

STATEMENT**INSURANCE ASSOCIATION OF CONNECTICUT**

Insurance And Real Estate Committee

March 7, 2013

HB 6551, An Act Concerning Own Risk And Solvency Assessments
For Domestic Insurers

The Insurance Association of Connecticut, IAC, would like to make the following comments regarding HB 6551, An Act Concerning Own Risk and Solvency Assessments For Domestic Insurers.

IAC supports the adoption of the National Association of Insurance Commissioners' (NAIC) model for Own Risk and Solvency Assessments (ORSA) for domestic insurers, however, HB 6511 deviates from the model in many ways. Most importantly, the effective date contained in section 1(c) of HB 6551 is not in conformity with the model. HB 6551 states that "On and after January 1, 2015, upon request by the Insurance Commissioner, and not more than once each year, a domestic insurer shall submit to the commissioner an ORSA summary report." Under the model law, the act becomes effective January 1, 2015 and the first ORSA report is supposed to be filed in 2015. The language in HB 6551, however, appears to require the filing of the first report on January 1, 2015, which is not the intent of the model. We suggest this section to read "Commencing [On or after] January 1, 2015, upon request by the Insurance Commissioner, and not more than once each year, a domestic insurer shall submit to the commissioner an ORSA Summary Report and any combination of reports that together contain the information described in the ORSA Guidance Manual that is applicable to such insurer and insurance group. The date of the filing of an insurer's or insurance group's ORSA Summary Report will be dependent upon when the insurer or the insurance group conducts its internal strategic planning process."

HB 65511, as drafted, imposes a daily fine for failure to timely file, which raises several questions. The apparent contradiction on confidentiality encourages the insurer to limit the type of information provided within an ORSA summary to a minimum that meets the standard. If the minimum ORSA summary is deemed by the commissioner as sub-standard is it then also deemed un-filed? What is the timely standard for notification by the commissioner in such an instance to avoid cumulating the daily penalty? These elements need to be clarified. The current authority contained within the proposal appears to reduce the impact for financial hardship seem inadequate and should be expanded to encompass failure to timely notify.

Other deviations from the model are as follows:

- Line 32 requires the ORSA to be consistent with “procedures” set forth in the ORSA Guidance Manual. The NAIC model requires that the ORSA be consistent with “a process comparable to” the ORSA Guidance Model.
- Line 64 indicates that the commissioner “or commissioner’s designee” shall review the ORSA Summary Report. It is unclear who is the “commissioner’s designee”.
- Line 150 does not include the following language, “is recognized by this state as being proprietary and to contain trade secrets.”, in regards to the confidentiality of all documents, materials, or other information, including the ORSA Summary Report.
- Lines 153 and 166 do not include the term “private” should appear prior civil action.
- Line 173 does not include the following model language: “including proprietary and trade secret documents and materials”.
- Line 182 places another burden on the insurer to provide written consent which is inconsistent with the model and seemingly undermines any judicial intervention.

Insurers should also not be burdened with ascertaining the confidentiality standards of other jurisdictions are comparable to Connecticut's standards.

- Line 186 does not include the following model language: "including proprietary and trade secret documents and materials".
- Line 203 does not include the following model language: "The agreement shall provide that the recipient agrees in writing to maintain the confidentiality and privileged status of the ORSA related documents, materials or other information and has verified in writing the legal authority to maintain confidentiality."
- Line 218 states that the insurer needs to intervene judicially to protect information subject to a request or subpoena issued upon the commissioner. It presumes that insurers will be advised of such request or subpoena. That burden is not consistent with the disclosure protections required of the commissioner elsewhere within HB 6511 or the model.
- Line 227 should read after (5) "The ORSA Summary report, and any related" needs to be added and the term "thereof" needs to be replaced with "whether"
- Line 228 should read "possession and control of the Commissioner, the", the terms "control" and "the Commissioner, the" is missing.

For clarity and uniform application the IAC respectfully requests that this committee adopts the NAIC model and amends HB 6551 to comply with the model.