

House of Representatives, March 26, 1998. The Committee on Insurance and Real Estate reported through REP. AMANN, 118th DIST., Chairman of the Committee on the part of the House, that the bill ought to pass.

AN ACT MAKING TECHNICAL CORRECTIONS TO THE INSURANCE AND REAL ESTATE LAWS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 20-325f of the general
2 statutes is repealed and the following is
3 substituted in lieu thereof:

4 No real estate broker shall make any
5 unilateral offer of subagency or agree to
6 compensate, appoint, employ, cooperate with or
7 otherwise affiliate with a subagent for the sale
8 or purchase of real property without the informed
9 written consent of the person [for] whom the real
10 estate broker represents. Such written consent
11 shall contain the name and real estate license
12 number of the real estate broker to be appointed
13 as the subagent and shall contain a statement
14 notifying the person [for] whom the real estate
15 broker represents that the law imposes vicarious
16 liability on the principal for the acts of the
17 subagent.

18 Sec. 2. Subsection (a) of section 20-325h of
19 the general statutes is repealed and the following
20 is substituted in lieu thereof:

21 (a) After the termination of an agency
22 relationship between a real estate licensee and a

23 person [for] whom the real estate licensee
24 represented, no real estate licensee shall: (1)
25 Reveal confidential information concerning that
26 person; (2) use confidential information
27 concerning that person to the person's
28 disadvantage; or (3) use confidential information
29 concerning that person for the real estate
30 broker's or real estate salesperson's advantage or
31 the advantage of a third party, except as required
32 by legal process, as necessary to defend the real
33 estate broker or real estate salesperson from
34 allegations of wrongful or negligent conduct, or
35 as necessary to prevent the commission of a crime.

36 Sec. 3. Section 20-325g of the general
37 statutes is repealed and the following is
38 substituted in lieu thereof:

39 There shall be a conclusive presumption that
40 a person has given his informed consent to a dual
41 agency relationship with a real estate broker if
42 that person executes a written consent in the
43 following form prior to executing any contract or
44 agreement for the purchase, sale or lease of real
45 estate:

46 DUAL AGENCY CONSENT AGREEMENT

47 Property Address:
48 Seller(s) or Landlord(s):
49 Buyer(s) or Tenant(s):

50 (1) This Dual Agency Consent Agreement is an
51 addendum to and make part of (check all that
52 apply):

53 () Listing Agreement dated between brokerage
54 firm and seller or landlord.

55 () Buyer [on] OR tenant agency agreement dated
56 between brokerage firm and buyer or tenant.

57 (2) Seller and buyer (or landlord and tenant,
58 as the case may be) hereby acknowledge and agree
59 that (name of brokerage firm) is representing
60 both buyer and seller (or landlord and tenant, as
61 the case may be) in the purchase and sale (or
62 lease) of the above referenced property and that
63 brokerage firm has been and is now the agent of
64 both seller and buyer (or landlord and tenant, as
65 the case may be). Seller and buyer (or landlord

66 and tenant, as the case may be) have both
67 consented to and hereby confirm their consent to
68 this dual representation.

69 (3) Seller and buyer (or landlord and tenant,
70 as the case may be) agree: (A) The brokerage firm
71 shall not be required to and shall not disclose to
72 either buyer or seller (or landlord or tenant, as
73 the case may be) any personal, financial or other
74 confidential information to such other party
75 without the express written consent of the party
76 whose information is disclosed, other than
77 information related to material property defects
78 which are known to the brokerage firm and other
79 information the brokerage firm is required to
80 disclose by law. (B) The brokerage firm may not
81 disclose: (i) To the buyer that the seller
82 (landlord) will accept less than the asking or
83 listed price, unless otherwise instructed to do so
84 in writing by the seller (landlord); (ii) to the
85 seller (landlord) that the buyer (tenant) can or
86 will pay a price greater than the price submitted
87 in a written offer to the seller (landlord),
88 unless otherwise instructed to do so in writing by
89 the buyer (tenant); (iii) the motivation of the
90 seller or buyer (or landlord or tenant, as the
91 case may be) for selling, buying or leasing
92 property, unless otherwise instructed in writing
93 by the respective party; or (iv) that a seller or
94 buyer will agree to financing terms other than
95 those offered, unless instructed in writing by the
96 respective party.

97 (4) Property information available through
98 the multiple listing service or otherwise,
99 including listed and sold properties, which has
100 been requested by either the seller or the buyer
101 (or landlord or tenant, as the case may be) shall
102 be disclosed to both seller and buyer (or landlord
103 and tenant, as the case may be).

104 (5) Both parties are advised to seek
105 competent legal and tax advice with regard to this
106 transaction, and with regard to all documents
107 executed in connection with this transaction,
108 including this Dual Agency Consent Agreement.

109 I have read and understand the above agreement

110	Buyer	Seller	Brokerage Firm
111	(Landlord)	(Tenant)	

159 apply for a license until he has repaid in full,
160 plus interest at a rate to be determined by the
161 department and which shall reflect current market
162 rates, the amount paid from [such] SAID guaranty
163 fund on his account. A discharge in bankruptcy
164 shall not relieve a person from the penalties and
165 disabilities provided in this subsection.

166 Sec. 7. Subsection (e) of section 38a-884 of
167 the general statutes is repealed and the following
168 is substituted in lieu thereof:

169 (e) If, at any time, the money deposited in
170 such guaranty fund is insufficient to satisfy any
171 duly authorized claim or portion thereof, the
172 department shall, when sufficient money has been
173 deposited in [such] SAID guaranty fund, satisfy
174 such unpaid claims or portions thereof, in the
175 order that such claims or portions thereof were
176 originally filed, plus accumulated interest at the
177 rate of four per cent a year.

178 Sec. 8. Section 38a-883 of the general
179 statutes is repealed and the following is
180 substituted in lieu thereof:

181 No application to recover compensation under
182 sections 38a-880 to 38a-889, inclusive, which
183 might subsequently result in an order for
184 collection from [such] THE BROKERED TRANSACTIONS
185 guaranty fund shall be brought later than two
186 years from the action of an insurance producer
187 duly licensed in this state under section 38a-769,
188 or an unlicensed person acting as a producer
189 engaged in the business of insurance, by reason of
190 the embezzlement of money or property, or the
191 unlawful obtainment of money or property from any
192 person by false pretenses, artifice, trickery or
193 forgery, or by reason of any fraud,
194 misrepresentation or deceit by or on the part of
195 any such producer or unlicensed person acting as a
196 producer engaged in the business of insurance,
197 excluding the failure in performance of
198 contractual obligations due to the impairment of
199 an insurer.

200 Sec. 9. Subsection (b) of section 38a-882 of
201 the general statutes is repealed and the following
202 is substituted in lieu thereof:

203 (b) If, at any time, the amount deposited in
204 the Brokered Transactions Guaranty Fund is under
205 one hundred thousand dollars, the department, in
206 its discretion, may assess all persons licensed as

207 insurance producers a fee not to exceed ten
208 dollars which shall be credited to [such] SAID
209 guaranty fund.

210 Sec. 10. Subdivision (8) of section 38a-816
211 of the general statutes, as amended by public act
212 97-95, is repealed and the following is
213 substituted in lieu thereof:

214 (8) Misrepresentation in insurance
215 applications. Making false or fraudulent
216 statements or representations on or relative to an
217 application for an insurance policy [,] for the
218 purpose of obtaining a fee, commission, money or
219 other benefit from any [insurers] INSURER,
220 producer or individual.

221 Sec. 11. Subdivision (11) of section 38a-816
222 of the general statutes, as amended by public act
223 97-95, is repealed and the following is
224 substituted in lieu thereof:

225 (11) Favored agent or insurer: Coercion of
226 debtors. (a) No person may (i) require, as a
227 condition precedent to the lending of money or
228 extension of credit, or any renewal thereof, that
229 the person to whom such money or credit is
230 extended or whose obligation the creditor is to
231 acquire or finance, negotiate any policy or
232 contract of insurance through a particular insurer
233 or group of insurers or producer or group of
234 producers; (ii) unreasonably disapprove the
235 insurance policy provided by a borrower for the
236 protection of the property securing the credit or
237 lien; or (iii) require directly or indirectly that
238 any borrower, mortgagor, purchaser, insurer [,] OR
239 producer pay a separate charge, in connection with
240 the handling of any insurance policy required as
241 security for a loan on real estate or pay a
242 separate charge to substitute the insurance policy
243 of one insurer for that of another; (iv) use or
244 disclose information resulting from a requirement
245 that a borrower, mortgagor or purchaser furnish
246 insurance of any kind on real property being
247 conveyed or used as collateral security to a loan,
248 when such information is to the advantage of the
249 mortgagee, vendor or lender, or is to the
250 detriment of the borrower, mortgagor, purchaser,
251 insurer or the producer complying with such a
252 requirement. (b) (i) Subsection (a) (iii) does not
253 include the interest which may be charged on
254 premium loans or premium advancements in

255 accordance with the security instrument. (ii) For
256 purposes of subsection (a) (ii), such disapproval
257 shall be deemed unreasonable if it is not based
258 solely on reasonable standards uniformly applied,
259 relating to the extent of coverage required and
260 the financial soundness and the services of an
261 insurer. Such standards shall not discriminate
262 against any particular type of insurer, nor shall
263 such standards call for the disapproval of an
264 insurance policy because such policy contains
265 coverage in addition to that required. (iii) The
266 commissioner may investigate the affairs of any
267 person to whom this subsection applies to
268 determine whether such person has violated this
269 subsection. If a violation of this subsection is
270 found, the person in violation shall be subject to
271 the same procedures and penalties as are
272 applicable to other provisions of section 38a-815,
273 subsections (b) and (e) of section 38a-817 and
274 this section. (iv) For purposes of this section,
275 "person" includes any individual, corporation,
276 limited liability company, association,
277 partnership or other legal entity.

278 Sec. 12. Section 38a-226d of the general
279 statutes, as amended by section 19 of public act
280 97-99, is repealed and the following is
281 substituted in lieu thereof:

282 The commissioner may find that the standards
283 in section 38a-226c, AS AMENDED, have been met if
284 each utilization review company has received
285 approval or accreditation by a utilization review
286 accreditation organization, or otherwise
287 demonstrates to the commissioner that it adheres
288 to standards which are substantially similar to
289 the standards in said section 38a-226c, AS
290 AMENDED, provided such approval, accreditation or
291 standards [does] DO not provide less protection to
292 enrollees than is provided under said section
293 38a-226c, AS AMENDED.

294 Sec. 13. Section 8 of public act 97-202 is
295 repealed and the following is substituted in lieu
296 thereof:

297 Each viatical settlement provider and
298 viatical settlement broker shall disclose in
299 writing the following information to each viator
300 prior to the date all parties execute a viatical
301 settlement contract:

302 (1) The possible alternatives to, or options
303 that may be exercised in conjunction with, the
304 viatical settlement contract, including, but not
305 limited to, accelerated death benefits offered by
306 the insurer of such viator's life insurance policy
307 or group life insurance policy to which the
308 viator's certificate relates;

309 (2) [Some] THAT SOME or all of the proceeds
310 of the viatical settlement may be free from
311 federal income tax or from state tax, and shall
312 advise parties to seek assistance from a
313 professional tax advisor;

314 (3) [Receipt] THAT RECEIPT of the viatical
315 settlement proceeds may adversely affect the
316 viator's eligibility for Medicaid or other
317 government benefits, and advice should be obtained
318 from the appropriate governmental agencies or
319 advisors;

320 (4) [The] THAT THE viatical settlement
321 provider may assign or otherwise transfer its
322 interests in the viaticated policy to a third
323 party;

324 (5) [The] THAT THE viator may rescind the
325 viatical settlement contract within fifteen days
326 after the viator's receipt of the viatical
327 settlement proceeds; and

328 (6) [The fact that] THAT the viatical
329 settlement proceeds may be subject to the claims
330 of creditors.

331 Sec. 14. Subsection (d) of section 38a-476 of
332 the general statutes, as amended by section 65 of
333 public act 97-8 of the June 18 special session, is
334 repealed and the following is substituted in lieu
335 thereof:

336 (d) With respect to a newly insured
337 individual who was previously covered under
338 qualifying coverage, but who was not covered under
339 such qualifying coverage for a preexisting
340 condition, as defined under the new health
341 insurance plan or arrangement, such plan or
342 arrangement shall credit the time such person was
343 previously covered by qualifying coverage to the
344 exclusion period of the preexisting condition
345 provision, provided the preceding coverage was
346 continuous to a date less than sixty-three days
347 prior to the effective date of the new coverage,
348 exclusive of any applicable waiting period under
349 such plan, except in the case of a newly insured

350 group member whose preceding coverage was
351 terminated due to an involuntary loss of
352 employment, the preceding coverage must have been
353 continuous to a date not more than ninety days
354 prior to the effective date of the new coverage,
355 exclusive of any applicable waiting period,
356 provided such newly insured group member or
357 dependent applies for such succeeding coverage
358 within sixty-three days of [their] HIS initial
359 eligibility.

360 Sec. 15. Subsection (a) of section 21 of
361 public act 97-99 is repealed and the following is
362 substituted in lieu thereof:

363 (a) Each managed care organization shall
364 conform to all applicable state and federal
365 antidiscrimination and confidentiality statutes,
366 shall ensure that the confidentiality of specified
367 enrollee patient information and records in
368 [their] ITS custody is protected, and shall have
369 written confidentiality policies and procedures.

370 Sec. 16. Subsection (e) of section 38a-497a
371 of the general statutes, as amended by section 15
372 of public act 97-7 of the June 18 special session,
373 is repealed and the following is substituted in
374 lieu thereof:

375 (e) If a parent is required by a court or an
376 administrative order to provide health coverage
377 for a child and the parent is eligible for family
378 health coverage through an employer doing business
379 in the state, such employer shall permit such
380 parent to enroll such child under such coverage
381 without regard to any open enrolment restrictions.
382 If a parent is enrolled but fails to make
383 application to obtain coverage of a child, the
384 employer shall enroll such child under health care
385 coverage upon application by the child's other
386 parent or by the Commissioner of Social Services,
387 or his designee, when such child is eligible under
388 the Medicaid program or is receiving child support
389 enforcement services pursuant to Title IV-D of the
390 Social Security Act. If a noncustodial parent in a
391 IV-D case provides such coverage and changes
392 employment, and the new employer provides health
393 care coverage, the IV-D agency or an agency under
394 cooperative agreement therewith shall transfer
395 notice of the provision for health care coverage
396 to such new employer. The notice shall operate to
397 enroll the child in the noncustodial parent's

398 health care plan if that portion of the obligor's
399 income which is subject to withholding pursuant to
400 subsection (e) of section 52-362, AS AMENDED, is
401 sufficient to cover both the support order and
402 health care coverage. At the time notice is
403 transferred to the employer, the IV-D agency, or
404 an agency under cooperative agreement therewith,
405 shall also cause a copy of the notice of such
406 transfer of health care coverage to be delivered
407 to the obligor and to the custodial parent. The
408 noncustodial parent may contest such notice by
409 filing a motion for modification with the family
410 support magistrate. An employer, subject to the
411 provisions of this section, shall not disenroll or
412 eliminate coverage of any such child unless the
413 employer is provided satisfactory written evidence
414 that: (1) A court or an administrative order for
415 health care coverage is no longer in effect; (2)
416 the child is or shall be enrolled in comparable
417 health care coverage which shall take effect not
418 later than the effective date of such disenrollment
419 or elimination; or (3) the employer has eliminated
420 family health care coverage for all of its
421 employees.

422 Sec. 17. Subsection (a) of section 38a-504 of
423 the general statutes, as amended by section 3 of
424 public act 97-198, is repealed and the following
425 is substituted in lieu thereof:

426 (a) Any insurance company, hospital service
427 corporation, medical service corporation, health
428 care center or fraternal benefit society which
429 delivers or issues for delivery in this state
430 individual health insurance policies providing
431 coverage of the type specified in subdivisions
432 (1), (2), (4), [(6),] (10), (11) and (12) of
433 section 38a-469, shall provide coverage under such
434 policies for the surgical removal of tumors and
435 treatment of leukemia, including outpatient
436 chemotherapy, reconstructive surgery, cost of any
437 nondental prosthesis including any maxillo-facial
438 prosthesis used to replace anatomic structures
439 lost during treatment for head and neck tumors or
440 additional appliances essential for the support of
441 such prosthesis, and outpatient chemotherapy
442 following surgical procedure in connection with
443 the treatment of tumors. Such benefits shall be
444 subject to the same terms and conditions

445 applicable to all other benefits under such
446 policies.

447 Sec. 18. Subdivision (1) of section 38a-846
448 of the general statutes, as amended by section 6
449 of public act 97-125, is repealed and the
450 following is substituted in lieu thereof:

451 (1) The board of directors, upon majority
452 vote, shall notify the commissioner of any
453 information which [they] IT may have indicating
454 any member insurer may be insolvent or in a
455 financial condition hazardous to its policyholders
456 or the public.

457 INS COMMITTEE VOTE: YEA 18 NAY 0 JF

* * * * *

"THE FOLLOWING FISCAL IMPACT STATEMENT AND BILL ANALYSIS ARE PREPARED FOR THE BENEFIT OF MEMBERS OF THE GENERAL ASSEMBLY, SOLELY FOR PURPOSES OF INFORMATION, SUMMARIZATION AND EXPLANATION AND DO NOT REPRESENT THE INTENT OF THE GENERAL ASSEMBLY OR EITHER HOUSE THEREOF FOR ANY PURPOSE."

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FISCAL IMPACT STATEMENT - BILL NUMBER HB 5616

STATE IMPACT None, see explanation below

MUNICIPAL IMPACT None

STATE AGENCY(S) Department of Insurance

EXPLANATION OF ESTIMATES:

The bill makes several minor technical corrections to the insurance and real estate statutes. It has no impact on the workload of the Department of Insurance.

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OLR BILL ANALYSIS

HB 5616

AN ACT MAKING TECHNICAL CORRECTIONS TO THE INSURANCE AND REAL ESTATE LAWS

SUMMARY: This bill makes several minor technical corrections to the insurance and real estate statutes.

EFFECTIVE DATE: October 1, 1998

COMMITTEE ACTION

Insurance and Real Estate Committee

Joint Favorable Report
Yea 18 Nay 0