not apply -- this mediation would not apply to that marketplace either. Through you, Madame Speaker.

DEPUTY SPEAKER RITTER:

Representative Smith.

REP. SMITH (108th):

Thank you, Madame Speaker and I again, really thank the Chairman for his answers. It's very educational and informative. So, thank you for the time and the opportunity to ask the questions.

DEPUTY SPEAKER RITTER:

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

REP. CARPINO (32nd):

Thank you, Madame. A few questions to the proponent of the Amendment for legislative intent.

DEPUTY SPEAKER RITTER:

Please proceed.

REP. CARPINO (32nd):

Through you, Madame, when we're talking about mediation, are we clear that this is non-binding mediation and not to be confused with binding arbitration? Through you.

DEPUTY SPEAKER RITTER:

Representative Megna.

REP. MEGNA (97th):

Yes, I believe so. Through you, Madame Speaker.

DEPUTY SPEAKER RITTER:

Representative Carpino.

REP. CARPINO (32nd):

Thank you. In the event a carrier chooses not to agree to the mediator's figure, could that rise to the level of bad faith? Through you.

DEPUTY SPEAKER RITTER:

Representative Megna.

REP. MEGNA (97th):

No, not for legislative intent, absolutely not. Through you, Madame Speaker.

DEPUTY SPEAKER RITTER:

Representative Carpino.

REP. CARPINO (32nd):

Thank you and I appreciate his patience and my

final question is, in the event a carrier opts not to agree to any of the mediator's figures over a pattern of time, could this rise to the level of a cupper<SP> or culpa<SP> claim? Through you.

DEPUTY SPEAKER RITTER:

Representative Megna.

REP. MEGNA (97th):

I can't -- through you, Madame Speaker, I can't imagine that happening. What would happen in the event there is not agreement in this mediation process, I mean everybody is supposed to act in good faith in entering into it, but it just reverts back to the contract.

So, in the event there is no agreement, both the insurer and the homeowner are entitled to that appraisal process I talked about a little earlier and then if that doesn't work out, you can always bring an action against the carrier, but it's much more difficult at that point.

But, the -- I think that statute that the good Representative is talking about, means that there's got to be a general business practice of a bunch of different items under that section and I don't believe at all that -- if there's not agreement met in the

mediation process, I don't believe at all that that would be a general business practice that would constitute bad faith under that section. That's just my understanding. Through you, Madame Speaker.

DEPUTY SPEAKER RITTER:

Representative Carpino.

REP. CARPINO (32nd):

Thank you, ma'am. My concern is just being clear here so that we know what the ramifications are in the event we wind up dealing with a carrier who repeatedly fails to accept the mediator's number. The constituents have a right to know if this is in fact going to set the carrier up for a pattern of practices and that is my question, if that helps the good Chairman. Through you.

DEPUTY SPEAKER RITTER:

Representative Megna, do you have a response?

REP. MEGNA (97th):

Yeah. My belief is the mediator doesn't establish a value like in an arbitration process or some other type of process. It's simply an individual bringing -- trying to bring the two parties together. I don't believe -- my understanding is that the mediator does not establish a value.

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It's literally an agreement between the two parties and then the insured still has the -- the homeowner still has the option to think about it for, I think, five days or so and say no, I'm not content with it or I'm content with it and then move into the -- back to the process that they're given by contract in the homeowner policy. Through you, Madame Speaker.

DEPUTY SPEAKER RITTER:

Representative Carpino.

REP. CARPINO (32nd):

Thank you very much to both of you. In my practice it's been different. Mediators have in fact suggested numbers that often is the ultimate goal that both parties are seeing is a neutral mediator suggesting what they believe is a fair number for both parties to come to. I hope that the Insurance Commissioner watches this because if we do in fact have parties that continually make a mockery of this, that we revisit this issue. But, I do think that this is a good concept and one I will be supporting. Thank you.

DEPUTY SPEAKER RITTER:

Will you remark further on the Amendment? Will you remark further on the Amendment before us?

If not, I try your minds. All those in favor please signify by saying Aye.

REPRESENTATIVES:

Aye.

DEPUTY SPEAKER RITTER:

Opposed Nay.

The Ayes have it and the amendment is adopted.

Representative Megna.

REP. MEGNA (97th):

Thank you, Madame Speaker. Madame Speaker we have another Amendment. It's LCO 6502. I would ask that the Clerk call it and I be permitted to summarize.

DEPUTY SPEAKER RITTER:

Will the Clerk please call LCO 6502, which will be designated House Amendment Schedule "B".

THE CLERK:

House Amendment Schedule "B", LCO 6502, introduced by Representative Megna, et al.

DEPUTY SPEAKER RITTER:

The Representative seeks leave of the Chamber to summarize the Amendment.

Is there objection to summarization? Is there objection?

Hearing none, Representative Megna, you may proceed with summarization.

REP. MEGNA (97th):

Thank you, Madame Speaker. This Amendment actually comes from another bill that went through the public hearing process that moved over and I once again, thank my Ranking Member for working with me on this. Under 38A-307, when a remediation company, a cleanup company, a company that dries out homes or boards up houses, they're often one of the first individuals on a scene when there's a catastrophe, whether it's a major catastrophe or somebody's house burns or -- and they -- 38A-307 protects them when they're -- when those homeowners, those business owners, are presented with contracts that are very non-consumer-friendly, so to speak.

What this amendment does is, traditionally and by contract when there is a loss, there's a contract between the insurer and the homeowner or the business owner and when a payment is going to be made, the carrier's traditionally realize that by contract, they own that homeowner or business owner, so quite often when there's some type of contract constructed and in that contract the person undertaking the work requests

to be paid directly.

Some carriers honor that and other carriers -- or many carriers, will issue a two-party check naming both the homeowner or the business owner or the agent and the remediation company of which the homeowner went into contract with. However, what we have found is that there is a lot of fine print in these contracts that homeowners are signing and they're signing in the heat of the moment right after their home had a fire or some kind of catastrophe hit and they know they need to move quick and dry out the home or board it up or move their property out or mitigate the loss, so quite often they sign these contracts without correctly reading them.

So, we discovered that some of these contracts have, what do they call it -- a power of attorney by signing the contract to do the work, there's also information in there that gives the company power of attorney to sign their name when there's a two party check produced.

So, what this Amendment does, is it addresses that and it says you can't do that and if you do that, that contract is void and it also goes a little step further and says if there's anything in that contract

that makes that homeowner or business owner waive their legal rights by signing that contract, that contract is also void. And, also in the beginning of this -- the beginning of the Amendment, there's a change under A1 where the July 1, 2012 end covered is removed.

What we determined was that quite often these individuals come out, they have these very vague contracts signed which are really -- not only are they a contract, but they're a contract/assignment of benefits from the insurance company, directing the insured just to send them whatever money they're going to ask for under this contract, or quite often they don't even have a value on the contract.

So, what we did is we also removed the word covered because often these individuals don't even know if the insurance company is going to cover the loss and whether there's whatever amount of insurance or so is on that property. So, this protects the consumer in the event -- more so in the event that a loss is not covered and they go to sign one of these consumer unfriendly contracts.

And, Madame Speaker, I'd like to actually thank the IAC out in the hallway who also helped draft this

language for this Amendment and with that, I would move adoption and thank you very much, Madame Speaker.

DEPUTY SPEAKER RITTER:

The question before the Chamber is adoption of House Amendment Schedule "B".

Will you remark on the Amendment?

Representative Sampson, you have the floor sir.

REP. SAMPSON (80th):

Thank you, Madame Speaker. Again, I believe the Chairman did an excellent job of outlining what the language in this Amendment entails and what it does and I would urge my colleagues to support it. This is really just another consumer protection that is added to the underlying Bill and to save the opportunity to speak again, I will also encourage everyone just vote for the underlying Bill once this Amendment's been adopted. Thank you, Madame Speaker.

DEPUTY SPEAKER RITTER:

Will you remark further? Will you remark further on the Amendment before us?

If not, I try your minds. All those in favor please signify by saying Aye.

REPRESENTATIVES:

Aye.

DEPUTY SPEAKER RITTER:

Those opposed Nay.

The Amendment is adopted.

Will you remark further on the Bill as amended? Will you remark further on the Bill as amended?

If not, will staff and guests please come to the well of the House? Will the members please take your seats? The machine will be opened.

THE CLERK:

The House of Representatives is voting by roll. The House of Representatives is voting by roll. Will members please return to the chamber immediately?

DEPUTY SPEAKER RITTER:

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? If all members have voted, the machine will be locked and the Clerk will take a tally.

The Clerk will please announce the tally.

THE CLERK:

Bill Number 6549, as amended by House "A" and "B".

Total number voting	134
Necessary for passage	68

Those voting Yea 134

Those voting Nay 0

Those absent and not voting 16

DEPUTY SPEAKER RITTER:

The Bill as amended is passed.

(DEPUTY SPEAKER SHARKEY IN THE CHAIR.)

SPEAKER SHARKEY:

Will the Clerk please call Calendar 363?

THE CLERK:

On page 48 of today's Calendar, Bill Number -- or Calendar Number 363, favorable report of the Joint Committee on Finance, Revenue and Bonding, Substitute House Bill 6590, AN ACT CONCERNING LICENSING OF TATTOO TECHNICIANS.

SPEAKER SHARKEY:

Representative Johnson.

REP. JOHNSON (49th):

Good evening, Mr. Speaker.

SPEAKER SHARKEY:

Good evening, Madame.

REP. JOHNSON (49th):

Thank you. I move the Joint Committee's

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minutes to testify. You'll hear the bell go off and we'd ask that you summarize at that point. We have your testimony, we have it on record and it will be posted on the CGA website. And, I just want you to recognize the exits to this room, to my right and the left, in the event of an emergency.

The first part of the Public Hearing will be, we'll hear from Public Officials and Elected Officials, and then we will move on to the public.

And we'll go in order as the bills appear on the Public Hearing agenda.

So, first up as a speaker I'd like to ask Representative James Albis.

REPRESENTATIVE ALBIS: Good evening Senator Crisco, Representative Megna, distinguished Members of the Insurance and Real Estate Committee. It's good to see you all back in school and I heard a rumor that Representative Dargan is going to serenade us on piano later. So, I'm looking forward to that as well.

I appear before you tonight in support of House Bill 6549, and also for the record, my name is James Albis, State Representative from the 99th District, right next door in East Haven. Again, I'm here in support of House Bill 6549 AN ACT ESTABLISHING A MEDIATION PROGRAM FOR CERTAIN INSURANCE POLICY CLAIMS ARISING FROM A CATASTROPHIC EVENT.

Following the devastating storms of Irene and Sandy, many of my constituents went through the process of filing insurance claims for damages sustained during those events. For a good number of those constituents, the process was long,

confusing and ultimately unfulfilling. A mediation process for claims related to catastrophic weather events, those for which the Governor has declared a State of Emergency, would give policy holders the chance to have their voice heard in a fair manner, and provide them with a sense of closure.

These weather events can be life-altering for those who are filing claims, and often times all they're looking for is a resolution and the ability to move on.

Even a year after Tropical Storm Irene, there were East Haven residents who were still trying to work things out with their insurance companies, and it is for instances like these that a mediation program would be most beneficial.

I'd also recommend to the Committee that you consider improving the transparency of insurance policies by including clear wording to advice the insured that a policy does not provide for flood insurance, identifying when hurricane deductibles apply, and requiring insurance companies to inform the insured, at each renewal, whenever a percentage deductible is on their policy, describing how that deductible would be applied at the time of loss. These measures would likely increase the insured's understanding of their policy in the case of a catastrophic weather event.

Thank you for your time, and I welcome any questions.

REP. MEGNA: Thank you Representative. And Representative, on behalf of the Committee, I've got to apologize to you because you have brought this idea forward to me, to the Committee, about

doing notice on the homeowner policy, about the fact that flood is not covered. So, I apologize to you for that and hopefully we'll have something put together for the JFS language.

With that, are there any questions of the Representative? Representative Johnson.

REPRESENTATIVE JOHNSON: Thank you Mr. Chair and thank you for your testimony today. This looks like a good way to have more transparency and more access to negotiating with the insurance companies. I presume it is because there have been so many difficulties since the last three storms we've had and that people have had a hard time trying to determine what kind of coverage they're going to have so they can begin making their repairs and fix the neighborhoods up, that sort of thing.

REP. ALBIS. Absolutely, and my State Senator Len Fasano is here as well, and he can attest to this in addition to what I'm saying. But there were several folks who were so interested in just getting a result that when the insurance company came back to them with a response, it might not necessarily been the response that they wanted, but they weren't sure how a long a fight to get more money would take, and they didn't know if they wanted to engage themselves in that process, so they took the first offer that was given. I think that this proposal gives folks an opportunity to come back and say, "Well, I think I deserve this amount of money because of X, Y and Z." I think its just a fair manner for the insured to come back and have a hearing and get a response.

REP. JOHNSON: Thank you so much. Thank you Mr. Chair.

REP. MEGNA: Thank you Representative. Representative Yaccarino.

REPRESNETATIVE YACCARINO: Thank you Mr. Chair and thank you Jim for your testimony.

I just have a question. On the mediation panel, how many members would it consist of? I don't really see -- I didn't really see it, I don't have a copy of the language in front of me, but I believe the bill says the Insurance Commissioner has the authority to set regulations, so I don't know if that is the right answer, but I believe that is not entirely set out in the bill.

I support it, I was just curious how many would be -- five members, seven members, three members?

Thank you.

REP. ALBIS: I believe the intent is for one mediator in --

REP. YACCARINO: That might cause -- I'd recommend maybe three but you know better than me with insurance.

REP. MEGNA: Thank you, sir. Any other questions? Thank you Representative.

Senator Fasano.

SENATOR FASANO: State Senator Len Fasano, 34th District of Wallingford, North Haven, East Haven and part of Durham.

Thank you for having it in sort of my neighborhood, if I may, by extension. I apologize for being casual.

I'm here to talk about Bill 6477, this is the Condominium Bill, where you guys have a bill out

REP. MEGNA: Thank you very much. Actually, you had a petition that you had sent to the Department of Insurance with how many signatures were on that?

ALDERMAN SAL DACOLA: Way over 200 signatures.

REP. MEGNA: Yeah, thank you for that. Are there any questions of the Alderman?

Thank you very much, Sal.

George Bradner from the Department of Insurance.

You're going to be testifying on three different bills, I think, George.

GEORGE BRADNER: Yes.

HB6379

Senator Crisco, Representative Megna and Members of the Insurance and Real Estate Committee, the Insurance Department appreciates the opportunity to provide testimony on H.B. 6549 AN ACT ESTABLISHING MEDIATION PROGRAM FOR CERTAIN INSURANCE POLICY CLAIMS ARISING FROM A CATASTROPHE EVENT, H.B. 6378, AN ACT CONCERNING CHANGES TO PROPERTY AND CASUALTY INSURANCE AND RELATED STATUTES, and H.B. 6380, AN ACT CONCERNING CHANGES TO THE PROPERTY AND CASUALTY INSURANCE POLICIES AND HOME IMPROVEMENT CONTRACTORS.

My name is George Bradner, I'm the Property Casualty director for the State of Connecticut Insurance Department.

House Bill 6549 issues a formal mechanism for non-adversarial mediation of disputes between the insured homeowner and an insurer following a major catastrophe. The intent of this legislation is for it to apply to the loss or damage to real or personal property, other than damage to motor vehicle. This is the approach

taken recently and adopted by New York Mediation Program that applies to Superstorm Sandy claims. The Insurance Department believes that the consumers affected by extensive and devastating damage to their homes, such as following the major hurricane, would benefit from having an option to use such a mechanism in appropriate circumstances. Mediation would be voluntary for the insured claimants, but mandatory for the insurer. Insurers would pay for all costs for the mediation. Insurers would not be responsible for the insured's attorney fees or other costs and expenses of any representative they choose to hire for the mediations. It would require the amount of the dispute be at least $500.00 or more, and while the proposal includes a cost not to exceed $750.00 for the mediation, the department believes that it would be better to remain silent on this specific dollar amount since it could change over time and we would have to make statutory changes if that were the case.

The proposal incudes substantive provisions, similar to the department's arbitration program for Motor Vehicle Physical Damage Claims under Connecticut General Statute Section 38a-9, and would apply to-- and we would be happy to work with the Committee to be more appropriately address the procedures and issues involved in mediation that are significantly different from an arbitration process.

New York has recently adopted emergency regulations for the mediation of Sandy Catastrophe Claims and the Department believes that it should be used as a model for Connecticut's Catastrophe Mediation Program.

It is important to note that if the insured choses not to participate in this program, or the

parties are unsuccessful in reaching a settlement on the claim, the insured would continue to have rights, all rights, to attempt to resolve the claim. This includes the right to use the appraisal process set forth in the policy and the right to pursue litigation, or any other dispute resolution procedure available to them under Connecticut Law.

While the homeowners and condominium association insurance policies do provide a provision for an appraisal process, the department believes that in severe catastrophic events, a more streamlined process is needed to help the thousands of consumers that may have grievances and with how the company is compensating their loss. We believe that the current appraisal process would not be able to accommodate the sheer numbers of complaints that would arise from a catastrophe event.

It should also be noted and mentioned -- excuse me. It should also be noted as mentioned above that due sheer magnitude of the losses from Sandy, New York and New Jersey recently have implemented catastrophe mediation programs to respond to claim dispute issues that they are seeing in their states. Furthermore, Rhode Island, Florida, Louisiana, Mississippi, North Carolina have all created a mediation process to help consumers resolve claim issues that surface after major catastrophic events in their states.

Regulations would first need to be adopted to be implemented -- to implement this mediation program and the Commissioner would have the right to designate independent third party organizations, such as the American Arbitration Association, to administer the mediation program.

In closing, I would like to thank you for the opportunity to appear before you regarding this raised Bill the Department brought forward. I would like to go on -- is this on?

A VOICE: No, we're going to do it off (inaudible)

GEORGE BRADNER: -- I can't hear anything up here.

A VOICE: Its still recording it.

I can hear you better this way.

We'll still have a transcript, but the sound wont be --

GEORGE BRADNER: Okay, thank you.

I'd like to go on now and speak about 6378, AN ACT CONCERNING CHANGES TO THE PROPERTY --

(Power Failure)

GEORGE BRADNER: -- in which to value these losses and information is readily determinable through many sources, including trade magazines, local newspapers and internet.

Homeowner claims are far more complex given the unique nature of residential property. Greater expertise is needed to value reconstruction costs, materials to be used, labor costs, compliance with code requirement costs, et cetera. Therefore, the Department does not believe that it would be efficient to permit the arbitration of homeowner claims. Rather, the appraisal provisions in the homeowner policy should be the remedy for that.

REP. MEGNA: In the affidavit itself it does provide the address of the property, it provides what type of coverage is being placed. So, we do -- in the affidavit, it is there. I have not familiarized myself complete with the surplus lines bill, but I was speaking with Bill earlier and I told him that we would want to make sure that we knew what type of business was being placed. So, if it was a homeowner's policy, we'd want to know, and what was the coverage amount of that home that was being placed in the surplus lines, and where is it located.

REP. MEGNA: Okay, but reading the statute myself, doesn't the statute just says they have to indicate the amount of insurance --

GEORGE BRADNER: Yeah, when I read it, the statute, the bill is kind of lacking in certain areas, so we could probably sit down and talk about filling it in, those areas.

REP. MEGNA: Okay, thank you. Are there any questions of the Department?

Representative Wright.

REPRESENTATIVE WRIGHT: Thank you Mr. Chairman. When I was reading through this I had one or two concerns, they generally revolve around the cost of the program, because it looks like the -- that a mediation can be triggered with a claim of as little as $500.00 and that it is anticipated that the cost can reach as much as $750.00, so we have a situation where the cost of the mediation actually exceeds the cost of the claim?

HB6549

GEORGE BRADNER: Two things there. The $500.00 was a start. One of the things we did see is New York set that limit at $1,000.00 so you had to start at $1,000.00 before you'd go into the mediation

program. So that's -- you know, we could work with the Committee, we could work with the industry on what that limit --what that amount should be.

As for the cost of the program, that's one of the things, I think the Collins Center, a non profit organization out of Florida, established the program, and what you do and the Department would do is work -- we would partner with an organization to set up the program and we would set up what the cost would be. Could be $750.00, it could be $1,000.00, but you would say to the organization that's running the program, that is the total cost. That's what you're going to get. You're getting fifteen or twenty thousand of these mediation claims and you're going to be getting the $1,000.00 a piece, so that needs to cover your administrative cost. That's all you're going to be walking away with at the end of the day. And we would work out the specific -- we would have to -- the bill calls for writing regulations. We would have to write a regulation that would fill in those areas of what other expenses could be considered, but the way I understand it worked in Florida, the way it works in Louisiana is they said, "Here is what it costs to go to mediation, that's it."

REP. WRIGHT: Is it a standard practice in the other states for the entire cost to be born by the insurance companies and not to be split at all? Is that standard?

GEORGE BRADNER: Yes, from my understanding, that is.

REP. WRIGHT: Thank you. Thank you Mr. Chair.

REP. MEGNA: Thank you, Representative. Representative Yaccarino.

REP. YACCARINO: Thank you Mr. Chair. Thank you for your testimony. I asked (inaudible) about this also earlier. The mediator will be appointed through your office or -- how would that work?

GEORGE BRADNER: Yeah, I think we would work out the process. Again, there's a lot here that we have to sort of -- we can look at what other states have done and we would -- we need to write regulations about how the mediation process would work.

How many mediators you have sometimes would depend on how big a loss you have. So, you might need fifteen or twenty mediators because you're going to have thousands of people that are going through these programs, and you may have to have them situated throughout the state to be able -- so people can get to them easily. So, you would have a delegated number of mediators, from what I under -- when I've looked at some of the programs that other states have done, and then it stays locked in at that. But again, the event dictates how many mediators you're going to need.

REP. YACCARINO: Like Sandy, you would obviously need more throughout the state?

GEORGE BRADNER: Well, yeah, like New York and New Jersey, because, you know, you have 150,000 claims in New York, you're going to need more mediators in order to manage that.

REP. YACCARINO: That makes sense, because it really quickens the process for the loss.

REP. MEGNA: Representative Kelly -- Senator Kelly, excuse me.

SENATOR KELLY: Thank you Mr. Chairman. I just have a question regarding Raised Bill 6380. And in

would have to come in to the department to be reviewed before they could be enacted.

SENATOR KELLY: Thank you very much for your answers and I appreciate the fact that you took the time out of what I know to be a very busy schedule to come down here to New Haven tonight to be with us. So, thank you very much.

GEORGE BRADNER: I thoroughly enjoyed it.

REP. MEGNA: Mr. Bradner, I just had one -- oh, I'm sorry, I didn't see you guys. You have the floor, Representative.

REPRESENTATIVE SANTIAGO: Thank you for your testimony. I just have a quick question. What is the average of complaints that you have received from the catastrophic Sandy within the last year?

GEORGE BRADNER: Let me ask, Mike. Did Gerard say anything about -- we have not received a lot of complaints regarding Sandy. It's nominal if we-- maybe count them on one hand. We have not received a lot of complaints regarding Sandy. We were not as -- Connecticut, obviously we were not as impacted as New York and New Jersey. They're getting about one percent of -- they're seeing -- you know, the industry has closed in Connecticut about 92 percent of all their homeowner claims in Connecticut. I think it's about the same in New Jersey and New York, and I think New Jersey and New York were saying that they were seeing about one percent of the claims that were closed were --they were having some complaints.

REP. SANTIAGO: If I may Mr. Chairman, I have another quick question. On the mediation program, do you find that -- how many complaints you receive a year basically when an insurance company doesn't want to pay a claim, on average?

HB6549

GEORGE BRADNER: You know, we were looking at that. It just -- I think we saw that using the appraisal process, I think there's maybe two a month where someone calls in and says that they're having an issue with their company about coming up with an agreement on the appraisal, or their claim, and then we refer them to the provisions of the policy, saying, you should, you know, pursue the appraisal process in the policy. So, it was like less than twenty -- yeah about twenty a year so it's really not something we're seeing a lot of issues around. Again, we get concerned when you have a catastrophic event and you have hundreds of thousands of claims. That number is going to spike.

REP. SANTIAGO: Then, to piggy back on that, then if you -- if there's a process that an insurance company has where you appeal it, and once it's denied then would that -- would that homeowner have the option to go then to the mediation program? Or should they go forward?

GEORGE BRADNER: If, after a catastrophe, the Governor declares a state -- a declaration in Connecticut, and then, you know, the Commissioner believes that the mediation program needs to-- wants to initiate the mediation program. The person should go into the mediation program, but they -- you know, we have to work out those particular nuances about when did they come into the mediation program, so that is stuff that would have to be worked out.

I would like to see them, when they have that dispute, come into the mediation program to have it resolved.

REP. SANTIAGO: So, is this program just going to be when there is an instance like that or is this going to be a continuing mediation program?

GEORGE BRADNER: It would be a mediation program that would only be implemented once -- when the Governor declares a disaster, and then it would be implemented to address the large numbers of claims that you'll see.

REP. SANTIAGO: Okay, thank you. Thank you Mr. Chairman.

REP. MEGNA: Thank you, Representative. Representative Cuevas.

REPRESENTATIVE CUEVAS: I have a quick question on 6378. Can you give me an example, on the arbitration process, how that would work with a motor vehicle claim in regards to a third party?

GEORGE BRADNER: I'm going to bring Mike up. You want to-- he wants an example of how the arbitration process would work with a third party --

REP. CUEVAS: With an example of, you know, liability insurance, full coverage, parties involved in an accident. How would that work? Automobile, yes.

REP. MEGNA: Identify yourself Mike, for the record.

A VOICE: Into the mike is fine because the mike works for the transcript.

MICHAEL MALESTA: Michael Malesta, counsel for the Connecticut Insurance Department.

And now, we're going back to the arbitration program for motor vehicle claims. The way that works is there can't be a coverage dispute and there cant be a liability dispute. So, in other words, if the third party tort feasor's insurance company said, "My client was at fault at this, I'm going to pay this claim." and there is a dispute about the value of -- typically it's a total motor vehicle, then there's rights then

ROBERT KEHMNA: Thank you Representative Megna, Senator Crisco, Members of the Committee. My name is Bob Kehmna from the Insurance Association of Connecticut. I'm here today to oppose 6549, AN ACT ESTABLISHING A MEDIATION PROGRAM FOR CERTAIN INSURANCE POLICY CLAIMS ARISING FROM A CATASTROPHIC EVENT.

I want to be clear here, we're opposing the bill as written. This is described as a mediation program. This is a mediation program in name only as this bill is written. What you've set up here in this legislation is basically an arbitration program. There are standards in here that have no relationship to mediation, as I understand it, as others understand it. So if the goal of the Committee-- apparently it is -- if the goal of the department is to work on defining and developing a mediation program for use as described by the department, we are more than willing to sit down and work with you all to try and form a system that works. This is not that. This is clearly not that and it raises a whole host of questions that I outline in my written testimony.

If the bill is dead letter, and that's really not what we're talking about in the future, then I wont waste your time right now, but if the bill has any interest at all in the Committee, as written, please reference the testimony. There's all kinds of problems with this as written, particularly as a result -- not only our rights, but the rights of the consumer.

REP. MEGNA: Thank you very much, Mr. Kehmna. I know I actually noticed, when I first saw the language, it had denials in there also, which was interesting. I was --

ROBERT KEHMNA: There are written --

REP. MEGNA: -- pretty impressed at the Department of Insurance.

ROBERT KEHMNA: There are requirements for written decisions, interest penalties, things that have nothing to do with mediation, which is really three people getting around a table, the mediator and the two parties, and seeing if they can work it out. That's what mediation is all about. This is far from that and would only elongate the process, increase costs and create additional disputes that would serve no one's interests.

REP. MEGNA: Thank you. So, we look forward to working with you on that bill.

ROBERT KEHMNA: So do I.

REP. MEGNA: Are there any questions? No. Thank you very much. Stay right there. We're moving on to -- we're going to move on to 6380 and you're first up.

ROBERT KEHMNA: Thank you. Again, for the record, my name is Bob Kehmna from the Insurance Association of Connecticut. I am here today to impose -- oppose House Bill 6380.

Section One would require all personal and commercial risk policies covering repair or replacement of any damaged item, part, component, material, to pay for a uniform matching of that repair or replacement and enjoining areas. We know of no other state that has such a broad provision, both as to the applicable policies under the provision, and the scope of standards for determining uniformity. This would have real impact on cost of premium, increase cost of insurance policies unnecessarily, be contrary to the interest of the consumer.

STATE OF CONNECTICUT

INSURANCE DEPARTMENT

Testimony

Insurance and Real Estate Committee

March 5, 2013

Raised House Bill No. 6549 ***AN ACT ESTABLISHING A MEDIATION PROGRAM FOR CERTAIN INSURANCE POLICY CLAIMS ARISING FROM A CATASTROPHIC EVENT.***

Senator Crisco, Representative Megna, and members of the Insurance and Real Estate Committee, the Insurance Department appreciates the opportunity to provide written testimony regarding H.B. 6549: AA Establishing A Mediation Program For Certain Insurance Policy Claims Arising From Catastrophic Event. House Bill 6549 issues a formal mechanism for non-adversarial mediation of disputes between an insured homeowner and an insurer following the major catastrophe, in which the Governor has declared a State of Emergency. The intent of this legislation is for it to apply to loss or damage to real or personal property other than damage to a motor vehicle. This is the approach taken by the recently adopted New York mediation program that applies to Superstorm Sandy claims.

The Insurance Department believes that consumers affected by extensive and devastating damage to their homes, such as following a major hurricane, would benefit from having an option to use such a mechanism in appropriate circumstances. Mediation would be voluntary for the insured claimants but mandatory for insurer participation.

Insurers would pay for all costs for the mediation. Insurers would not be responsible for the insured's attorney's fees or other costs and expenses of any representative they choose to hire for the mediation. It would require that the amount in dispute be at least $500 or more. While the proposal includes a cost not to exceed $750 for the mediation (lines 130-131), the Department believes that it would be better to remain silent on a specific dollar amount since it could change over time which would then require a statutory change.

The proposal includes substantive provisions similar to the Department's arbitration program for motor vehicle physical damage claims under Conn. Gen. Stat. section 38a-9 and we would be happy to work with the Committee to more appropriately address the procedures and issues involved in mediation that differ from arbitration. New York has recently adopted emergency regulations for the mediation of Sandy catastrophe claims and the Department believes that it should be used as a model for Connecticut's catastrophe mediation program.

It is important to note that if an insured chooses not to participate in this program or the parties are unsuccessful in reaching a settlement on the claim, the insured will continue to have all rights to attempt to resolve the claim. This includes the right to utilize the appraisal

process that is set forth in the policy; the right to pursue litigation; or any other dispute resolution procedure available under Connecticut law.

While the homeowner's and condominium association's insurance policies do provide a provision for an appraisal process the department believes that in severe catastrophic events a more streamlined process is needed to help the thousands of consumers that may have grievances with how the company is compensating them for their loss We believe that the current appraisal process would not be able to accommodate the sheer numbers of complainants that would arise from a catastrophic event. It should also be noted as mentioned above that due to the sheer magnitude of losses from Sandy, the New York and New Jersey insurance departments have implemented catastrophe mediation programs to respond to claim dispute issues that they are seeing in their states. Furthermore, Rhode Island, Florida, Louisiana, Mississippi and North Carolina have all created a mediation process to help consumers resolve claims issues that surfaced after major catastrophes in their states.

Regulations would first need to be adopted to implement this mediation program and the Commissioner would have the right to designate an independent third party organization, such as the America Arbitration Association, to administer the mediation program. In closing, I would like to thank you for the opportunity to appear before you. Once again, thank you for raising the department's bill.

State of Connecticut
HOUSE OF REPRESENTATIVES
STATE CAPITOL
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VICE CHAIR
ENVIRONMENT COMMITTEE

MEMBER
FINANCE, REVENUE AND BONDING COMMITTEE
JUDICIARY COMMITTEE

Good evening Senator Crisco, Representative Megna, and distinguished members of the Insurance and Real Estate Committee. My name is James Albis, State Representative from the 99th District, East Haven.

I appear before you tonight in support of **House Bill 6549**, An Act Establishing a Mediation Program for Certain Insurance Policy Claims Arising From a Catastrophic Event. Following the devastating storms Irene and Sandy, many of my constituents went through the process of filing insurance claims for damage sustained during those events. For a good number of those constituents, the process was long, confusing, and ultimately unfulfilling. A mediation process for claims related to catastrophic weather events, those for which the Governor has declared a state of emergency, would give policyholders the chance to have their voice heard in a fair manner and provide them with a sense of closure. These weather events can be life-altering for those who are filing claims, and oftentimes all they are looking for is a resolution and the ability to move on. Even a year after Tropical Storm Irene, there were East Haven residents who were still trying to work things out with their insurance companies. It is for these instances that a mediation program would be beneficial.

I would also recommend to the Committee that you consider improving the transparency of insurance policies by including clear wording to advise the insured that a policy does not provide coverage for flood insurance, identifying when hurricane deductibles apply, and requiring insurance companies to inform the insured at each renewal whenever a percentage deductible is on their policy describing how the deductible would be applied at the time of loss. These measures would likely increase the insured's understanding of their policy in the case of a catastrophic weather event.

Thank you for your time and I welcome any questions.

Sincerely,

James M. Albis
State Representative, 99th District

FTR

Property Casualty Insurers
Association of America
Advocacy Leadership Results

STATEMENT

PROPERTY CASUALTY INSURERS ASSOCIATION OF AMERICA (PCI)

H.B. No. 6549 – AN ACT ESTABLISHING A MEDIAITON PROGRAM FOR CERTAIN INSURANCE POLICY CLAIMS ARISING FROM A CATASTROPHIC EVENT

COMMITTEE ON INSURANCE AND REAL ESTATE

March 5, 2013

The Property Casualty Insurers Association of America (PCI) appreciates the opportunity to comment on House Bill No. 6549, legislation that would establish a mediation program for certain claims arising from a catastrophic event. PCI is a national property casualty trade association comprised of over 1,000 member companies. PCI member companies write approximately 49 percent of all personal lines insurance sold in Connecticut.

While PCI does not oppose the concept of mediation and supports measures which will facilitate the speedy and fair resolution of claim disputes following a major disaster, PCI has concerns with certain provisions of this bill. Specifically, our concerns include the following:

- The mediation process should be limited to homeowners claims. Other claims may be more complex and not appropriate for the mediation process.
- The trigger for the mediation needs to be clarified such that the program would only be activated in the event of major and serious catastrophic event.
- The $500 disputed amount to qualify a claim for mediation is too low. Such a low amount may result in a situation where the mediation fee and/or expenses are higher than the disputed amount. This low amount may also result in a flood of nominal disputes being submitted to the mediation process. This will add unnecessary costs to insurance.
- The costs for the mediation should be shared by the parties rather than being required to be borne entirely by the insurer. In the absence of such shared costs, the policyholder has nothing to lose by going through the mediation process which may result in policyholders seeking mediation just to see if they can obtain additional funds, regardless of whether a legitimate dispute exists.
- Coverage issues must be excluded from mediation. Mediation is not the appropriate forum for the consideration or resolution of coverage issues. Rather, interpretation of insurance contracts to determine coverage is properly a matter for the courts. Determination of such issues through mediation could result in an inconsistent, inequitable and confusing range of contractual interpretations.

PCI encourages the Committee to consider these concerns if the Committee wishes to advance legislation relative to this issue.

8700 West Bryn Mawr Avenue, Suite 1200S, Chicago, IL 60631-3512 Telephone 847-297-7800 Facsimile 847-297-5064 www.pciaa.net

Statement

Insurance Association of Connecticut

Insurance and Real Estate Committee

March 5, 2013

HB 6549, An Act Establishing A Mediation Program For Certain Insurance Policy Claims Arising From A Catastrophic Event

The Insurance Association of Connecticut opposes HB 6549, An Act Establishing A Mediation Program For Certain Insurance Policy Claims Arising From A Catastrophic Event.

HB 6549 would establish a "mediation" program for disputes involving personal risk insurance policies (other than automobile insurance) and condominium policies that involve a loss due to "a catastrophic event for which the Governor has declared a state of emergency". However, HB 6549 sets up a mediation program in name only, a program that is unbalanced and unfair in its construction, which will lead to costly and counterproductive results.

In order for a claimant to use this program, the dispute must only involve $500 or more. This is an extremely low threshold amount, which will only invite misuse of the program and caused marked and unnecessary increases in insurers' administrative costs, which will have to be borne by all policyholders. As written, the new program could be invoked by the claimant immediately after the catastrophic event, resulting in needless usage of the program since the standard claims process was not given a chance to work.

HB 6549 would improperly apply the program to coverage issues (lines 120-121). Interpretation of insurance contracts to determine coverage issues should not be subject to mediation, as those interpretations need to be consistent and predictable, and are properly a matter for the courts, as they have always been. Leaving coverage interpretation to the discretion of mediators in this program will create a confusing and unfair range of interpretation regarding the same insurer's contract. Mediation should be limited to disputes over how much is to be paid.

HB 6549 states that "the insurer shall bear all costs of conducting a mediation proceeding". Is the insurer to pay all of the insured's costs, including fees and attorney's costs? The insured's incentive to come to a reasonable agreement in mediation is greatly reduced by the fact that he or she has no "skin in the game". There are no caps placed on the insurer's ultimate financial responsibility, and fees are nonrefundable, even if the insurer pays the fees and the insured cancels the hearing.

HB 6549 also contemplates crediting an insurer's "account" with the Department or the Department's administrative designee if it is determined the only coverage available is through the National Flood Insurance Program. It is not clear what regulatory authority the Department has to make such a determination or to return such money in an account.

HB 6549 does not establish any clear standards for mediators, other than the requirement that they not have worked for insurers or the Department in the last 12 months. Apparently individuals whose job involves the representation of claimants would be permitted to be mediators.

In subsection (b)(3), HB 6549 allows wide-ranging subpoenas to be issued relative to the mediation. Such an authority is contrary to the nature of mediation. HB 6549 sets up this program as more of a judicial proceeding than a mediation. Insurers apparently are responsible for paying for independent experts deemed necessary by the mediator, along with any costs associated with the production of documents, papers and records. Subsection (b)(3) also contains other language more appropriate for binding arbitration, not mediation, including the assessing of retroactive interest and the issuance of written decisions providing remedies. The mediator should only be facilitating a discussion between the parties. Traditionally, mediation is part of on-going settlement discussions and no aspect of that mediation should be admissible in any other proceeding.

As HB 6549 itself acknowledges, the standard insurance policy already has within its terms an appraisal process. If the insurer and the insured fail to agree on the amount of loss, either party may demand an appraisal of the loss. Each party chooses an appraiser, and the two appraisers choose an umpire. A decision agreed to by any two of those three persons sets the amount of loss, which is binding. The contractual appraisal process is an efficient and fair way to resolve disputes over damage amounts.

IAC must oppose HB 6549 and urge its rejection, as it would establish an unfair, costly and contradictory process that does not equate to a balanced mediation of disputes between individuals and their insurers.

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CONNECTICUT
GENERAL ASSEMBLY
SENATE

PROCEEDINGS
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Also, Madam President, on Calendar page 29, Calendar 655, substitute for House Bill Number 6339. And in addition, Madam President, on Calendar page 34, Calendar 201, substitute for Senate Bill Number 911, to mark those additional items at this time. Thank you, Madam President.

THE CHAIR:

Thank you, sir.

Mr. Clerk

THE CLERK:

On page 19, Calendar 588, substitute for House Bill Number 6549, AN ACT ESTABLISHING A MEDIATION PROGRAM FOR CERTAIN INSURANCE POLICY CLAIMS, AND CONCERNING REQUIREMENTS FOR PERSONS PERFORMING REPAIRS, REMEDIATION, OR MITIGATION PURSUANT TO A LOSS. Favorable report of the Committee on Insurance and Real Estate.

THE CHAIR:

Senator Crisco.

SENATOR CRISCO:

Thank you, Madam President.

At present I move acceptance of the joint committee favorable report, the passage of the bill.

THE CHAIR:

The motion is on acceptance and passage in --

SENATOR CRISCO:

Concurrence with the House.

THE CHAIR:

-- concurrence with the House? Thank you, sir. Please proceed.

SENATOR CRISCO:

Thank you, Madam President.

Madam President, this bill is designed to create a mediation program for insurance claims that are made by people who suffer losses due to a natural disaster or catastrophic event for which the governor declares a state of emergency. This program will help settle disputes between the claimants and the insurance companies.

In regards to the amendment, the language changes, the insurance -- charges the Insurance Committee to designate an entity subject to certain parameters and procedures to run a mediation program that applies to personal and real property claims arising on the personal risk policy excluding auto, condo association and master policy, unit owners association property policy.

As a result, a catastrophic event, for which a governor has declared a state emergency there is $1,000 difference in parties' positions not applicable to flood claims under the national flood insurance program or for claims in which coverage is in dispute, $1,000 difference is changed to $5,000.

THE CHAIR:

Will you remark?

Senator Kelly.

SENATOR KELLY:

Thank you.

THE CHAIR:

Senator Kelly. Okay.

SENATOR KELLY:

Thank you, Madam President.

I rise in support of this bill. It -- it was another bill that we heard that same evening in New York, and we heard a lot of testimony from people on the shoreline about the need for such a bill. And as Senator Crisco said, he explained the difference with House B Amendment, and also that we're increasing the amount of difference between the parties, from 1,000 to 5,000, which seems to be a better threshold for individuals.

And -- and this is a -- a good framework to help resolve issues and disputes between the insured and the insurance companies. And I think that it -- that it -- it's a good bill that helps people out, particularly those that are -- experienced their loss during a catastrophic event.

So I support the bill and would urge its adoption. Thank you, Madam President.

THE CHAIR:

Thank you.

Will you remark? Will you remark? Senator Welch.

SENATOR WELCH:

Thank you, Madam President.

I just -- I rise for a few brief questions to the proponent.

THE CHAIR:

Please proceed, sir.

SENATOR WELCH:

Thank you, Madam President.

As -- as I understand, we're establishing a mediation program, and I apologize, this is really the first time I've taken a look at this bill. I'm a big proponent of -- of mediation. It seems I spend most of my life outside of this building in mediation all over the country.

And it works. It's -- it's healthy to get two sides on the opposite side of whatever the problem might be to sit down with an independent third party to knock their heads together, to make them look at the problems they face maybe from a different perspective than they have been looking at it.

And usually, like negotiating most legislation in this building everybody walks out a little bit unhappy, but the problem is for the moment resolved.

If -- if I may, through you, Madam President, inquire of the good Chair of the Insurance Committee how is -- how are the mediators selected for this program and how is a dispute selected for this program?

Through you, Madam President.

THE CHAIR:

Senator Crisco.

SENATOR CRISCO:

Madam President, through you to the good Senator. The insurance commissioner has -- has guidelines within its department that will set out the procedure for those issues.

THE CHAIR:

Senator Welch.

THE CHAIR:

Thank you, Madam President.

Am I to understand then, through you, Madam President, that the guidelines have -- have already been established and they are -- but they are not a part of the bill that we are looking at right now, through you, Madam President?

THE CHAIR:

Senator Crisco.

SENATOR CRISCO:

Madam President, thank you, through the good Senator.

With the echo in the chamber today, I -- perhaps if I -- I state that there will be regulations that will be established by the department, and approved by our program review and regulation committee, that will set up the criteria.

THE CHAIR:

Senator Welch.

SENATOR WELCH:

Thank you, Madam President.

Thank you, Senator Crisco for that answer. So essentially this bill requires the commissioner to put together the -- the framework for the mediations that are to take place, if I understand Senator Crisco correctly. Through you, Madam President.

THE CHAIR:

Senator Crisco.

SENATOR CRISCO:

Madam President, through you to the good Senator, that is correct.

THE CHAIR:

Senator Welch.

SENATOR WELCH:

Thank you, Madam President.

And out of curiosity, do they have similar programs which provide a framework from which they might or might not be drawing, through you, Madam President?

THE CHAIR:

Senator Crisco.

SENATOR CRISCO:

Madam President, there are different functions of the department that will give guidance to the commissioner in setting up the new regulations. They do get involved in arbitration, and other -- and other areas of mediation.

THE CHAIR:

Senator Welch.

SENATOR WELCH:

Thank you, Madam President.

I guess probably one piece of information that would be important for me to know, and that is to have a successful mediation it's -- it's probably very important to have a disinterested third party preside over the mediation. And I just want to make sure that it's the department's intent that it wouldn't be essentially members of the department itself that would be acting as mediators, but they would indeed be reaching out to the either legal community or insurance community or consumer protection community to draw upon their skills to act as mediator.

Is that correct, through you, Madam President?

THE CHAIR:

Senator Crisco.

SENATOR CRISCO:

Madam President, through you to the good Senator, that is correct. Just as we discussed in the bill the other night, when there are times when the department does not have the resources of their expertise, in the legislation we adopted the other night, that gives them the opportunity to go out and acquire those resources.

THE CHAIR:

Senator Welch.

SENATOR WELCH:

Thank you, Madam President.

And then I guess so I might have a better understanding of how those mediators may or may not be compensated, I know for instance, with the Department of Consumer Protection we have a lemon law arbitration program, where essentially volunteers are the ones that are the decision makers in that process.

Mediation is usually a bit higher of a skill set than arbitration, and I'm wondering will these people be compensated, and then if so, where will the funds for that compensation be coming from?

Through you, Madam President.

THE CHAIR:

Senator Crisco.

SENATOR CRISCO:

Madam President, through you to the good Senator, understand established criteria today the insurance companies pay for the mediators.

THE CHAIR:

Senator Welch.

SENATOR WELCH:

Thank you, Madam President.

And just that I might have a better understanding of the answer Senator Crisco just gave me, essentially when somebody files for mediation, with respect to a claim that I'm assuming they've made and has either been denied or they're dissatisfied with whatever partial payment they may have gotten, there will be a fee charged to the insurance company, who I'm assuming

isn't going to be the claimant, but the respondent in this matter.

Is that correct, through you, Madam President?

THE CHAIR:

Senator Crisco.

SENATOR CRISCO:

Madam President, through you to the Senator, that is correct.

THE CHAIR:

Senator Welch.

SENATOR WELCH:

Thank you, Madam President.

So my understanding of mediation is traditionally, you know, both sides kind of contribute to the cost of the mediator. I understand in a situation like this that that might not necessarily make economic sense, especially for someone who might be making the claims.

But it would be helpful to me to kind of understand what -- what kind of fees are we talking about? Do -- do we have an -- an idea as to how much we're going to be charging, through you, Madam President?

THE CHAIR:

Senator Crisco.

SENATOR CRISCO:

Madam President, through you, according to my source from the department I believe there's a median fee of like $500.

THE CHAIR:

Senator Welch.

SENATOR WELCH:

Thank you, Madam President.

And then I guess to put that fee in context, it would also be helpful for me to understand are there certain claims that -- is there a threshold of a claim that would allow one to ask for mediation?

Through you, Madam President.

THE CHAIR:

Senator Crisco.

SENATOR CRISCO:

Madam President, through you to the Senator, I believe there has to be a difference of $5,000.

THE CHAIR:

Senator Welch.

SENATOR WELCH:

Thank you, Madam President.

And I think my final question or final perhaps line of questions would go along the lines of we talked a little bit last night or two nights ago now about blazing trails and pathways here, and I'm not sure from my experience whether or not this is a new program in the United States.

Are there other states that have a similar mediation program in place? If so, who are they, and perhaps Senator Crisco could comment on if they've been successful or unsuccessful.

Through you, Madam President.

THE CHAIR:

Senator Crisco.

SENATOR CRISCO:

Madam President, through you to the Senator, I believe New York State is doing it, and other states along the coastal area that experience these catastrophes are also doing it.

THE CHAIR:

Senator Welch.

SENATOR WELCH:

Thank you, Madam President.

Do we or the insurance department have any feedback or input at this time from those other states as to how successful these programs have been, through you, Madam President?

THE CHAIR:

Senator Crisco.

SENATOR CRISCO:

Madam President, through you, I believe that they do. And also remember we do have the National Association of Insurance Commissioners, where all the insurance commissioners from all over the country meet periodically and they discuss different situations, such as the catastrophes in New England, and other catastrophes like tornados, and that's why are -- you know, we come into the process of developing model legislation.

So there is always dialogue between the insurance commissioners throughout the country.

THE CHAIR:

Senator Welch.

SENATOR WELCH:

Thank you, Madam President.

I thank Senator Crisco for the answer. He did say a word that I've heard often from the Insurance Committee , and that's model legislation. And I guess that's my last question, Madam President, is this indeed model legislation that we're enacting?

Through you, Madam President.

THE CHAIR:

Senator Crisco.

SENATOR CRISCO:

Madam President, through you to the good Senator, now, it's basically what our committee, you know, recommended during the hearings we held in New Haven. I mean, there are different model acts on different issues, but to my knowledge this isn't the model act but it's based on our own experience here in the State of Connecticut.

THE CHAIR:

Senator Welch.

SENATOR WELCH:

Thank you, Madam President.

I thank Senator Crisco for his time and what I found to be very insightful dialogue, and I will be supporting this bill.

Thank you, Madam President.

THE CHAIR:

Thank you.

Will you remark further? Will you remark further?

Senator Crisco.

SENATOR CRISCO:

Madam President, as there's no objection I ask that it be placed on the Consent Calendar.

THE CHAIR:

Seeing no objection, so ordered, sir.

Mr. Clerk.

THE CLERK:

On page 27, Calendar Number 640, House Bill Number 6550, AN ACT CONCERNING LOSS OF RATIO GUARANTEES FOR INDIVIDUAL HEALTH INSURANCE POLICIES, Favorable report of the Committee on Insurance and Real Estate.

THE CHAIR:

Senator Crisco.

SENATOR CRISCO:

Thank you, Madam President.

I move for acceptance of the joint committee's favored report and passage of the bill.

THE CHAIR:

The motion on acceptance of passage. Will you remark, sir?

SENATOR CRISCO:

Thank you, Madam President.

Madam President, this bill requires that all individual health insurance rates to be filed with the insurance department for prior approval, and it eliminates the medical loss ratio guarantee.

THE CHAIR:

Will you remark?

Senator Kelly.

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Calendar page 29, Calendar 653, substitute for House Bill Number 6699. And, finally, Madam President, on Calendar page 31, Calendar 664, substitute for House Bill Number 6689.

I would like to add those items to our Consent Calendar and, and now call for a, I would ask the Clerk to list all of the items on the Consent Calendar and then proceed to a vote on that first Consent Calendar.

Thank you, Madam President.

THE CHAIR:

Thank you.

Mr. Clerk.

THE CLERK:

Today's first Consent Calendar, on page 5, Calendar 341, House Bill 6364; Calendar 343, House Bill 5425; Calendar 346, House Bill 6322; Calendar 347, House Bill 6547; and on page 6, Calendar 349, House Bill 5513; page 9, Calendar 450, Senate Bill 921; on page 13, Calendar 506, House Bill 6491; Calendar 515, House Bill 6235.

On page 14, Calendar 524, House Bill 6380; on page 16, Calendar 559, House Bill 6508; page 17, Calendar 563, House Bill 5617; Calendar 569, House Bill 6485; and on page 19, Calendar 588, House Bill 6549; on page 23, Calendar 614, House Bill 6587; Calendar 616, House Bill 6678; page 25, Calendar 629, House Bill 6662; on page 26, Calendar 633, House Bill 6576; and on page 27, Calendar 640, House Bill 6550; on page 28, Calendar 650, House Bill 6659.

And on Page 29, Calendar 653, House Bill 6699; Calendar 655, House Bill 6339; page 31, Calendar 664, House Bill 6689; Calendar 665, House Bill 6355; page 34, Calendar 201, Senate Bill 911; and on page 40, Calendar 514, House Bill 5725.

THE CHAIR:

Mr. Clerk, will you call for a roll call vote on the first Consent Calendar. And the machine will be open.

THE CLERK:

Immediate roll call has been ordered in the Senate. Senators please return to the Chamber. Immediate roll call in the Senate on the first Consent Calendar of the day.

THE CHAIR:

Yeah, thank you. Good. There we go.

If all members have voted, all members have voted, the machine will be closed.

Mr. Clerk, will you please call the tally.

THE CLERK:

On the first Consent Calendar,

Total Number Voting 34

Necessary for Adoption 18

Those voting Yea 34

Those voting Nay 0

Those absent and not voting 2

THE CHAIR:

Consent Calendar passes.

Senator Looney.

SENATOR LOONEY:

Madam President.

THE CHAIR:

Senator Looney.