

## ***Statement***

### ***Insurance Association of Connecticut***

Insurance and Real Estate Committee

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HB 5308, An Act Establishing A Nonprofit Workers' Compensation Insurance Company

The Insurance Association of Connecticut opposes HB 5308, An Act Establishing A Nonprofit Workers' Compensation Insurance Company. There is simply no need for such an entity.

The trend nationally over the past ten to fifteen years has been to move away from government-sponsored mechanisms in workers' compensation. State funds do nothing to add capacity to the marketplace, nor do they improve competition in that marketplace, nor do they do anything to get benefits to injured workers quicker.

The last time a state fund was created was 1996 (Hawaii). The few states that created state workers' compensation funds in the early 1990's did so because there was no voluntary market to speak of in the state and little likelihood of one returning. In Rhode Island in 1991, over 85% of workers' compensation insurance was provided through the assigned risk pool. That is certainly not the case in Connecticut.

There is no need for Connecticut to get into the insurance business. In fact, in 1995 the Program Review and Investigations Committee conducted a year-long comprehensive study on workers' compensation. The Committee's report specifically rejected the creation of a state fund, stating "it would seem poor policy and poor timing to recommend such a proposal". That remains true today.

Connecticut currently has a highly competitive workers' compensation insurance market, with scores of companies actively competing for market share. Insurers are competing aggressively with each other on price (loss cost filings have decreased by 48 percent since 1993) and products. Connecticut businesses and employees benefit from that environment. Coverage is readily available in the standard market, as evidenced by the fact that over 95 percent of employers in the state are written in the voluntary market. The number of policies in the state's residual market plan has decreased each year since 2004. Assigned risk premiums have decreased by 27 percent since 1993. A market assistance plan is helping to further depopulate the assigned risk pool.

State workers' compensation insurance funds have a history of serious financial problems, imposing added costs to state taxpayers and often providing inferior service to injured workers. In 2005 the governor of West Virginia called a special session to privatize the state's chronically bankrupt monopolistic state fund. The fund was over three billion dollars in the red. The billions of fund debt were covered by assessing substantial surcharges on West Virginia employers. In 1995, Nevada passed legislation to terminate its state fund, which was over two billion dollars in debt. Surely this is not a risk Connecticut's businesses and taxpayers need to take.

In addition, HB 5308 would create an unlevel playing field by creating special rules for the operation of the company it would establish.

Section 1(b) states that the entity will serve "as the workers' compensation insurance carrier of last resort for employers in the state," but there are no such actual limitations or provisions. To the contrary, section 1(e) explicitly states that the company may insure any employer, including self-insured employers buying excess insurance coverage and then adds special rules by which the entity may deny, non-renew or cancel coverage.

Section 1(f) exempts the entity from certain taxes and from participation in the Connecticut Insurance Guaranty Association, so it will not be subject to guaranty fund assessments. Special authority is given to the entity to modify premium rates and impose surcharges, overriding standard statutory requirements.

Section 1(g) apparently exempts the entity from standard assessments levied against domestic insurers to fund the Insurance Department, and limits its liability to two-tenths of one percent of earned premiums. Section 1(h) exempts the entity from standard statutory surplus requirements, and establishes a permissible premiums to surplus ratio that raises serious potential financial concerns.

Further exposing the unfair and truly non-competitive nature of this entity, section 1(g) requires workers' compensation insurers licensed in Connecticut to pay a quarterly assessment to the entity through 2013 based on three percent of the gross premiums charged by those insurers to state policyholders. It also grants the Insurance Commissioner the authority to increase the assessment rate beyond three percent "to ensure the solvency" of the entity.

Using 2008 premium figures, the three percent assessment would generate approximately \$21 million annually from insurers, costs which would then have to be charged to their policyholders, unnecessarily increasing the costs of workers' compensation policies in Connecticut. It is highly likely such an assessment will also have adverse retaliatory tax consequences for Connecticut workers' compensation insurers doing business in other states, and harm their ability to compete for business in those states.

No matter how poorly the entity is administered, no matter how much they use their special business and financial advantages in HB 5308 to unfairly "compete" for business with existing insurers, HB 5308 says those same insurers must pay to prop up their supposed competition if financial problems arise. Incredibly, HB 5308 goes on to

require workers' compensation insurers that get out of the business before 2014 to continue to pay the assessment, based on the premium levels in the three years preceding discontinuance, until the end of 2013.

Section 2 provides that \$5 million will be appropriated from the General Fund this fiscal year for the entity. Section 3 provides for an additional appropriation in FY '12. Once the entity has received untold millions of state money and assessments from other insurers, Section 1 gives the entity the authority to declare dividends to its policyholders!

Connecticut employers are currently well-served by a highly competitive workers' compensation insurance marketplace. HB 5308 will do nothing to improve that marketplace. It would establish an unnecessary and costly entity that would be given grossly unfair and counterproductive advantages over that existing marketplace. Similar bills have been consistently rejected by the General Assembly in the past 15 years. IAC urges rejection of HB 5308.