



STATE OF CONNECTICUT

INSURANCE DEPARTMENT

Testimony

Insurance and Real Estate Committee

March 5, 2013

Raised House Bill No. 6549 *AN ACT ESTABLISHING A MEDIATION PROGRAM FOR CERTAIN INSURANCE POLICY CLAIMS ARISING FROM A CATASTROPHIC EVENT.*

Senator Crisco, Representative Megna, and members of the Insurance and Real Estate Committee, the Insurance Department appreciates the opportunity to provide written testimony regarding H.B. 6549: AA Establishing A Mediation Program For Certain Insurance Policy Claims Arising From Catastrophic Event. House Bill 6549 issues a formal mechanism for non-adversarial mediation of disputes between an insured homeowner and an insurer following the major catastrophe, in which the Governor has declared a State of Emergency. The intent of this legislation is for it to apply to loss or damage to real or personal property other than damage to a motor vehicle. This is the approach taken by the recently adopted New York mediation program that applies to Superstorm Sandy claims.

The Insurance Department believes that consumers affected by extensive and devastating damage to their homes, such as following a major hurricane, would benefit from having an option to use such a mechanism in appropriate circumstances. Mediation would be voluntary for the insured claimants but mandatory for insurer participation.

Insurers would pay for all costs for the mediation. Insurers would not be responsible for the insured's attorney's fees or other costs and expenses of any representative they choose to hire for the mediation. It would require that the amount in dispute be at least \$500 or more. While the proposal includes a cost not to exceed \$750 for the mediation (lines 130-131), the Department believes that it would be better to remain silent on a specific dollar amount since it could change over time which would then require a statutory change.

The proposal includes substantive provisions similar to the Department's arbitration program for motor vehicle physical damage claims under Conn. Gen. Stat. section 38a-9 and we would be happy to work with the Committee to more appropriately address the procedures and issues involved in mediation that differ from arbitration. New York has recently adopted emergency regulations for the mediation of Sandy catastrophe claims and the Department believes that it should be used as a model for Connecticut's catastrophe mediation program.

It is important to note that if an insured chooses not to participate in this program or the parties are unsuccessful in reaching a settlement on the claim, the insured will continue to have all rights to attempt to resolve the claim. This includes the right to utilize the appraisal

process that is set forth in the policy; the right to pursue litigation; or any other dispute resolution procedure available under Connecticut law.

While the homeowner's and condominium association's insurance policies do provide a provision for an appraisal process the department believes that in severe catastrophic events a more streamlined process is needed to help the thousands of consumers that may have grievances with how the company is compensating them for their loss. We believe that the current appraisal process would not be able to accommodate the sheer numbers of complainants that would arise from a catastrophic event. It should also be noted as mentioned above that due to the sheer magnitude of losses from Sandy, the New York and New Jersey insurance departments have implemented catastrophe mediation programs to respond to claim dispute issues that they are seeing in their states. Furthermore, Rhode Island, Florida, Louisiana, Mississippi and North Carolina have all created a mediation process to help consumers resolve claims issues that surfaced after major catastrophes in their states.

Regulations would first need to be adopted to implement this mediation program and the Commissioner would have the right to designate an independent third party organization, such as the America Arbitration Association, to administer the mediation program. In closing, I would like to thank you for the opportunity to appear before you. Once again, thank you for raising the department's bill.