House of Representatives

General Assembly

File No. 252

January Session, 2005

Substitute House Bill No. 6139

House of Representatives, April 11, 2005

The Committee on Insurance and Real Estate reported through REP. O'CONNOR of the 35th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

AN ACT CONCERNING SURETY BAIL BOND AGENTS.

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

Section 1. Section 38a-774 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2005*):

(a) The commissioner, after reasonable notice to and hearing of any holder of a license issued by the commissioner, may suspend or revoke the license for cause shown. In addition to or in lieu of suspension or revocation, the commissioner may impose a fine not to exceed one thousand dollars. Hearings may be held by the commissioner or by any person designated by the commissioner. Whenever a person other than the commissioner acts as the hearing officer, **[**he**]** <u>the person</u> shall submit to the commissioner a memorandum of **[**his**]** findings and recommendations upon which the commissioner may base **[**his**]** <u>a</u> decision.

(b) If an insurance license held by a firm, association or corporation is revoked, the insurance licenses of any principal of such firm or association or any officer or director of such corporation shall be revoked, unless the commissioner determines that such principal, officer or director was not personally at fault in the matter on account of which such license held by the firm, association or corporation was revoked.

(c) The commissioner may place on probation, suspend, revoke or refuse to reissue a surety bail bond agent's license or may levy a civil penalty in accordance with this title, or may take any combination of such actions, for any one or more of the following causes: (1) Soliciting, negotiating or executing undertakings of bail or bail bonds on behalf of an insurer without an appointment authorizing the surety bail bond agent to act on the insurer's behalf; or (2) soliciting, negotiating or executing undertakings of bail or bail bonds at a premium lower than the effective rates filed by the insurer with the commissioner.

[(c)**]** (d) Any person aggrieved by the action of the commissioner in placing on probation, **[**revoking,**]** suspending, revoking or refusing to grant or reissue a license or in imposing a fine may appeal therefrom in accordance with the provisions of section 4-183, except venue for such appeal shall be in the judicial district of New Britain. Appeals under this section shall be privileged in respect to the order of trial assignment.

Sec. 2. (NEW) (*Effective October 1, 2005*) A surety bail bond agent shall remit to the insurer the full amount of the premium collected from a defendant for a bail bond solicited, negotiated or executed on behalf of such insurer not later than ten days after collecting such premium. The agent shall have no right to compensation other than commissions, which shall be paid directly to the agent by the insurer, for or on account of the solicitation, negotiation or execution of an undertaking of bail or bail bonds.

Sec. 3. (NEW) (*Effective October 1, 2005*) Each insurer, as defined in section 38a-660 of the general statutes, shall, not later than the tenth

46 day of each month, notify the commissioner of any failure of a surety
47 bail bond agent appointed by the insurer to remit to the insurer the full
48 amount of the premium as provided in section 2 of this act. The notice
49 shall include the name of the surety bail bond agent, the case docket
50 number, the total amount of the surety bond, the date the surety bond
51 was posted, the five digit identification code assigned to such insurer
52 by the National Association of Insurance Commissioners and the date
53 the premium was due. Any such insurer that fails to comply with the
54 requirements of this section shall be subject to license suspension or
55 revocation or fine as provided in subsection (c) of section 38a-41 of the
56 general statutes.

57 Sec. 4. Section 38a-825 of the general statutes is repealed and the
58 following is substituted in lieu thereof (*Effective October 1, 2005*):

59 (a) No insurance company doing business in this state, or attorney,
60 producer or any other person shall pay or allow, or offer to pay or
61 allow, as inducement to insurance, any rebate of premium payable on
62 the policy, or any special favor or advantage in the dividends or other
63 benefits to accrue thereon, or any valuable consideration or
64 inducement not specified in the policy of insurance. No person shall
65 receive or accept from any company, or attorney, producer or any
66 other person, as inducement to insurance, any such rebate of premium
67 payable on the policy, or any special favor or advantage in the
68 dividends or other benefit to accrue thereon, or any valuable
69 consideration or inducement not specified in the policy of insurance.
70 No person shall be excused from testifying or from producing any
71 books, papers, contracts, agreements or documents, at the trial of any
72 other person charged with the violation of any provision of this section
73 or of section 38a-446, on the ground that such testimony or evidence
74 may tend to incriminate [him] the person, but no person shall be
75 prosecuted for any act concerning which [he] the person is compelled
76 to so testify or produce documentary or other evidence, except for
77 perjury committed in so testifying.

78 (b) A payment plan established by a surety bail bond agent for the

79 payment of premium for a bail bond does not violate subsection (a) of
80 this section if (1) the payment plan provides that the premium shall be
81 fully paid not later than sixty days after the bail bond is executed, and
82 (2) the premium is fully paid within said sixty-day period.

This act shall take effect as follows and shall amend the following sections:		
Section 1	*October 1, 2005*	38a-774
Sec. 2	*October 1, 2005*	New section
Sec. 3	*October 1, 2005*	New section
Sec. 4	*October 1, 2005*	38a-825

INS *Joint Favorable Subst.*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 06 $	FY 07 $
Insurance Dept.	GF - Revenue Gain	Potential Minimal	Potential Minimal

Note: GF=General Fund

Municipal Impact: None

Explanation

The bill allows the Insurance Commissioner to levy a civil penalty for violations of certain provisions of the bill. To the extent that the bill creates civil penalties for certain violations, this could result in a minimal revenue gain to the state.

The bill makes other various changes, none of which have a fiscal impact.

OLR Bill Analysis
sHB 6139

AN ACT CONCERNING SURETY BAIL BOND AGENTS

SUMMARY:
This bill makes several changes to surety bail bond agent requirements. It authorizes the insurance commissioner to penalize a surety bail bond agent who arranges for bail or a bail bond (1) on behalf of an insurer that has not appointed him to act on its behalf or (2) at a premium rate lower than the rates filed with the commissioner. The commissioner can (1) place the agent on probation or suspend, revoke, or refuse to renew his license; (2) levy a civil penalty; or (3) do any combination of these.

The bill requires a surety bail bond agent to give an insurer all bail bond premiums collected on its behalf within 10 days of collecting them. It also prohibits the agent from receiving any compensation for executing bail bonds other than commissions paid directly to him by the insurer.

The bill requires insurers transacting surety bail bond business in Connecticut to notify the commissioner by the 10th day of each month if an agent has not remitted bail bond premiums as required. The notice must include the (1) agent's name, (2) case docket number, (3) total amount of the surety bond, (4) date the bond was posted, (5) insurer's National Association of Insurance Commissioners identification code, and (6) date the premium was due. The bill specifies that the commissioner can penalize an insurer who does not comply with this notification requirement by suspending or revoking its license or, after reasonable notice and hearing, levying a fine up to $10,000.

The bill exempts certain bail bond payment plans from the prohibition against giving premium rebates, special favors, or other valuable consideration as an inducement to insurance. A payment plan does not constitute a rebate or special favor if (1) it requires full premium payment within 60 days of executing the bond and (2) the full premium is paid within that 60 days.

EFFECTIVE DATE: October 1, 2005

BACKGROUND

Bail Bond Agent

Connecticut law defines a bail bondsman as a person (1) in the business of furnishing bail in criminal cases or (2) who furnishes bail in five or more criminal cases in one year, whether for compensation or otherwise. There are two types of bondsmen in Connecticut: professional and surety.

A professional bondsman is licensed by the Department of Public Safety, puts up his personal assets as bond security, and has complete personal liability for forfeited bonds. A surety bondsman is an independent agent under contract with an insurance company, has authority to execute or countersign bail bonds in criminal cases, and has limited personal liability for forfeited bonds. By law, a surety bond agent must be licensed by the insurance commissioner and appointed by an insurer to act on its behalf.

COMMITTEE ACTION

Insurance and Real Estate Committee

Joint Favorable Substitute
Yea 16 Nay 0