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STATE OF CONNECTICUT
INSURANCE AND REAL ESTATE COMMITTEE

HOUSE BILL 5308, AN ACT ESTABLISHING A NONPROFIT WORKERS' COMPENSATION INSURANCE COMPANY

March 9, 2010

Statement of the American Insurance Association

This written statement is submitted by the American Insurance Association (AIA). AIA is a national trade association representing property-casualty insurance companies that write workers' compensation insurance in every U.S. regulatory jurisdiction, including Connecticut. AIA opposes House Bill 5308, An Act Establishing A Nonprofit Workers' Compensation Insurance Company, because the Connecticut workers' compensation system is healthy and there is no policy justification to create a workers' compensation state fund where both the voluntary and residual markets are stable and operating efficiently. Creation of a state fund would only serve to potentially and unnecessarily disrupt a system that is currently stable and healthy.

There is no reason, absent rare and extraordinarily dire circumstances, for a state's participation in a commercial enterprise. As a general rule, states should never be in the business of creating commercial entities to compete with private commercial entities. AIA is opposed to the creation of government-initiated state funds competing in markets with private workers' compensation insurers, unless there is an overriding public policy purpose. There are certain, extremely limited, circumstances, however, that may justify a state created workers' compensation state fund. If a state's workers' compensation insurance mechanism has become completely dysfunctional without the possibility of recovery, a state-created entity to handle the residual market might be justified. To be justified, the residual market mechanism must not be working, as demonstrated by substantial and dramatic growth in the residual market for at least 3 or 4 years, with substantial deficits and no expectation for improvement. Under such circumstances, the sole public policy justification for creating a state fund is to serve as the residual market.

Fortunately, none of these circumstances are present in the Connecticut workers' compensation market. Both the voluntary and residual markets are healthy and stable. There are ample insurers participating in the Connecticut market, leading to a

competitive and efficient market. In healthy markets such as Connecticut there is neither any policy justification nor any necessity to create a state fund. Introduction of a state fund in a healthy market can only have a negative impact if the state-created entity eventually crowds out competitive private insurers from the voluntary market.

Compare the healthy Connecticut market to the problems confronting the Rhode Island workers' compensation market in 1991 when the Rhode Island legislature created the Rhode Island state fund. By 1991, the voluntary market in Rhode Island had all but collapsed. Highlighting the dysfunction of the market was the fact that over 85% of all insurance had to be issued through the assigned risk pool. Rhode Island's assigned risk pool had an operating loss of $165.9 million in 1991. There is no comparison between the current Connecticut market and the 1991 Rhode Island market. Both the voluntary and residual markets in Connecticut are stable and healthy and no persuasive rationale exists for the creation of a state fund.

The proposed legislation is out of sync with the trend in the rest of the nation. Where there has been interest nationally in workers' compensation state funds, the interest has been in reducing the role of the state in the state fund or outright elimination of the fund. Recently, two states with monopolistic state funds—West Virginia and Nevada—eliminated their state funds and successfully introduced private workers' compensation markets. In Washington, which has a monopolistic state fund, there is a growing interest in allowing a private market for workers' compensation. Similarly, in Ohio, a study commission has been created to look into the possibility of eliminating the monopolistic state fund and introducing a private workers' compensation market. Thus, it is difficult to understand why Connecticut, which has a healthy market for workers' compensation, would now be considering a proposal to authorize the state to become actively involved in a private commercial enterprise.

Furthermore, House Bill 5308 would create an unlevel playing field by providing the state fund with tax and other advantages that are not available to voluntary market insurers. Such an unlevel playing field could seriously impair or even destroy healthy competition. In the long run, any attempt to artificially curtail competition in the voluntary market would ultimately harm Connecticut employers.

For the foregoing reasons, AIA opposes House Bill 5308. We appreciate the opportunity to offer this statement.