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House Bill No. 5449

An Act Concerning Liability for Unfair Insurance Practices in Workers' Compensation Claims

Testimony of John A. Mastropietro, Chairman

Committee on Labor and Public Employees
March 3, 2016

Thank you for the opportunity to present comments concerning House Bill 5449, An Act Concerning Liability for Unfair Insurance Practices in Workers' Compensation Claims. Due to a prior commitment in Hartford, I am unable to attend tonight's proceedings. The history which gives rise to the proposed legislation is as follows:

Prior to 2005, when the Connecticut Supreme Court decided the case of Antonio DeOliveiri v. Liberty Mutual Insurance Company, actions for bad faith against an insurance company were allowable for workers' compensation insurers just as they were for any other insurer in the state of Connecticut whose activities or lack thereof provided a basis for a "bad faith" suit. The DeOliveiri decision by the Supreme Court took away the ability to file a bad faith suit on the basis that it was prohibited by the exclusivity provisions of Chapter 568 of the Workers' Compensation Statutes. In effect, the Supreme Court said that since sanctions already exist within Chapter 568, they interpreted those sanctions as the legislature's exclusive remedy for alleged questionable activities by the insurance company in the processing of a claim.

The DeOliveiri decision has provided considerable discussion over the course of the years, as it is the opinion of many that the sanctions provided within Chapter 568 are inadequate to serve the purposes intended in a bad faith claim. Hence, there has been discussion over the years as to whether legislation should be submitted to override the DeOliveiri decision. This proposed legislation would accomplish that purpose. Whether the DeOliveiri decision should stand, whether the present sanctions provided under Chapter 568 need to be enhanced, or whether the pending bill should be adopted, is, of course, the legislature's prerogative.

The Workers' Compensation Commission takes no position on this bill. As you may be aware, the Commission does not weigh into the appropriateness of pending legislation, but rather focuses only on the administrative impact that the legislation may pose to the operation of the Commission. As such, the pending bill, if it becomes law, would have negligible impact on the Commission as the suits associated with same would be filed directly with the Superior Court. However, we would respectfully request clarification as to whether this bill requires an election by the aggrieved party to pursue one or the other remedies available, i.e., a suit for a bad faith action or sanctions existing under Chapter 568 of the Workers' Compensation Act.

Once again, thank you for the opportunity to be heard.