



STATE OF CONNECTICUT

INSURANCE DEPARTMENT

Testimony Insurance and Real Estate Committee March 1, 2016

Senate Bill No. 159 An Act Concerning The Insurance Department's Market Conduct Authority and Data Call Confidentiality.

Senator Crisco, Representative Megna, Ranking Members, and members of the Insurance and Real Estate Committee, the Insurance Department would like to thank the Committee for introducing this initiative on our behalf and raising, **Senate Bill No. 159 An Act Concerning The Insurance Department's Market Conduct Authority and Data Call Confidentiality**, and appreciates the opportunity to provide the following testimony.

Section 1 of this bill amends the current market conduct statute by introducing provisions to (1) clarify that domestic insurance companies and domestic health care centers subject to assessment to pay for the expenses of the Insurance Department and the Office of the Healthcare Advocate are not required to pay the costs of Insurance Department personnel associated with market conduct examinations, except for travel expenses and maintenance of examiners when examinations takes place outside of the state; (2) provide that no liability arises for Insurance Department personnel or any person providing information pursuant to an examination for acts performed in good faith while conducting examinations; and (3) parallel other insurance statutes with respect to the confidentiality of market conduct work papers.

The provision concerning confidentiality of market conduct work papers is of particular importance to the Department to remain at regulatory parity with other state insurance departments. Although, at this time, the Department has general authority to maintain as confidential examination work papers, which often contain sensitive trade and commercial information, this proposal would make the Department's authority absolutely clear and would provide an explicit statutory basis to do so. An explicit statutory confidentiality protection to market conduct examination work papers will allow Connecticut to lead multi-state exams of its domestic companies by ensuring that sensitive trade and commercial information remains confidential, which if revealed could cause harm to the insurance company, its policyholders and its shareholders. In addition, the National Association of Insurance Commissioners' market conduct accreditation standards that are under development and are expected to be an accreditation requirement in the next year will include an explicit statutory confidentiality protection.

About the Connecticut Insurance Department: The mission of the Connecticut Insurance Department is to protect consumers through regulation of the industry, outreach, education and advocacy. The Department recovers an average of more than \$4 million yearly on behalf of consumers and regulates the industry by ensuring carriers adhere to state insurance laws and regulations and are financially solvent to pay claims. The Department's annual budget is funded through assessments from the insurance industry. For every dollar of direct expense, the Department brings in about \$7.45 to the state in revenues. Each year, the Department returns more than \$215 million in assessments, fees and penalties to the state's General Fund.

Section 2 of Raised Bill 159 concerns Department data calls. Insurance departments throughout the country often have a need for information from the industry it regulates and will often obtain the information pursuant to a "data call". A data call is commonly understood to mean a data collection request or directive to entities for specific information to be provided on the type of data requested, usually made with a specific response deadline, and templates and the technical specifications for uploading the data to the agency for subsequent analysis, potential regulatory action, and to inform public policy.

Currently Section 38a-16 gives the Insurance Department general authority to conduct investigations into any matter arising under the Title 38a (Insurance), including, arguably, data calls in aid of any investigation. Section 2 of Raised Bill 159 will make this authority explicit in line 105.

Under current law, when the Insurance Department uses the authority of section 38a-16 to compel disclosure of commercial information from businesses, the Freedom of Information Act (FOIA) exemption contained in Section 1-210(b)(5)(B) -- "Commercial or financial information given, in confidence, not required by statute" -- becomes inapplicable. Because this may negatively impact the businesses that the Insurance Department seeks information from in terms of the company's other market competitors, the Insurance Department believes it is in the public interest to revise section 38a-16, as proposed in lines 113-117, to expressly make such Department data calls confidential and not subject to the FOIA, except with respect to data that has been aggregated with data the Department has obtained from other participants in the data call in a format that does not identify any individual company. The laws of other states reflect the need to maintain the confidentiality of company specific information provided in response to a data call.

It is noted that this legislative proposal on data calls does not affect the Department's existing authority to obtain information from insurers as part of its financial oversight of such entities. For example, if a catastrophe has occurred in this state, the Department may need to obtain from specific information from affected insurers -- such as the nature and extent of claims arising due to the catastrophe, and related financial projections -- may be of direct relevance to the Department's financial solvency regulation function. Under such circumstances, individually identified insurer submissions made in response to such data collection activity are confidential pursuant to C.G.S. section 38a-69a.

The Department thanks the Insurance and Real Estate Committee Chairs and members for the opportunity to submit testimony on S.B. 159.

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