

STATEMENT

AMERICAN PROPERTY CASUALTY INSURANCE ASSOCIATION (APCIA)

H.B. No. 1115 – AN ACT ESTABLISHING A SURCHARGE ON INSURANCE COMPANIES IN THIS STATE THAT UNDERWRITE FOSSIL FUEL COMPANIES

INSURANCE AND REAL ESTATE COMMITTEE

March 2, 2023

The American Property Casualty Insurance Association (APCIA) appreciates the opportunity to comment on Senate Bill No. 1115, An Act Establishing a Surcharge on Insurance Companies In This State That Underwrite Fossil Fuel Companies. With members comprising nearly 65 percent of the U.S. property casualty insurance market, APCIA represents the broadest cross-section of home, auto, and business insurers of any national trade association.

APCIA strongly **opposes** this legislation. This bill would require insurers to pay a 5% surcharge on “any premium payments from any fossil fuel company”. The surcharge would be imposed on “any premium” and would presumably include any type of insurance (e.g., auto, property, workers comp, etc.) purchased by fossil fuel companies regardless of whether or not the risk insured is located in Connecticut. The surcharge would be imposed on all insurers licensed to do business in Connecticut.

Property casualty insurers have long been supporters of efforts to reduce the impact of climate change and protect families and communities from the impacts of natural disasters; and therefore, play an active role in efforts to facilitate an orderly transition to a lower carbon energy sector through their underwriting and investment activities. Through this work, insurers help provide risk protection and economic stability during the energy transition. Just as stability in the energy sector is enhanced by a diversity of energy sources, diverse insurance products and insurer investment strategies help facilitate the energy transition by providing for a safer and more stable energy future. It should also be noted that some fossil fuel companies are also developing renewable energy systems and the related technologies and infrastructure that will be necessary to transition to a cleaner energy sector over time. By imposing a significant tax on any premiums from any fossil fuel company, this bill could actually have unintended consequences that would ultimately harm efforts to move toward a cleaner energy sector.

It should also be noted that the surcharge proposed by this bill is very likely unconstitutional because it is imposed on any premiums received from a fossil fuel company regardless of the location of the risk. For example: assume an Oklahoma-based insurer is licensed in Connecticut -- if that Oklahoma-based insurer provides coverage for a fossil fuel company in Texas, those premiums would be subject to the proposed 5% surcharge even though the premium/risk have no connection whatsoever to Connecticut. This likely violates the Due Process Clause of the US Constitution. Premium taxes/surcharges for admitted insurers are generally only imposed on risks written within the state.

Additionally, the 5% rate of this surcharge is high and punitive. Connecticut's general premium tax rate is 1.5% -- meaning the surcharge for fossil fuel company premiums would be more than 300% higher than general premium tax.

The surcharge would also harm Connecticut-based insurers doing business in other states due to retaliatory taxes. Connecticut-domiciled insurers have to pay retaliatory taxes in states that impose lower taxes on insurers than Connecticut. Retaliatory taxes are imposed on foreign insurers to equalize the tax burden between the retaliating state and the insurer's home state. As a result, if Connecticut were to impose this new 5% surcharge, Connecticut-domiciled insurers will have increased retaliatory tax liability in other states. Therefore, any new surcharge would have the public policy effect of penalizing Connecticut insurers doing business outside the state.

Also, states shouldn't be using tax policy to try to prevent insurance coverage for disfavored industries. Decisions about underwriting and investing should be left to individual insurers. Making insurance scarce or impossible to obtain for certain industries can actually harm innocent people because a lot of insurance coverages (i.e., liability coverages) actually are set up to benefit third parties -- if certain companies can't purchase insurance, innocent people may not be able to recover compensation for injuries or damaged property caused by those companies.

For the foregoing reasons, APCIA urges your Committee NOT to advance this bill.