PA 14-20

SB280

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CONNECTICUT
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House Calendar 426 on page 24, favorable report of the joint standing committee on insurance and real estate, substitute Senate Bill 280, AN ACT CONCERNING UNFINISHED -- excuse me -- UNINSURED AND UNDERINSURED MOTORIST COVERAGE OFFSETS.

DEPUTY SPEAKER GODFREY:

Distinguished Chairman of the insurance and real estate committee, Representative Megna.

REP. MEGNA (97th):

Thank you, Mr. Speaker. Mr. Speaker, I move acceptance of the joint committee's favorable report and passage of the bill in concurrence with the Senate.

DEPUTY SPEAKER GODFREY:

The question is on acceptance and passage in concurrence. Would you explain the bill please, sir.

REP. MEGNA (97th):

Thank you, Mr. Speaker. Mr. Speaker, this is a bill that's been around our committee for the last several years. It's an interesting issue. It has to do with what we refer to as offsets when it comes to uninsured and underinsured motorists claims. At one point the Department of Insurance had established regulations talking about the application of that

section of the statute and -- and offsets. Offsets meaning when they're in a motor vehicle accident and the -- you're collecting under your uninsured or underinsured motorist coverage and the tortfeasor has coverage.

The layer above what the tortfeasor is covered for is deducted from the -- your coverage, your uninsured and underinsured motorist coverage which is known as the -- the offset. We had several complaints. The trial attorneys came in front of our committee and it -- and it became apparent that for all intents and purposes there was a -- some wiggle room and some insurers may have been taking offsets greater than what was really intended under the statute with the uninsured and underinsured motorist coverage.

It was a few insurance companies that were taking additional offsets. And what this language represents is an agreement between the industry and the trial attorneys on how the correct application of that regulation put out by the Department of Insurance should apply. With that, Mr. Speaker, I would ask that the Chamber support this bill. The bill came out of the committee unanimous. It's been around a few

years and it's been worked out. And it's actually a -- a benefit for policyholders of uninsured and underinsured motorist coverage. And with that, Mr. Speaker, I'd ask that the committee support the -- the Chamber support the bill. Thank you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Thank you, sir. Distinguished Ranking Member of the insurance and real estate committee, Representative Sampson.

REP. SAMPSON (80th):

Thank you, Mr. Speaker. I'm hoping that I can ask the good Chairman a couple of questions about this bill. Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Certainly.

REP. SAMPSON (80th):

Through you, Mr. Speaker. Oh, yes. I'm sorry. I was -- wanted to make sure the good gentleman was prepared for my questions. The first thing I would like to know if possible, through you, Mr. Speaker, is what exactly is a tortfeasor. Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Megna.

REP. MEGNA (97th):

Through you, Mr. Speaker. I believe that's the wrongdoer, the individual who we refer to as may have caused the accident -- the motor vehicle accident. It's referred to in the -- in the bill. Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Sampson.

REP. SAMPSON (80th):

Thank you, Mr. Speaker. I'm curious to know exactly how this bill affects uninsured motorist coverage in Connecticut. My understanding is it a mandated coverage and some certain disclosures are required by law. I'm wondering, through you, Mr. Speaker, if the good gentleman could tell me exactly how this changes existing law and the requirements for uninsured motorists.

DEPUTY SPEAKER GODFREY:

Representative Megna.

REP. MEGNA (97th):

Through you, Mr. Speaker. It's interesting. Uninsured and underinsured motorist coverage we mandate here in our State. And I know with the good Ranking Member we've had several discussion on that

coverage. And we've had some concerns about that coverage. And you know why do we mandate it? Should it -- should we mandate it? I mean there's only maybe 20 -- 20 or so or 30 states that -- that do so and it does increase the cost of insurance for some. With respect to how it would work is if -- if you're involved in a motor vehicle accident and you have uninsured and underinsured motorist coverage if the tortfeasor has a certain limit of liability and your loss is greater than that amount you would be able to collect from this coverage that you have which is mandated here in the -- in the State. Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Sampson.

REP. SAMPSON (80th):

Thank you, Mr. Speaker. And thanks to the Chairman for his answer. I'm wondering if he could follow up and tell me if this has anything to do with something that it is referred to in the insurance industry when referring to uninsured motorist insurance as stacking? Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Megna.

REP. MEGNA (97th):

Through you, Mr. Speaker. I know that -- I don't think this would be considered stacking. Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Sampson.

REP. SAMPSON (80th):

Thank you, Mr. Speaker. And thanks again to the Chairman for his answer. From what I understand in Connecticut insurance agents and insurance companies that are offering products of automobile insurance are required to offer some different types of uninsured motorist insurance. Standard versus something called conversion coverage. And I'm wondering how this particular change in the language applies to those different types of uninsured motorist coverage that are available for purchase in Connecticut. Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Megna.

REP. MEGNA (97th):

Well this -- through you, Mr. Speaker. It's a good question. This actual change really isn't -- it's just really a clarification really about the

regulation that the Department of Insurance had put out. I thought the -- most carriers when it came to the actual statute and the argument with the contract itself would simply take a -- an offset for what is paid to that -- what part of the coverage of the tortfeasor that was paid to the -- the insured.

And had happened was when the Department of Insurance drafted that regulation one or -- or more carriers had interpreted it in such a way that they can take several offsets for several individuals that were making claim in the car, that were passengers of the car or were injured in some manner. So essentially it's really just clarifying exist -- the intent of the existing statute. Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Sampson.

REP. SAMPSON (80th):

Thank you, Mr. Speaker. And thanks again for the answer. So I'm wondering if the Chairman can offer me an example of when this particular type of coverage would apply and how it differs from our current conversion type uninsured motorist insurance. Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Megna.

REP. MEGNA (97th):

Through you, Mr. Speaker. We can pose a hypothetical where maybe the tortfeasor was the operator of the car and you had three passengers in the car and the tortfeasor did something negligent, caused the accident and the injuries were fairly severe. The tortfeasor had coverage of -- with a limit or I don't know say $100,000 and it was split evenly among the -- the three claimants in the car, the passengers in the car.

Traditionally that -- that amount paid to the individual would be offset, would be subtracted from their limit on their uninsured and underinsured motorist coverage. So say one of those three passengers collected one third or $33,000 or so of the -- their coverage would kick in and reduce their loss -- their covered loss under that coverage by that amount. That would be considered the offset. What very few companies attempted to do is take the offset from all those passengers, the amount paid from the tortfeasor's policy to all those passengers and subtract that total amount of maybe $100,000 or

greater that what was paid to that actual insured. And it was found to be contrary to the intent of this uninsured and underinsured motorist coverage.

And we had several public hearings on the matter and went back and forth, back and forth on language for the past several years which brought us here today. And so that would be -- I think that's one of the quintessential examples of what the issue was and how it would -- how it would be used. And I know we -- we -- the Ranking Member and I with representatives from the insurance industries spoke about this so many times that it would -- actually we'd talk about how our heads would spin on the different scenarios that were described to us and different accidents and offsets and so on and so forth.

But eventually it became clear that what was going on with these few companies was really not the intent and hence we got this language here before us today. Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Sampson.

REP. SAMPSON (80th):

Thank you, Mr. Speaker. And thanks again to the Chairman for his answers. I guess when it comes to

uninsured motorist insurance and the way it's sold in the State one of the concerns that I've always had is to make sure that the consumer and the policy holder when he makes a payment premium for his insurance, he's going to get what he's paid for.

And I think that when it comes to uninsured motorists and the discussion about offsets there's always the concern that somehow someone's paying a premium and ultimately not receiving the coverage that they've paid for if it's being offset by some other insurance that shows up you know in a way that under current law allows it to be deducted from the amount of coverage that the claimant has.

So I'm wondering, through you, Mr. Speaker, if this language is intended to make sure that consumers who purchase uninsured motorist coverage in Connecticut are indeed getting the insurance coverage that they're paying a good premium for. Thank you. And through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Megna.

REP. MEGNA (97th):

Through you, Mr. Speaker, that's actually a good point that the good Ranking Member is making that you

know here individuals were going out with these particular companies that were -- had their own set of rules in applying offsets. You know you'd go out and you'd buy a policy for whatever it was, $100,000 uninsured, underinsured motorist coverage and thinking that you could collect up to whatever that one offset is.

And here you would have situations where they would take offsets from all the individuals in the car, all the injured people that were collecting from the tortfeasor's policy and you know it would be a surprise to these -- these policy holders that when they would purchase a policy they were under the impression that they were buying $100,000 uninsured and underinsured motorist coverage and now they were only entitled to a fraction of that and that the -- what other individuals in the -- the car or whatever the situation is where their -- the amount they were collecting from the tortfeasor was being subtracted from their limit of liability.

And here they are paying a particular rate for coverage unbeknownst to them that they were actually really going to be entitled to a lot less than what they assumed they were going to be entitled to when

they purchased that policy. So that -- that also was an issue that the good Ranking Member is pointing out there, Mr. Speaker. And through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Sampson.

REP. SAMPSON (80th):

Thank you, Mr. Speaker. And thanks again for the Chairman's answers. I'm wondering just -- this from my understanding has always been the intent of conversion coverage when it comes to uninsured motorist to make sure that the offsets did not apply and reduce the amount of coverage. And as many times as I've been over this -- this language I'm just -- I want to make sure that we are indeed doing something that is necessary.

So when it says in lines 68 through 72 that the amounts paid by or on behalf of the tortfeasor for bodily injury to anyone other than individuals insured under the policy against which the claim is made for amounts paid by or on behalf of any tortfeasor for property damage are we saying that the coverage that is purchased by the original policy holder at a specified limit, say 100,000 is going to guarantee that that claimant has full access to $100,000 worth

of uninsured motorist coverage in the event of a claim even if other monies are received by the other parties in the event of an accident? Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

I think -- through you, Mr. Speaker, depending on any -- any payment there may or may not be an offset. I would imagine if the tortfeasor doesn't have any coverage and nothing is paid there would be no offset so in theory the -- the total limit of liability the policy holder would be able to collect under the uninsured and underinsured motorist coverage but whenever there is other coverage whatever that payment's going to be made to the insured that would be an offset from that limit of liability.

And when there is an offset that insured would never really -- I believe off the top of my head, entitled to collect that entire limit of liability whatever he's insured for because he'd always have that offset. Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Sampson.

REP. SAMPSON (80th):

Thank you, Mr. Speaker. And thanks again for the answer. I guess what I was really driving at with the last question was what -- what is the reason why this legislation is before us? Was there something that occurred? Was there a court case? Anything in the testimony that gives us a reason why we are engaging in making these changes to the current laws regarding uninsured motorist coverage in Connecticut? Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Megna.

REP. MEGNA (97th):

Thank you, Mr. Speaker. Through you, Mr. Speaker. I believe without going through all the testimony that we heard I think there was a court case that involved this in particular issue. But I know that we've heard from the trial attorneys that most companies -- most companies, 95 percent, 98 percent of the auto liability companies were really just taking an offset for that individual, the insured, the one that had the uninsured, underinsured motorist coverage, whatever they were collecting from the tortfeasor's policy.

And then it was apparent that there were a couple of companies that said hey wait a minute you know when

we look at this Department of Insurance regulation there is some -- a way to interpret it that we could actually take an offset from our insured policy for the -- for the other individuals that collected from the tortfeasor's policy and it was at that point that we -- the issue came before us, before our committee. It was last session sometime.

And even then we were a bit skeptical on the issue but then as the debate went on and we learned a lot more about it we realized that it really you know that's not the intent. That's not the intent when you purchase that coverage that -- you know that offsets come from other individuals in the car. You know you're buying uninsured and underinsured motorist coverage to protect yourself, to protect yourself in the event they have no insurance or they have a limit that's not sufficient to cover you for your loss.

So it was at that point we realized there's a defect in the regulation actually. Not necessarily -- not but -- not particularly the statute but we are coming to correct it. If this bill should pass this chamber and become law to fix it in statute so that people that do buy this coverage are entitled as it is intended to to provide them the full coverage in the

absence of an offset and with the offset an offset just for their loss -- their loss that's collectable from the tortfeasor's policy. Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Sampson.

REP. SAMPSON (80th):

Thank you, Mr. Speaker. And thanks to the Chairman for his very detailed responses. I appreciate the amount of effort he is putting into giving the most clear and detailed answers as possible. Sometimes we have difficulty obtaining enough information for the record and I think that in this particular case I'm glad to have a knowledgeable Chairman who is willing to take the time to make sure that we have the right information on the record. Just a couple more quick questions.

I noticed in looking at the testimony that the -- the case that you just spoke of, the Lenda case happened nearly 20 years ago. And I'm wondering if there is a reason, through you, Mr. Speaker, why it's taken all of this time for us to get around to making this change in law. Through you.

DEPUTY SPEAKER GODFREY:

Representative Megna.

REP. MEGNA (97th):

Through you, Mr. Speaker. I'm not real familiar with the Lenda Case but I thought -- and if the good Representative Ranking Member knows better I thought the Lenda Case had to do with stacking. I don't know if the Lenda Case had to do with this particular issue with the regulations put forth by the Department of Insurance and the offsets. Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Sampson.

REP. SAMPSON (80th):

Thank you, Mr. Speaker. And thanks for the answer. I -- it was just out of curiosity if you had any indication of what might have transpired that made this an issue that's of a current nature when it is seemingly as a result of a court case that happened some time ago. I guess my last question is about a date also. I noticed that the effective date of this would be October of 2015 and as my final question, through you, Mr. Speaker, I'd like to ask the Chairman if there's a reason for the effective date.

DEPUTY SPEAKER GODFREY:

Representative Megna.

REP. MEGNA (97th):

Thank you, Mr. Speaker. And through you, Mr. Speaker. The -- the effective date is actually for insurance policies issued or renewed on or after October 1, 2015. I think the effective date is chosen just to make sure it incorporates renewal -- new policies and renewals which is in a sense why they chose October -- 1/20/15 or an effective date that has to do with the issuance or renewal of an insurance policy. And it's a future date so I imagine it's not going to take into consideration any accidents or prior claims or losses that maybe going on now. Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Sampson.

REP. SAMPSON (80th):

Thank you, Mr. Speaker. And thanks to the Chairman for his answers. I would agree. I think that because auto insurance is an occurrence type insurance and not a claims made type of insurance that it would only impact claims that occur after the effective date. And my guess on the effective date was that it

would -- it has to do with allowing the carriers an opportunity to determine rates based on the change. But those are my questions, Mr. Speaker. And I just want to thank the Chairman for his answers and I'll yield my time to my colleagues who I'm sure have more questions on the matter. Thank you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Thank you. Representative Smith.

REP. SMITH (108th):

Thank you, Mr. Speaker. This is an area of the law that I do practice in so I'm interested in hearing the dialogue. I'm actually happy to hear the -- or this bill that's being proposed. It's been an issue that we have dealt with trying these personal injury claims over the past several years where the offsets have been reduced just based on the number of claimants disregarding who actually received the money.

And I think I understood the back and forth questioning between the Ranking Member and the Chairman. But just so I'm sure and for the colleagues out there who might be interested in what -- in this bill as well, using the scenario, the analogy raised by the Chairman, if there is $100,000 uninsured policy

and a tortfeasor policy of $20,000 how much available coverage then would be available to the insured? Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Megna.

REP. MEGNA (97th):

Through you, Mr. Speaker. I believe $80,000.

DEPUTY SPEAKER GODFREY:

Representative Smith.

REP. SMITH (108th):

And thank you for that. And then if there were several claimants against that 20,000 policy which probably would be a $40,000 multiple claim policy. If 40,000 of that policy was paid out to various parties and the insured that I'm talking about actually received $30,000 total, how much then would be left pursuant to his underinsured policy? Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Megna.

REP. MEGNA (97th):

Through you, Mr. Speaker, in the hypothetical limit you had mentioned earlier his offset would be the 30,000 which would remain which would leave

$70,000 collectible under his policy or her policy.

Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Smith.

REP. SMITH (108th):

Thank you. And that's how I -- I came to the same answer and we're not using hard math here so that's -- I'm trying to keep it simple. But the 70,000 that's available now to the insured because he received 30,000 from the tortfeasor, that 70,000 under this bill would still be available regardless of how much else the tortfeasor's insurance company paid out. As long as the insured received 30,000 then the only offset would be that 30,000. Just want to be clear.

Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Megna.

REP. MEGNA (108th):

Through you, Mr. Speaker, that's the way I understand it. I've never -- although I've been an insurance adjustor for 30 years I've handled very little liability and uninsured motorist coverage. But listening to the testimony and all that's the -- that's how I would understand it. And the -- through

you, Mr. Speaker, the intent would be for those carriers not to take an offset greater than that 30,000 hypothetical if there were somebody else in that vehicle that also collected from the tortfeasor's policy. And that's really in a sense the essence of this bill before us. Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Smith.

REP. SMITH (108th):

And I thank the Chairman for his answers. The -- you know it's interesting this concept because as I heard the exchange between the Chairman and the Ranking Member it seemed as if this bill is really seeking to codify existing law and then there was a regulation perhaps imposed and maybe we're trying to seek to codify that regulation. I'm not sure. But just so the Chamber is clear and I'm clear, is this bill certainly designed to codify existing law or is this something new? Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Megna.

REP. MEGNA (108th):

Thank you, Mr. Speaker. As I understand it, it's really to codify existing law but when I listened to

the arguments and the debate it appears that a lot of it comes out of a regulation that the Department of Insurance had did and the -- I used the word wiggle room, but the wiggle room for those few carriers that took other injured parties offsets off of the insured's limit of liability.

That's where they got that ability you know through a department regulation as I understand it. But yes the intent is to clarify the statute so to speak. You know. but -- but the argument seemed to have come out of the -- the drafting of this regulation by the Department of Insurance that had to do with offsets under that section of the statute. Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Smith.

REP. SMITH (108th):

And the regulation that we're talking about here tonight is I assume the regulation is published somewhere as an actual written document that one could look to and make that determination that these offsets you know are to be applied whatever way they were being applied. Is that accurate? Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Megna.

REP. MEGNA (97th):

I don't quite understand the question but in the event this statute become law it would do away with that regulation if that regulation had given any direction otherwise. I don't know if that answers the question, through you, Mr. Speaker, or if I go the question wrong.

DEPUTY SPEAKER GODFREY:

Representative Smith.

REP. SMITH (108th):

I'll try to clarify it. The question was -- and it happens often that my questions aren't always the most direct so I'll try to be more succinct. The regulation we're referring to, is that a writing right now or is that just something that's understood within the department? Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Megna.

REP. MEGNA (97th):

Through you, Mr. Speaker, no it's a full-fledged regulating. It's got a -- the number that kind of mirrors the statutes and I believe it had gone through

the regulation review committee or in front of the committee at one point. And it's a regulation. It's a call a mini law sometimes but it's a regulation. And it is in writing. And it's -- I wish I knew the regulation number off the top of my head but I don't. Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Smith.

REP. SMITH (108th):

And the regulation that we're referring to I assume if this bill was passed and becomes law then that regulation would either have to be changed or -- or modified in some way or repealed I guess. I'm assuming that would happen. Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Megna.

REP. MEGNA (97th):

Through you, Mr. Speaker. As I understand it from my LCO that whenever you create statute that the regulation kind of becomes -- it just overrides or nullifies -- I don't know what the word is but the -- whatever the statute is is law. It would trump the regulation whether or not the department -- we would

assume that the department would change the regulation at one point in time but for all intents and purposes the statute would be the law of our State even if that regulation still existed as I understand it. Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Smith.

REP. SMITH (108th):

I thank the Chairman for his clarification on that. And just a few more questions I guess on this area of the -- the discussion that the Chairman and the Ranking Member had about the effective date was one of the questions that I had also. And I still am somewhat curious as to why this is so far out. It would seem to me if this is really a codification of what the law was intended to mean and should have been applied why now are we extending this out to 2015? Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Megna.

REP. MEGNA (97th):

Through you, Mr. Speaker, I know that in terms of the date this represents an agreement in a sense with

the industry and the trial attorneys. Why they picked that date out in 2015 exactly I don't know.

I would only imagine that the arguments from the -- I would imagine the attorneys wanted it ASAP and the industry probably used an argument such as my good Ranking Member mentioned earlier that you some of the rates were based for these few companies -- some of the rates were based on that convoluted offset that they -- so few companies were using and that they needed time to submit new rates or next year when their rates were submitted to the department.

I guess I could see that argument on why that date was so -- was put out so far ahead. And like I had mentioned, Mr. Speaker, that represents an agreement between the two and when they came before the committee we really never saw that date as such an issue. The fact that it was out in 2015. Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Smith.

REP. SMITH (108th):

And again I thank the Chairman for his answers. And while I certainly respect the agreement and I -- certainly support this bill, one of the reasons I do

have concern with it is because the date is so far out. And the reason I can concern is if this is in fact a codification of how the law was intended to be applied whenever it was enacted and we had a few -- let's call them recalcitrant insurance companies that decided to pursuant to their interpretation of a regulation issued by the Insurance Department to make offsets on their own that really was never intended as the initial statute was created I'm not sure going forward for those claims that are currently pending how that plays out.

So if the current claim is made an underinsured policy wherein multiple claimants exhaust a $100,000 but the insured only received the 20,000 how does that play out with this bill that's pending? Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Megna.

REP. MEGNA (97th):

Thank you, Mr. Speaker. You know the good Representative actually brings up a really, really good point because here we are about to pass legislation which we believe is really just kind of clarifying existing law but in a sense you have that

timeframe between now and October 2015 where you know a company may say hey wait a minute you know, any loss that's suffered between now and then we can take all these other offsets between now and then. We can take other offsets in addition to the offset for our insured which is actually a good point.

However though when we heard the testimony on this bill there was actually a nickname to the bill. It was named after an insurance company. They called it the XYZ Insurance Company Bill. And from what I understand through testimony that it was really just one or two licensed insurers in this State out of the approximate 74 or so that do personal auto that were interpreting that regulation that way.

So I'm assuming that as we go forward if this bill is passed out this Chamber and signed into law that those 70, 72 companies are going to continue doing what is intended by law and maybe those one or two companies that were taking those offsets for other individuals will -- will probably continue to do what they're doing until the -- the effective date of this bill kicks in.

But I believe that it was just a few companies doing this practice and that as we go forward up until

-- if this bill becomes law up until 2015 -- October 1 of 2015 that you know maybe that one or two company will change their behavior on claims between now and then realizing that this bill is clarifying existing law but -- but the good Representative does raise an interesting issue. Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Smith.

REP. SMITH (108th):

Thank you, Mr. Speaker. And ladies and the gentlemen of the Chamber, this is a significant point so for legislative intent purposes what I'm hearing form the good Chairman is that the intent of this -- the intent of the current legislation is that the offset should be only that amount which the insured actually received. That was the intent then, that is the intent now and that will be the intent going forward regardless of whether this bill was passed or not. Is that fair to say? Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Megna.

REP. MEGNA (97th):

Thank you, Mr. Speaker. Absolutely. That is the intent. After hearing the debate, yes that is actually the intent as the intent of the existing statute and that is what we would expect those companies to do as we move forward if this bill becomes law up until October 1 of 2015. And -- but as we know we are dealing with companies that have financial interests and have been able to legally make that argument you know with the existing regulation. But that is correct.

That is the intent of this bill. That's the intent of the legislation. That's the intent of uninsured and underinsured motorist coverage when an individual buys it to expect if an offset's taken just for that individual or the insured as we say. Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Smith.

REP. SMITH (108th):

Mr. Speaker, I appreciate the Chairman's confirmation of the intent of this statute, the intent of the existing law regardless of this bill passes or not. The intent being that offsets are only those amounts that the insured actually received. That's

our current law. This bill just clarifies that law. So I thank the Chairman for his answers. It's -- it never hurts to clarify existing laws especially when there's different practices out there. So appreciate the good work and I'll continue to listen to the debate. Thank you.

DEPUTY SPEAKER GODFREY:

Thank you, sir. Representative Miner.

REP. MINER (66th):

Thank you, Mr. Speaker. If I might ask a question or two to the Representative from the 108th. It seems like he has a good handle on this.

DEPUTY SPEAKER GODFREY:

Proceed.

REP. MINER (66th):

Thank you, Mr. Speaker. Representative Smith, I've heard you talk about offsets and I'm not familiar with the insurance industry nor am in an attorney. And so my read of this bill is that this attempts to change what happens in the case of a tortfeasor being responsible for an action, an injury that they may have caused. Am I correct in that? Through you, Mr. Speaker.

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DEPUTY SPEAKER GODFREY:

Representative Smith.

REP. SMITH (108th):

Thank you, Mr. Speaker. I don't think it changes anything. I think it really just clarifies existing law that if there is an injury that is caused by a tortfeasor, the person who committed a wrong caused an accident let's say and the -- has a certain amount of coverage of liability insurance, that coverage gets paid to the insured.

Let's say it's $20,000. And the insured has coverage under his own policy that totals 100,000. So the practice has always been as I understand it that the 20,000 is an offset towards the 100,000, leaving 80,000 of available coverage for the insured to compensate him or her for his injuries or her injuries. Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Miner.

REP. MINER (66th):

And so the 80,000 then becomes the responsibility of the injured person? Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Smith.

REP. SMITH (108th):

I'll answer it this way, the injured person has purchased insurance. That insurance includes liability insurance in case he causes an accident and it includes underinsured coverage in case someone else causes injury to him but there's not enough insurance to compensate him for his injuries. So he purchased the policy so his insurance company would pay him or compensate him for that $80,000. The insurance company would then probably have a right of subrogation to go after the tortfeasor individually if they so choose. Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Miner.

REP. MINER (66th):

Thank you, Mr. Speaker. And so if I -- if I were the individual that caused the accident and I had a 20, 40, 10 insurance policy am I required in the State of Connecticut to have underinsured and uninsured motorist coverage on top of that? Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Smith.

REP. SMITH (108th):

Thank you, Mr. Speaker. You're getting into the insurance area right now but I do believe you're not required to have it but they are required to offer it to you so that the policy that you purchase for liability coverage matches the policy that you have for underinsured. You can opt out I believe but the good Chairman will correct me if I'm wrong. So if you decided not to purchase underinsured coverage which covers yourself you can do that but there's a notice requirement, big bold letter because you know that's really taking away coverage that would benefit yourself.

It would lower your premium but it might end up costing you in the long run so there are certain notice requirements. But I to think to answer your question, is it required. No, but it's required to be offered I believe. Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Miner.

REP. MINER (66th):

Thank you, Mr. Speaker. So -- so as I've not opted out of it the intent of this bill is to restrict my insurance company from taking that offset from any

other insurance that may actually inure to me as well. Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Smith.

REP. SMITH (108th):

Yes, if you were the tortfeasor. Yes. Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Miner.

REP. MINER (66th):

Thank you, Mr. Speaker. And my last question has to do with the point of intent, legislative intent. And this clearly states that the language in the bill begins on October 1, 2015. Again not being an attorney, how -- I guess if the gentleman knows how do we get to intent when the clear reading of the language has a date that says it starts on October 1, 2015. Through you.

DEPUTY SPEAKER GODFREY:

I don't understand the question, Representative Miner. Is this legislative intent? I missed part of it.

REP. MINER (66th):

Certainly, Mr. Speaker. I think there was a -- there was a discussion earlier that I did not participate in.

DEPUTY SPEAKER GODFREY:

Okay. Legislative intent is what courts make the decision on. And it's the Chairman of the committee that creates legislative intent not other people who are speaking on it so direct it to whom you will.

REP. MINER (66th):

Thank you, Mr. Speaker. So to the good gentleman from the 108th it's my understanding you inquired of the Chairman whether or not the legislative intent was for this actually to begin prior to October 1 and I'm assuming that when you asked that question probably a mistake on my part that it had some basis in your practice.

And so my understanding of our rules and the law would be that absence some direct language in the statute we could look to legislative intent but in this case it seems to be very clear how would legislative intent supersede a date specific? Through you.

DEPUTY SPEAKER GODFREY:

Representative Smith.

REP. SMITH (108th):

Thank you, Mr. Speaker. And I think I can answer the question. I think the Chairman indicated this is a codification of existing law. And if we look back to the initial statute when it was enacted which I do not have in front of me but based on the Chairman's comment and based on my understanding in how this area of the law has been practiced it's always been the intent of the initial statute that the offset only be that amount that the insured actually received. So the exchange I had with the -- with the Chairman was to verify that. And to verify that this is in fact a codification of existing law of that practice. I understand that there's a few rogue, if you want to call them that, insurance companies that have engaged in a different practice. So for potential financial reasons or coverage reasons, I'm not sure why, but I understand there is a date in here and that applies you know October 1, 2015. My position would be and my understanding is is that this is the practice already and we're just making that clear. Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Miner.

REP. MINER (66th):

Thank you, Mr. Speaker. And I do thank the gentleman for helping me out. I had one other question that I guess I would direct to the Chairman of the insurance committee if I might.

DEPUTY SPEAKER GODFREY:

Proceed.

REP. MINER (66th):

And that has to do with if an individual that caused an injury caused it with a vehicle that was not his own is the insurance pay out his policy or the policy that went with the automobile that caused -- that was part of that injury? Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Megna.

REP. MEGNA (97th):

Through you, Mr. Speaker. Could you please repeat the hypothetical?

DEPUTY SPEAKER GODFREY:

Representative Miner.

REP. MINER (66th):

Thank you, Mr. Speaker. So if I was to run an errand from here and borrow your car and accidentally

caused an injury, my question is does this scenario cause your insurance to pay off even though I'm the tortfeasor or does it cause my insurance if I have it for my own vehicle if I caused it? Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Megna.

REP. MEGNA (97th):

Through you, Mr. Speaker. So what would happen is you would have a liability policy. You would also have uninsured and underinsured motorist coverage which is both mandated by law. So in the event you hit somebody, injured them, it was your fault your liability policy would kick in and -- and pay the loss, the bodily injury claim to that individual. However if you had a limit -- a smaller limit that wasn't enough to compensate that injured person then there uninsured or underinsured coverage which they have. They're the insurer. They purchase it.

We mandate it in this State which is interesting. There's only about 20 something states in the country that mandate that uninsured and underinsured motorist coverage. All of them do liability. All of them require that they have liability coverage. So in the

even there wasn't enough insurance, if you didn't have enough insurance say you had whatever the 20, 40 or $100,000 and the individual was pretty well injured and they established that you were at fault and his or her injuries were valued at 200,000, your 100,000 would probably go to them and their underinsured coverage would kick in.

And say they had -- actually if they had $100,000 limit it would cancel it out because the offset would be the 100 but if they -- say they had 200,000 underinsured limit your 100 would get subtracted and they would be able to collect up to that additional 100 under their own policy which we require you purchase here in our State. Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Miner.

REP. MINER (66th):

Thank you, Mr. Speaker. And so I think the example that I used I would have had a vehicle and therefore had coverage. I think that same example that you used presumed that I had coverage. If in the same scenario where I borrowed your vehicle and didn't have coverage and I'm still the tortfeasor what happens then if this -- does it all fall on you as the

person I borrowed the vehicle from? Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Megna.

REP. MEGNA (97th):

Yes, I believe so. Through you, Mr. Speaker. As long as you -- as long as you didn't steal the motor vehicle or as long as you have my permission I believe so. My policy would provide you with coverage. Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Miner.

REP. MINER (66th):

Thank you, Mr. Speaker. This -- it's my understanding that you know the insurance limits that we set I think back when I was on the insurance committee we -- we talked many times about personal injury. I think that's the first number which is -- I think the minimum is 20,000 and then it goes to 40,000 for all involved and then ten for property. And those -- well at least the 20, 40 was set in 1971 which was some time ago.

And I -- and I wonder what the effect would be, through you, Mr. Speaker, if we were to -- if we were

to double those limits on people's uninsured and underinsured rates because I -- as I recall the conversation back then most people that have any kind of assets usually bump up their uninsured and underinsured because if they get hit by somebody that has almost no insurance it falls to them. Through you, Mr. Speaker, is that correct that -- that perhaps doubling these rates might actually reduce the cost of the uninsured, underinsured? Through you.

DEPUTY SPEAKER GODFREY:

Representative Megna.

REP. MEGNA (97th):

Through you, Mr. Speaker. If we mandated a greater limit than the 20, 40 under liability as we do today, if we mandated a higher limit I guess -- actually let me go back, through you, Mr. Speaker. What particularly is the question? Is it whether ti will reduce the rates of uninsured and underinsured coverage if you increased the mandatory limit?

The actual -- the minimum under -- under -- on an underinsured is 20, 40 also I believe just like it is under the liability portion. So if maybe the good Representative would like to pose that question to me again, through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Miner.

REP. MINER (66th):

Thank you, Mr. Speaker. What I'm -- I -- certainly, what I'm trying to figure out is this seems to go to great lengths to try and make sure that when we buy insurance we get what we paid for and so if I have $100,000 uninsured underinsured policy and I were to be harmed by someone my insurance couldn't pay out less just because I got some coverage from the person that caused the accident, harmed me I believe is what the underlying bill is about. And so my question if -- if we increased the minimums -- I'll tell you what I'm thinking about.

In the appropriations committee I think we had a joint -- well we had a -- we've had a number of hearings with regard to the budget and some of them have to do with some pretty grave circumstances where individuals are harmed as a result of an automobile accident of one kind or another. In many cases the care of that individual falls to the State of Connecticut. And so when we have this conversation about who pays how much in those cases certainly they're rather significant bills.

I see there's a -- some language here about social security and I'm wondering whether as we have this -- you know this debate maybe not tonight in total but on -- maybe in the future we should also be concerned about what the expense and exposure is to the State of Connecticut as we begin to talk about limits and we begin to talk about what the exposure is to other people's insurance. So I don't know if the good gentleman has a comment on that with regard to offsets as well. Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Megna.

REP. MEGNA (97th):

Yeah, through you, Mr. Speaker. I know it's been an interest that surfaces every so many years. Shall we increase that -- that minimum required terms of liability and I guess as well you could also look at the minimum required with un and underinsured. You know individual -- generally speaking individuals with assets tend to buy higher limits of liability and higher limits of liability with the under and underinsured motorist coverage.

You know when -- when we attempt to address whether or not we should mandate a higher limit in

terms of just the liability coverage it becomes a -- a hot button issue in a sense because it causes a spike in the cost of insurance for all drivers really around the State and in particular urban area drivers.

And I know that the industry out there isn't too fond of that because I think -- it's just my belief that they would prefer individuals buying uninsured and underinsured coverage. I think it's probably a more preferable premium for -- for them to earn than -- that is liability coverage. But it is kind of a hot button issue. I know we've looked at other states and -- and what -- what they do and just off the top of my head I don't think there's any state where I've seen a limit of liability really much over $75,000 or so that's mandated by -- by law. But the good Representative does bring up an interesting and important issue. Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Miner.

REP. MINER (66th):

Thank you, Mr. Speaker. And so as we look at those rates and the interest of this bill which is to make sure that we get what we pay for I know you mentioned that the industry may not be happy with an

increase of rates because that causes an increase in premium but wouldn't that -- wouldn't that create a scenario where we would more likely have coverage for people who had serious injuries if we did that as opposed to just trying to get the insurance company to not offset what I pay for with what you pay for? Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Megna.

REP. MEGNA (97th):

Through you, Mr. Speaker. Yes, absolutely. The greater we require the limit the less coverage you would have to purchase under the uninsured and underinsured. But there's always that risk that other individual does not have insurance also where we talk here with the assumption that everybody purchases the minimum but quite often that's not the case hence they buy the uninsured motorist coverage also. But it's an interesting point.

And I remember a few years ago this Chamber attempted to move the 20, 40 or the up to something like 75,000 or so and I -- I was on the committee at that time and I believe the good Representative was on it also. And I had asked the industry for some numbers for premium

increases particularly in the urban areas which is a place I'm often concerned about when I look at their -- their rate making process by a lot of the insurers. Their rate are substantially higher.

Substantially higher in the urban areas and for good reason. That's probably where most of the claims are. But we would have seen just moving that limit to 75,000 or so we would have seen a doubling or tripling of insurance rates which already in cities like New Haven is like making a tax payment, you know two or $3,000 for a -- $1,000 for minimum 20, 40 liability policy. So it was a great concern. But the good Representative has a good point. You know the higher the limit the more protected individuals are. But it comes with a great cost to the purchasers of that liability insurance. Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Miner.

REP. MINER (66th):

Thank you, Mr. Speaker. And I thank the gentleman for his answers. I'm not sure whether I'll be around next year, you'll be around next year but I actually would look forward to a continuation of this conversation. You watch television in the morning and

you see that you can lease an automobile for about $125 a month and I think to myself you know maybe is this an opportunity for us to really take another good look at this because it seems as though the cost of getting involved in an automobile may have become rather inexpensive.

And I remember the argument -- not argument you and I had but I think the discussion that we had about cost generally came in conjunction with the cost of owning an automobile and taxes and everything else and affordability. But it really has become clear to me that this -- this whole downward motion of minimums has probably left the State what I would say holding the bag in some cases from -- for some pretty expensive costs. And -- so on the front end maybe my rates went up out in the country if the urban rate went down.

But the -- the overall exposure to the State of Connecticut is very significant compared to the numbers that we've been talking about tonight. I mean we're talking about $100,000 and as I recall I think the ABI waiver was something like $140,000 a year. And so when you think about where this has you know kind of taken us in terms of cost associated with

automobile accidents on an annualized basis for the State I'm not sure that having it inexpensive for anybody, me, you or anyone else is necessarily in the best interest of the taxpayer of Connecticut or in the interest of the individual that got injured to be quite honest with you because I hear more and more stories from my constituents where they've been involved in an accident, their insurance has had to cover it because they have the insurance and the individual that -- the tortfeasor was either uninsured or underinsured and you know I think that's kind of going to keep the conversation going from year to year just because it seems to be a shift in exposure.

I know the good gentleman spoke about people who have assets, a home, what have you more often than not have higher policy coverage than those that maybe don't. So I'm certainly going to listen as this debate goes on. I understand the premise that it intends to codify what the intent of the regulations are and the law was. And so I think like Representative Smith I am excited about the notion that we're going to have very clear guidance for insurance companies and also a clear expectation for folks that represent as the -- as the injured and the

tortfeasor who may have created the injury. So thank you, Mr. Speaker. And thank the gentleman for his answers.

DEPUTY SPEAKER GODFREY:

Thank you, sir. Representative Yaccarino.

REP. YACCARINO (87th):

Thank you, Mr. Speaker. And good evening. Just a couple of questions to the good Chairman of the insurance company.

DEPUTY SPEAKER GODFREY:

Proceed.

REP. YACCARINO (87th):

Insurance committee.

DEPUTY SPEAKER GODFREY:

the insurance company.

REP. YACCARINO (87th):

Well I feel like he's part of that too sometimes.

DEPUTY SPEAKER GODFREY:

He only answers in small print you understand. Proceed, sir.

REP. YACCARINO (87th):

Through you, Mr. Speaker. When we -- this came before us but I vaguely remember it. I think it was real judicial. Did the Insurance Department look at

this and give any recommendations to you -- yourself or Senator Crisco or our ranking member, through you, Mr. Speaker, as far as the changes in the existing statute of law? Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Megna.

REP. MEGNA (97th):

Through you, Mr. Speaker. When the issue first came before us I don't remember that much engagement with the Department of Insurance. I will say I do is recall is that that regulation that they established which kind of created the ability of that one company or two companies to take additional offsets from the -- from the insured. I don't think the department had any issues with the bill moving forward and as we learned that there really was an issue we believed it was something that we would place the industry and the trial lawyers in a room and say hey you guys need to come together and work this out and we kept our -- our checks on the language and the proposed language.

Each time it came out we put it in front of our wonderful LCO Kumi Sato and the other individuals in the leadership of the committee and then eventually they had come up with these few sentences which became

the law and which as we mentioned earlier really seek to clarify the existing law. And we often tonight in this Chamber are talking about tortfeasors and liability but it's actually an insurance policy. You know you go to the -- your agent, you ask them for a policy which is mandated by law uninsured, underinsured motorist coverage and you purchase it with the expectation that you're -- you've got the $100,000 coverage or so and -- and that it's for underinsured or uninsured not for many other people collecting from that tortfeasor's policy.

So -- so I think the department really knew there was an issue when this came forward, kind of acknowledged that the regulation didn't really seek to distort or change the intent of the law or the intent of these policies, these uninsured or underinsured motorist coverage policies. So -- but in the sense they kind of stepped back I don't' know what types of dialogue the -- the carriers as well as the trial attorneys had with the -- the department but in a sense for our committee I -- I really didn't see a great presence of them throughout their -- this debate but through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Yaccarino.

REP. YACCARINO (87th):

Thank you for the -- thank you to the good Chair for the answer. I -- my agent complained to me quite a bit before session started and I think I might have spoke to you, Representative Megna about it and I was going to actually put a bill in to actually raise the limits but like you had said to Representative Miner the concern always is if you raise the threshold you also raise the rates for everybody else.

And that's the tough thing we have to deal with either between the committee or through the insurance department. But that's where the individual agents are concerned with the uninsured, underinsured because the burden comes onto them and then many times nothing -- no offense to the lawyers but a lot of the money's eaten up through legality or personal assets. And then -- so -- so that is a concern. Through you, Mr. Speaker, does this apply to commercial policies or it's just -- just personal? Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Megna.

REP. MEGNA (97th):

Through you, Mr. Speaker. I think it's all automobile policies here in the State. Maybe it would be -- I believe it actually applies to that coverage, you know the un and underinsured motorist coverage which I believe would be on all vehicles here in the State. But the good Representative made a good point before you know it's often -- often you know these limits that we choose; limit of liability, limit of uninsured or underinsured motorist coverage it's really a decision the individual makes normally relative to their assets you know.

Many people don't have any assets so they -- we've established this minimum. And people that do have assets buy greater than the minimum, buy several hundred thousand, half a million. They buy million or more umbrella policies on top of all that coverage to protect their assets in terms of liability or also protect -- protect themselves of a wrongdoer causes injury and they're not insured or they don't have the sufficient amount of insurance. You know.
What's interesting is this uninsured underinsured motorist coverage as I had mentioned before is something that's unique throughout most of the states. Connecticut is one of 20 or 30 states or 23 states, I

forget off the top of my head that require that -- that require that everybody have uninsured and underinsured motorist coverage. You know so it's something somewhat unique. I know this session we talked about it and I talked about it with my ranking member about the possibility of doing away with that mandate.

You know we -- we often -- particularly in the urban areas the price insurance is very high and we're off -- we're often looking for ways to reduce the cost of insurance and one of the suggestions this year was to either not mandate uninsured or underinsured motorist coverage so that individuals if they want it they can purchase it. You know all states -- not all states, all states -- that's no pun intended.

But all states mandate that you buy liability insurance in different levels and I think one state, New Hampshire says you don't have to buy liability insurance but you have to post some kind of bond or post some kind of assurity that you have the minimum amount of money to be able to -- to pay in the event that you get in an accident. And -- and that's good. That's the way -- that's the way it should be.

So it's interesting that we also do that

additional requirement, that additional burden to some people to make them buy more insurance for people that are underinsured.

Here we tell them they have to buy a minimum amount, you know the 20, 40 and then we say you have to have also 20, 40 in case they're underinsured. So you know when you -- not in terms of liability but you're actually -- they're actually purchasing more than you really imagine. You think we're requiring 20, 40 but they also have to purchase that other policy which provides more coverage for them in the event of they become a claimant. So through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Yaccarino.

REP. YACCARINO (87th):

Thank you for that detailed answer. One last question. Through you, Mr. Speaker, I'll pull one out of Mike Alberts's books. In line 76 to line 83 the -- the provision for the insurance policy that which contains binding arbitration goes back to 1983 and is at $40,000. In the future will there be thought of actually increasing that amount? Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Megna.

REP. MEGNA (97th):

Through you, Mr. Speaker, could the good Representative please repeat that question and that reference?

DEPUTY SPEAKER GODFREY:

Sure. Representative Yaccarino.

REP. YACCARINO (87th):

Through you, Mr. Speaker, in lines 76 through 83 the old -- which is still the existing law, the statute is each automobile liability insurance policy issued on October 70 -- 1971 and then it was revised in October 1, 1983, there's an arbiter and the amount is $40,000. Do you foresee that changing the future because it's really been the same amount for over 30 years, 31 years? Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Megna.

REP. MEGNA (97th):

Through you, Mr. Speaker. Since I've been in the legislature 14 years this year and I've been on the insurance committee probably ten of those years or so I've seen that issue come up maybe twice. Twice you

know. I remember once a bill made it to the floor here increasing the limit and it was -- it was of a big concern of the Chamber and I think that at one point they PT'd the bill. And at that time it would have increased it to 75,000 or so or $70,000,limit you know. So it's somewhat of a controversial issue among a lot of us you know how much -- how much liability or how much financial responsibility do you put on people who have very little or no assets you know.

It's an interesting concept. But you know when I look around at the states it's an issue probably most of the states grapple with because I don't know of a state that has a limit really greater than 70,000 or so you know out of the 50 states. So -- so it's an interesting issue but it's something that's you know to some it needs to increase and to others they don't have any assets.

And some of these policies, some of these minimum policies cost you know 1,000, $2,000 a year for some people with -- traditionally young people that don't really have a history or accidents or claims. You know so individuals always -- this is particular if you have assets, you always have -- you would have the ability to purchase coverage to protect you against

those individuals. And I think generally that's probably what they market does, you know what people do. They -- they purchase greater limits to protect themselves against others that really don't have assets.

So it kind of -- kind of finds its way to -- to the particular limits among individuals and -- and changing that limit is a difficult thing to do as we've seen in this Chamber and as I -- I would imagine would be the same type of a decisive issue among the other states. Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Yaccarino.

REP. YACCARINO (97th):

Thank you, Mr. Speaker. And thank you for that -- excuse me, in-depth answer. And like Representative Miner said, hopefully we're here next year we could you know look at this I know it takes time. But to your point also I know it's very difficult right now in the State of Connecticut and there's a lot of young people and older people that can't really afford many things let alone you know higher rates of insurance. So it's a difficult issue but we really have to continue to look at it.

I'd like to thank the good Chair for his answers and listen to -- it was a pleasure working with you and thank you.

REP. MEGNA (97th):

You too.

DEPUTY SPEAKER GODFREY:

Thank you, sir. Representative Alberts.

REP. ALBERTS (50th):

Good evening, Mr. Speaker. If I may a few questions to the proponent.

DEPUTY SPEAKER GODFREY:

Proceed, sir.

REP. ALBERTS (50th):

Thank you, Mr. Speaker. I believe in our earlier dialogue with another representative there was reference to perhaps 70 carriers of personal lines. Is that correct? Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Megna.

REP. MEGNA (97th):

Through you, Mr. Speaker. yes, off the top of my head there's something like just in the personal lines auto, not commercial auto, personal lines auto, personal lines homeowners, I think there's somewhere

around 70 to 75 maybe 70 homeowner carriers and 75 licensed regulated personal auto carriers in the State. But in terms of the bulk of the business, the bulk of the underwriting it's probably just a fraction of those you know. Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Alberts.

REP. ALBERTS (50th):

Thank you, Mr. Speaker. And I think you may have mentioned that perhaps the impacted group as a result of this legislation if we adopt it may be one or two carriers. Is that correct? Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Megna.

REP. MEGNA (97th):

Yeah, through you, Mr. Speaker. From what I understand -- and now I never had any in-depth conversation with the department on what companies were taking those additional offsets. Just from the testimony and speaking with several attorneys -- different attorneys with the Trial Lawyers Association that the name of one maybe two companies kept popping up that they were taking these additional offsets off the individuals -- off the insured's policies. And ti

was really at that point that it kind of clicked that hey you know there is an issue. There really is an issue.

And I mean when this issue first came in front of our committee last year I kept thinking about stacking and attorneys trying to gain greater settlements by -- by altering the statute but then as the debate went on it was kind of clear that -- that the intent of that uninsured underinsured coverage you know is one offset for your -- for what you're compensated for from that other company. And it's -- that's the true intent of under and uninsured coverage that you purchase. You know.

It was at that point that we moved forward and it was also during that debate that we -- we'd been informed that most companies don't do that. Most of them just take when there's several passengers in a vehicle or several injured parties collecting from the tortfeasor that they don't take offsets from all those other individuals, only from the individual they're insured.

We'll call them the insured, the person that purchased that policy, that uninsured and underinsured motorist coverage. And so at that point it kind of

was clear that it was just one or two companies interpreting their obligation that way. Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Alberts.

REP. ALBERTS (50th):

Thank you, Mr. Speaker. So the net result of this proposed legislation becoming legislation would be that those one or two potential carriers would go back, readjust any cost that they might have, perhaps come up with new figures in terms of what they many need to assess in terms of potential rate changes. What would that look like? Through you, Mr. Speaker, in terms of any dollar amount? Are we talking very, very modest amounts?

DEPUTY SPEAKER GODFREY:

Representative Megna.

REP. MEGNA (97th):

You know through you, Mr. Speaker. Often we get hung up thinking that rates are directly tied to these individual claims and when you think about it we have -- we have an extremely competitive personal lines auto markets, extremely competitive personal lines homeowner market. You have 70 or so companies and

each one of them is required to establish rates throughout the entire State. And I think with auto it's by zip code. I think with homes they can design whatever territories they need to fit their business model or to earn money.

So it's actually a very, very competitive business. If there was an argument out there that this date was kicked up so that you know rates were based on taking these additional offsets and now we need to reevaluate rates I don't -- I don't think that's really a significant arguing point. You know it's a very competitive market.

I can't imagine or maybe -- maybe with this one company they have such a tremendous amount of claims and they and I don't want to say artificially but really they had a really lower rate because they were taking those additional -- they were paying out a lot less on uninsured and underinsured motorist coverage and when they were pricing it relative to those other 70 companies it was a much lower premium.

I guess that's a possibility. I guess that's a possibility. But -- but when I look at that rate setting process and that rate approval process it's extremely, extremely competitive you know. And if

they set rates based on those additional offsets I guess that is a possibility but -- through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Alberts.

REP. ALBERTS (50th):

Thank you, Mr. Speaker. I do thank the Chairman of the insurance committee for continuing the education of myself. This was a good bill when we first saw it in the insurance committee and I appreciate the opportunity to learn some more about it. And I guess it sounds like the net effect of this may be that any increase in the insurance costs if -- it would be very modest at most and -- and may actually not even be passed onto the consumer as a result of this. So I will be supporting this bill. Thank you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Thank you, sir. Will you remark further on the bill? Will you remark further on the bill? If not, staff and guests please come to the well of the House. Members 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.

Members to the Chamber please.

SPEAKER SHARKEY:

Have all the members voted? Will the members please check the board to make sure your vote is properly cast. If all the members have voted the machine will be locked and the Clerk will take a tally. Will the Clerk please announce the tally.

THE CLERK:

Senate Bill 280 in concurrence.

Total Number Voting	140
Necessary for Passage	71
Those voting Yea	140
Those voting Nay	0
Those absent and not voting	11

SPEAKER SHARKEY:

The bill passes. Are there any announcements or introductions? Representative Noujaim.

REP. NOUJAIM (74th):

Thank you, Mr. Speaker. Good evening, sir.

SPEAKER SHARKEY:

good evening, sir.

REP. NOUJAIM (74th):

For a journal notation.

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GENERAL ASSEMBLY
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For those reasons, Mr. President, I'm happy to support the bill.

Thank you, sir.

THE CHAIR:

Thank you, Senator.

Senator Coleman -- any further remarks on the bill? Any further remarks?

Senator Coleman.

SENATOR COLEMAN:

Mr. President, if there are no further remarks, I'd move this item to our Consent Calendar.

THE CHAIR:

Seeing no objection, so ordered.

Mr. Clerk, would you return to the call of the Calendar, please.

THE CLERK:

On page 11, Calendar 163, Substitute for Senate Bill Number 280, AN ACT CONCERNING UNINSURED AND UNDERINSURED MOTORIST COVERAGE OFFSETS; Favorable Report of the Committee on Insurance and Real Estate.

THE CHAIR:

Senator Crisco.

SENATOR CRISCO:

Thank you, Mr. President.

Mr. President, I move for acceptance of the joint committee's Favorable Report and passage of the bill.

THE CHAIR:

Acting on acceptance and approval of the bill, will you remark further, Senator?

SENATOR CRISCO:

Thank you, Mr. President.

Mr. President and members of the Circle, from time to time there are inequities that are created through our law, and we've had a situation where payments that were fairly due to an uninsured or underinsured individual were not adequately compensated. This bill, which is -- is a fantastic consumer bill really equates equity throughout the -- the whole underinsured, uninsured process. It does not enable, you know, any benefit to be decreased that is deserving to the individual.

THE CHAIR:

Thank you, Senator.

Will you remark further?

Senator Kelly.

SENATOR KELLY:

Thank you, Mr. President.

I also rise in support of this bill. As Senator Crisco indicated, this is a good consumer bill. I think it's -- it resulted from an agreement between all parties that are involved in this area, and I support it.

THE CHAIR:

Thank you, Senator.

Further remarks?

Senator Crisco.

SENATOR CRISCO:

Thank you, Mr. President.

Mr. President, with no objection, I request that it be placed on the Consent Calendar.

THE CHAIR:

Seeing no objection, so ordered.

Mr. Clerk, would you return to the call of the Calendar, please.

THE CLERK:

Also on page 11, Calendar 177, Senate Bill Number 271, AN ACT CONCERNING THE STATE'S AUTHORITY TO PURCHASE AND TO RECEIVE DONATIONS OF REAL PROPERTY; Favorable Report of the Committee on Government Administration and Elections.

THE CHAIR:

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

Senator Musto.

SENATOR MUSTO:

Yes, I would move it. Thank you, Mr. President.

To the Circle, this -- this act pretty much comports with current practice. Although the State often receives gifts of real property, the statutory basis for it is somewhat unclear, and so surprisingly -- maybe not -- we're trying to clarify it. And that's really all it does is allow the state clear statutory authority to accept the gifts of real property.

And it does have some notwithstanding language in it regarding the Commissioner of DAS. And if you'll excuse me -- I'm sorry -- but I just want to make sure I get this right for you. It may purchase the acquire -- it may purchase or acquire real property on behalf of a state agency that does not otherwise possess statutory authority to do so. And that's, again, really current practice right now. So I would ask the Circle's approval.

Page 8, Calendar 74, Senate Bill Number 95; also on page 8, Calendar 80, Senate Bill 188.

On Calendar page 9 -- I'm sorry -- on page, yeah, page 9, Calendar 110, Senate Bill 125; Calendar 112, Senate Bill 255; Calendar 113, Senate Bill Number 256; Calendar 122, Senate Bill 260.

On page 11, Calendar 163, Senate Bill 280; Calendar 177, Senate Bill 271.

On page 13, Calendar 207, Senate Bill Number 193.

On page 14, Calendar 225, Senate Bill Number 281.

On page 15, Calendar 244, Senate Bill 283.

Page 17, Calendar 255, Senate Bill 477.

On page 23, Calendar 288, Senate Bill 413; Calendar 290, Senate Bill 418.

And on page 25, Calendar 303, Senate Bill Number 217.

THE CHAIR:

I'm sorry. At this time, Mr. Clerk, will you call for a roll call vote, and the machine will be open on the second Consent Calendar.

THE CLERK:

Immediate roll call has been ordered in the Senate on the second Consent Calendar of the day. Immediate roll call has been ordered in the Senate.

THE CHAIR:

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

Mr. Clerk, will you please call the tally.

THE CLERK:

On the second Consent Calendar for today.

Total Number Voting	35
Those voting Yea	35
Those voting Nay	0
Absent, not voting	1

THE CHAIR:

The Consent Calendar passes.

Mr. Clerk -- oh, I'm sorry -- Senator Looney.

SENATOR LOONEY:

Thank you, Madam President.

Madam President, if we might go back to the item that was removed from Consent and ask for a roll call vote on that item. That was Calendar page 8, Calendar 78, Senate Bill 186.

THE CHAIR:

Mr. Clerk, will you call for a roll call vote, and the machine will be open.

THE CLERK:

Immediate roll call has been ordered in the Senate.
Immediate roll call has been ordered in the Senate.
Immediate roll call ordered in the Senate. An immediate roll call has been ordered in the Senate.

THE CHAIR:

Have all members voted; all members voted? The machine will be closed.

Mr. Clerk, will you please call the tally.

THE CLERK:

Senate Bill Number 186.

Total Number Voting	33
Those voting Yea	23
Those voting Nay	10
Absent, not voting	3

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Going to move on now to bill 280. And we have Mike Walsh.

MIKE WALSH: Good afternoon, Mr. Chairman, members of the Committee. My name is Mike Walsh. I'm the immediate Task President of the Connecticut Trial Lawyers Association. I'm here to speak in support of Bill 280. A lot of effort was spent on this proposed legislation last year by this committee. And especially Senator Crisco and Representative Megna and we appreciate all of the -- all the hard work that was given to it last year. We made a lot of progress but unfortunately at the end of the session, we just ran out of time. So this committee recommended the formation of a joint study group which was undertaken over the winter months. HB 5364

And it consisted of both the trial lawyers and the insurance industry. And we worked on this proposed legislation. I'm happy to report that we did reach consensus and Senate Bill 280 is -- is a product of that work study group. It's a consensus. I believe there is agreement between both trial lawyers and insurance industry. I know Attorney Giacalone is sitting here. She was very helpful and instrumental in bringing this about.

And if I said anything wrong, I'm sure she'll correct me because she's coming up after me. But essentially the purpose of this statute -- the proposed legislation 280 is to essentially correct what we perceived to be an inequity in the underinsured motorist law. Specifically an inequity that was created by the Connecticut Appellate Court that allowed under the Connecticut appellate decision of Linds, it allowed UN carriers to reduce their coverage for payments made by the liability carrier.

Not just to the claimant making the claim. But it also allowed him to reduce the total UN coverage by payments made to individuals wholly unrelated to the claimants. The proposed legislation fixes to correct that. It basically seeks to disallow any reduction in UN coverage from all it's paid buyer arms (inaudible) of any tort fees or for bodily injury to anyone other than the individuals insured under the policy against which the claim is being made.

And it -- it further seeks to prohibit any reduction for payments made by the tort fees or on behalf of property damage. There's two minor corrections. I think they were in advertent errors between the time we reached agreement on a language. And the time it made it actually into bill format. We set that forth in our written testimony. So I don't think I need to go through that. I don't think there's any dispute on those two minor corrections, essentially a word injured was put in instead of insurer.

And a sentence at the end was deleted which should not have been deleted, pertaining to conversion coverage. Subject to those two minor corrections, we urge passage of Senate Bill -- of Raised Bill 28.

REP. WRIGHT: Thank you, Mr. Walsh.

Are there questions?

Representative Sampson.

REP. SAMPSON: Thank you, Mr. Vice Chairman for filling in.

Mike, good to see you.

MIKE WALSH: Good to see you.

REP. SAMPSON: I remember when this came up last year and unfortunately I haven't had any real opportunity to talk to anyone about it -- about what my thoughts would be on -- on the subject. Just looking at it, I understand you said it's a kind of an agreement between the trial lawyers and the insurance industry. What I'm trying to figure out is -- how do I put that?

Well let me just say -- let me ask you -- let me ask this question then. I mean -- it looks to me like the thing that's basically changing is whether or not amounts can be deducted from the amount of uninsured motorists based on payments to other parties. So, if that's the case then this look to me like two things are happening.

One of them is the amount of insurance that's going to be available to the actual insurer who paid for the policy is going to increase. But it also seems to me that the premium is going to end up increasing as well. Would that be an accurate statement?

MIKE WALSH: I don't think so. It's -- it's interesting because the -- this was a change that occurred not because of any legislative effort but because of judicial case law. And when the judicial case law made this change, there was no corresponding decrease in the policy. So, I think it's fair to assume that if we're reversing what the court's did and if there is no impact at the time that the court's did it, that there'd be no impact now when we're reversing what the court's did.

REP. SAMPSON: Okay. I don't know if that answered my question. But it's -- it's good enough anyway. Thank you very much for that -- for that comment.

MIKE WALSH: I'm also here to -- to briefly offer a few sentences in opposition of 5364. May I do that now or would you prefer I not?

REP. WRIGHT: If you want to continue with that now. Sure.

MIKE WALSH: Okay. Thank you. Briefly the Connecticut Trial Lawyers would also oppose 5364. I know you've also -- you've already had extensive testimony from Attorney Hastings and Representative Smith. So, I won't repeat all of that. This is the proposed legislation to make coverage not mandatory, or rather optional.

The only thing I'd add is that UN coverage is -- is one of the least expensive forms of coverage. It's usually less than 10 percent of the auto premium. It's one of the most pro consumer statutes we have. It protects the consumer from the irresponsible driver. It -- it really is important legislation. I'm very sympathetic to the committee's interest in trying to reduce auto rates in urban areas.

But we would respectfully submit that really in urban areas that's the area that most needs the UN coverage. Because that's typically -- those are typically the areas where you have the most uninsured drivers. I will readily concede a lot of people don't understand UN coverage. I -- I know a lot of attorneys that don't understand UN coverage.

But the concern is if you make it optional,

most people don't purchase coverage they don't understand. But it is very important coverage that protects them very much. We would respectfully oppose 5364 for that reason.

REP. WRIGHT: Thank you.

And are there any other questions on -- on 5364?

Representative Altobello.

REP. ALTOBELLO: Thank you, Mr. Chairman.

Good afternoon.

MIKE WALSH: Good afternoon.

REP. ALTOBELLO: You had said you had worked with the Insurance Association of Connecticut, the IAC, over the interim shall we say?

MIKE WALSH: Yes.

SB 280

REP. ALTOBELLO: And we're in agreement except subject to two minor corrections which you list on the back of your testimony?

MIKE WALSH: Yes.

REP. ALTOBELLO: Are you testifying today that you're in agreement with IAC on those two minor corrections?

MIKE WALSH: Yes. I apologize. I wasn't clear on that. Yes, we are in agreement on both the bill and the correction, I believe. Yes.

REP. ALTOBELLO: Thank you very much.

Thank you, Mr. Chairman.

MIKE WALSH: Yes.

REP. WRIGHT: Representative Megna.

REP. MEGNA: Thank you, Mr. Chairman.

I'm pretty familiar with this bill from last year. Sometimes my head would spin with all of these examples of -- you know -- who hits who, whose in the car and this and the other thing. But you were -- the trial attorneys were saying to us or saying to me then, primarily it was only one or two carriers that were interpreting the department's regulations in such a matter to take bigger off sets. Is that what was essentially?

MIKE WALSH: (Inaudible.)

REP. MEGNA: But -- but you weren't seeing it among all carriers? Okay. Thank you very much.

Thank you, Mr. Chairman.

MIKE WALSH: (Inaudible.)

REP. MEGNA: Okay. Thank you very much.

Thank you, Mr. Chairman.

REP. WRIGHT: Thank you, Mr. Walsh.

Before I move on, is there anyone else who would like to comment on bill 280?

We're going to move onto bill 5363. And I'm going to start with Susan Giacalone.

SUSAN GIACALONE: -- Giacalone and I am here on behalf of the Insurance Association of

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Line 4

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Raised Bill No. 280
Public Hearing 3-4-14

TO: Members of the Insurance and Real Estate Committee

FROM: Connecticut Trial Lawyers Association (CTLA)

DATE: March 4, 2014

RE: Support for Raised Bill No. 280 (subject to two technical corrections): An Act Concerning Uninsured and Underinsured Motorist Coverage Offsets

The CTLA strongly supports Raised Bill number 280, subject to two minor technical corrections, discussed below.

Following last year's legislative session, a joint study group comprised of both members of the CTLA and the Insurance Association of Connecticut (IAC) was formed under the auspices of the Connecticut Department of Insurance. Senate Bill number 280 is the product of that working committee. The legislation was drafted, and is agreed to, by both the IAC and the CTLA, subject to two minor corrections.

The purpose of the bill is to ensure that consumers get what they pay for when they purchase uninsured motorist insurance in Connecticut.

Under the current state of law, an underinsured motorist carrier is entitled to reduce its coverage for any payments made to the injured party pursuant to the liability policy issued to the person responsible for the accident. The proposed bill does not seek to change this rule.

However, the Connecticut Appellate Court interpreted this rule as allowing underinsured motorist carriers to also claim a reduction for payments made to individuals other than the claimant by the liability carrier for the person responsible for the accident. *Allstate v. Lenda*, 34 Conn. App. 444 (1994). A result of this ruling is that the claimant's uninsured motorist coverage can be reduced by payments they never received which were paid by the liability carrier for the responsible party to other individuals, totally unrelated to the claimant. As a result thereof, the consumer is being deprived of the full benefit of the coverage of the uninsured motorist insurance that he purchased.

Raised Bill 280 seeks to correct this inequity by disallowing any reduction in underinsured/uninsured motorist coverage for amounts paid by or on behalf of any tortfeasor for bodily injury to anyone other than the individuals insured under the policy against which the claim is being made. Raised Bill 280 further prohibits any reductions for payments made by the tortfeasor on behalf of property damage.

Technical Corrections:

As indicated above, the IAC and the CTLA, with the assistance of the Connecticut Department of Insurance, reached a final agreement on language for the proposed legislation However, Raised Bill Senate 280 contained two differences which were not in the language agreed to by all parties.

First, on line 73 the word "injured" should read "insured". We believe this was merely a drafting error as someone cannot be "injured" under a policy.

Second, the sentence deleted in lines 67-70 should be retained by reinserting it after the new language ending on line 75. This is important because the effect of deleting this section is essentially to eradicate conversion coverage, which was not the intent of any of the parties relative to the working group. This limitation on the total amount of recovery should not be applied to conversion coverage.

Accordingly, the CTLA respectfully urges the members of the Committee to pass Raised Bill number 280 subject to the two technical corrections.