

**Statement**  
**Insurance Association of Connecticut**  
**General Law Committee**  
**February 26, 2013**  
**SB 922, An Act Concerning The Connecticut**  
**Unfair Trade Practices Act**

The Insurance Association of Connecticut, IAC, is opposed to SB 922, An Act Concerning The Connecticut Unfair Trade Practices Act (CUTPA). SB 922 seeks to unnecessarily alter 40 years of CT law.

A number of model acts were adopted by the states in the 1960's and 1970's to protect consumers from unfair or deceptive trade practices. The models varied widely in scope, prohibitive conduct and available remedies. The federal government then created a federal model, the Federal Trade Commission Act (FTCA). In 1973, when CT adopted its own unfair practices act, the substantive language of the CUTPA substantially paralleled Section 5(a)(1) of the FTCA.

Due to the ever evolving nature of what constituted an unfair trade practice and the proper remedy, CT like many other states, chose to look to federal law and rules for guidance. In 1976, CUTPA was specifically amended to add language directing CT courts and the Connecticut Department of Consumer Protection (DCP), when they construe CUTPA, to be guided by the interpretations given by the FTC and the federal courts to Section 5(a)(1) of the FTCA. The federal guidance language at the time was supported by both the Commissioner of DCP and the Attorney General as good public policy. Adopting such language has provided guidance, over the years, on defining such terms as unfairness and deceit and establishing proper remedies. It has become a staple

of business litigation in CT. The federal guidance directive is the very language that SB 922 is seeking to remove.

Federal guidance has permitted CUTPA to be a progressive body of law. Federal guidance has allowed CT courts and the Commissioner of DCP to be guided by the nationwide decisions of the FTC and the nationwide FTCA jurisprudence of the federal courts, as those federal entities seek to ensure that unfair trade practice statutes not be applied in a manner that is anti-consumer or anti-competitive. Further, to the extent CUTPA has evolved consistently with the federal law, both the business community and consumers have received clearer notice as to what types of conduct are permitted and what types are not. CUTPA does not direct CT courts to follow federal jurisprudence. Instead, it directs our courts to be guided by the wisdom and experience of the FTC and the federal courts when our own courts interpret CUTPA. This is a valuable tool for our courts and the commissioner.

Since CUTPA has imported many aspects of the FTCA, removing the federal guidance directive will be completely disruptive to CT law with potentially significant unintended consequences. For example, the meaning of deception for a CUTPA claim, which has been adopted from FTC case law, is quite different from the common law concept of fraud and deceit. The common law definition has more hurdles for the plaintiff to overcome than the current FTC definition used in CT. Reverting back to a pre-1976 version of CUTPA, removing federal guidance, it is unclear then what standards will be used to apply to CUTPA going forward, harming both consumers and businesses alike.

CT has relied on federal guidance for the past thirty-six plus years without incident. It is unclear why receiving such guidance is bad for CT and why reliance on the federal government's laws and rules must be removed.

The IAC respectfully requests your rejection of SB 922.