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FTR

HB 6771 - An Act Authorizing Nonadmitted Insurers to Open an Office in this State

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The American Insurance Association is a leading national trade association representing over 300 major property and casualty insurance companies that collectively underwrite more than \$100 billion in direct property and casualty premiums nationwide. Our members range in size from small companies to the largest insurers with global operations and include insurance companies that write coverage on a nonadmitted basis. These insurers are often referred to as surplus lines or nonadmitted insurers. We have reviewed HB 6771 and greatly appreciate this opportunity to share our thoughts regarding the legislation.

HB 6771 amends Connecticut's Unauthorized Insurers Act by adding a new subsection (d) in 38a-271 that provides that nothing in that act "shall be construed to prohibit a nonadmitted insurer from establishing an office in this state for the lawful transaction of surplus lines insurance." The Unauthorized Insurers Act defines the "acts of doing an insurance business" and sets out the exceptions in 38a-271. The Act also in later sections (i) sets out the prohibited acts of an insurance business; (ii) makes provision for the appointment of the Secretary of State as agent for the service of process against an unauthorized person or insurer doing insurance business; (iii) sets forth the penalty for any unauthorized insurer who does any act of an insurance business, and more.

One notable exception to the defined "acts of doing an insurance business" in 38a-271 is "the lawful transaction of surplus lines insurance." AIA reads the "lawful transaction of surplus lines insurance" in this section as referring to the laws governing the placement of surplus lines insurance in Connecticut. Thus, AIA's understanding of HB 6771, to put it simply, is that the "lawful transaction of surplus lines insurance" exception under the Unauthorized Insurers Act is not affected by the establishment of an office in Connecticut by a surplus lines insurer. In short, it cannot be construed that a surplus lines insurer with an office in Connecticut is subject to the requirements, prohibitions and penalties of the Unauthorized Insurers Act by reason of that office. This interpretation of the bill indicates a protective clarification.

On its face, language indicating that a surplus lines insurer is permitted to have an office in the state of Connecticut for various purposes would be helpful; however, there are some concerns relative to how this would be legally viewed by others.

This legislation has also raised additional questions within the surplus lines community. Specifically, what is its interplay with other Connecticut code sections, such as 38a-794 that addresses brokers procuring coverage from insurers not authorized to transact business in this state? Generally, it would be helpful to have more details as to what the intended purpose of the bill is and why it is needed. Is something being corrected and are there consequences? As the bill is short in content, we respectfully submit that further clarification and background is needed to make our best informed decision about a position with respect to the bill. We hope, therefore, there are opportunities beyond this hearing to examine the bill's intent and implications. AIA gladly extends its willingness to participate in further discussions on the bill in the future.

Alison Cooper  
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