



**STATE OF CONNECTICUT**  
*INSURANCE DEPARTMENT*

6354

**Testimony of Thomas R. Sullivan**  
**Commissioner of the Connecticut Insurance Department**  
Before the  
**Insurance and Real Estate Committee**

Thursday, February 19<sup>th</sup>, 2009  
**House Bill 6354—An Act Regulating Surety Bail Bond Agents**

House Bill 6354—An Act Regulating Surety Bail Bond Agents has been raised at the request of the Connecticut Insurance Department. The Department would like to thank the Co-Chairman of the Insurance and Real Estate Committee for raising this bill on our behalf.

Many are surprised to learn that the Insurance Department regulates a large contingent of bail bond agents. When I first came to the Insurance Department approximately 2 years ago, I was surprised to learn of the time and effort spent by my staff to regulate these agents. I was also surprised to learn the extent to which the Department lacked the requisite statutory authority to regulate them effectively. Unfortunately, legislation proposed by the Department last year was not successful. I am hopeful that this year will be different.

The State of Connecticut needs bail bond reform now. The Insurance Department's authority to regulate the bail bond industry is limited at best and the Department needs stronger enforcement tools. House Bill 6534 is comprehensive and offers needed reform initiatives aimed at enhancing public safety and protecting the integrity of the bail bond system.

First, HB 6354 directly addresses a practice known as "undercutting", when bail bondsmen do not charge their clients the amount they are statutorily required to charge them. This unlawful behavior allows defendants and criminals to post bond at rates lower than what the state requires. For example, bail set by a judge at \$10,000, has a premium of \$1000 that must be paid by the defendant. In some instances, in order to get business from a client, a bail bondsman will charge an \$800 premium (instead of \$1000) for the same bond. This is commonly referred to as "undercutting" and it is illegal.

Unfortunately, undercutting is difficult to prove, especially when the defendant uses cash to pay the premium and can disguise the required payment of the full premium by allowing "payment plans." The Department continues to be frustrated in its efforts to regulate "undercutting" because there is never going to be a complaining witness — as the only witness (the defendant) has no reason to complain since they paid less for the bond than what was owed. What appears to be a "win-win" situation for the bail bondsmen and the defendant, is a "lose-lose" situation for the public. When a defendant or criminal is

released from state custody by paying a "undercut" bond premium, the residents of the state unwittingly take on additional risk to the public safety.

To solve the problems related to undercutting, HB 6354 requires bail bondsmen to remit the entire premium, in this example \$1,000, to the bail bond underwriter or surety company, who actually bears the risk. The bondsmen will receive his commission directly from the bail bond underwriter or surety company. Based on current practice, bail bondsmen often take their commission "off the top" and then remit the remainder to the surety company as the payment of the premium. Clearly, such a system is fraught with opportunities for fraud and misappropriation. The Department's bill virtually eliminates the problem of undercutting by requiring a bail bondsmen to remit the entire premium -- or bond -- to the company, which, in turn, pays the bail bondsmen his or her commission.

Second, this proposal establishes standards for solicitation, record retention, reporting requirements, and accounting for premiums that allow for strong regulatory oversight by the Insurance Department. Further, these provisions ensure that the Insurance Department has uniform standards and tangible records to review when it is conducting its examinations of bail bond agents, which will be posted on the Department's Web site for public inspection. In short, these standards will provide much needed transparency in an industry that has virtually none.

Third, this legislation will require bondsmen to swear under oath that they charged the full premium for the bond. Failure to do so will result in a \$10,000 fine and license suspension.

Finally, there are some drafting issues that we would like to raise with the committee. We have attached a summary of those concerns to our testimony.

In the end, if these reforms are approved, the Insurance Department will have the tools it needs to regulate bail bondsmen in a manner that protects the public from dangerous criminals who, under the current system, do not post the statutorily required bail amounts and who have compromised the integrity of the bail bond system in Connecticut.

Reform of the bail bond industry is needed and long overdue. I urge you to support House Bill 6534.

Thank you once again for raising this bill on our behalf and I'd be happy to answer any questions the Committee may have.

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The Connecticut Insurance Department has identified several drafting issues that we would like to raise with the committee. Please refer to the summary below which outlines numerous concerns regarding House Bill 6354—An Act Regulating Surety Bail Bond Agents.

**Section 1**

*Lines 88-93*--Requires notice to the Commissioner within five days that an appointee has been arrested for pled guilty or nolo contendere or has been found guilty of a felony.

**Recommendation:**

The Department requested notice also of any other offense punishable by imprisonment of one year or more. Therefore, the Department requests that in line 90, the word "felony" should be deleted and replaced with the words "disqualifying offense".

*Lines 150-154*--Requires each surety bail bond agent to notify the Commissioner, appointing insurer, and the MGA within 30 days of a change in address or telephone number.

**Recommendation:**

The Department had requested that such notice also be given to the clerk of each court in which the licensee is registered.

**Section 3**

*Lines 168-171*--Prohibits surety bail bond agents from executing a bail bond without charging the premium rate filed with and approved by the Insurance Commissioner.

**Recommendation:**

This section contemplates that the gross premium shall be remitted to the insurer. It does not preclude premium financing arrangements that consumers currently have a right to so long as the gross premium is charged and is received by the insurer.

The Department recommends that an explicit statement to this effect be included in Section 3.

**Section 5**

*Lines 195-198*--provides that the Commissioner shall immediately suspend the license of any surety bond agent found to have filed a false certification and shall fine such agent \$10,000.

**Recommendation:**

This provision deviates from what was requested by the Insurance Department. The Department requests this language be deleted and replaced with the following: "The filing of

a false certification by such agent shall constitute grounds for administrative action by the Commissioner pursuant to section 38a-774.”

Section 38a-774 authorizes the Commissioner, for cause, after notice and hearing, to suspend or revoke the license issued by the Commissioner, or in lieu of or in addition to suspension or revocation of such license, impose a fine not to exceed \$5,000 and provides a right of appeal to the Superior Court.

*Lines 298-303*--If forfeiture occurs, the surety bail bond agent or surety must give the principal and the person that gave the collateral security ten days’ written notice of intent to convert the collateral deposit into cash to satisfy the forfeiture.

**Recommendation:**

The first sentence of Section 9(d) should be revised to reference the 60 day stay period so that the notice is sent prior to the expiration of the stay period, as follows: in line 298, after the words “If a forfeiture occurs,” insert the words “prior to the expiration of the statutory six month stay, as provided for by section 54-65a,”.

**Section 12**

*Lines 383-431*--The bill prohibits a surety bail bond agent from doing any of the following:  
(1) Suggesting employment of any particular attorney to represent the principal.

**Recommendation:**

The Department recommends that this language be modified to prohibit referrals to a particular attorney in exchange for a fee or other consideration.

**Section 14**

*Lines 476-480*--Restates the Commissioner’s existing authority under § 38a-774 to suspend or revoke the license of a surety bail bond agent for cause shown.

**Recommendation:**

This provision was not requested by the Department and it does not reference the authority of the Commissioner to also impose a fine. The Department recommends that this provision be deleted from the bill or redrafted to read: “(a) The Commissioner, may for cause, suspend or revoke the license of a surety bail bond agent, or in lieu of or in addition to suspension or revocation of such license, may impose a fine, as set forth in section 38a-774 of the general statutes.”

*Lines 485-491*--Gives right to an aggrieved person to appeal to the Superior Court any license refusal, revocation or suspension or imposition of a fine.

**Recommendation:**

This provision was not requested by the Department and it duplicates the authority in § 38a-774. The Department recommends that it be deleted from the bill.