



General Assembly

January Session, 2011

Raised Bill No. 6235

LCO No. 2316

02316_____INS

Referred to Committee on Insurance and Real Estate

Introduced by:
(INS)

AN ACT REQUIRING ADVANCE PAYMENT UNDER A FIRE INSURANCE POLICY.

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

1 Section 1. Section 38a-307 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2011*):

3 Except as provided in section 38a-307a, the standard form of fire
4 insurance policy of the state of Connecticut, with permission to
5 substitute for the word "Company" a more accurate descriptive term of
6 the type of insurer, shall be as follows:

7 [Space for insertion of name of company or companies issuing the
8 policy and other matter permitted to be stated at the head of the
9 policy.]

10 [Space for listing amounts of insurance, rates and premiums for the
11 basic coverages insured under the standard form of policy and for
12 additional coverages or perils insured under endorsements attached.]

T1 In Consideration of the Provisions and Stipulations

T2

Herein or Added Hereto

T3

AND OF DOLLARS PREMIUM

T4

this company, for the term

from the day of 20..

{ at noon,

T5

Standard Time, at

T6

of

} to the day of 20..

{ location of

T7

property involved

T8

to an amount not exceeding Dollars,

T9

does insure

13 and legal representatives, to the extent of the actual cash value of the
 14 property at the time of loss, but not exceeding the amount which it
 15 would cost to repair or replace the property with material of like kind
 16 and quality within a reasonable time after such loss, without allowance
 17 for any increased cost of repair or reconstruction by reason of any
 18 ordinance or law regulating construction or repair, and without
 19 compensation for loss resulting from interruption of business or
 20 manufacture, nor in any event for more than the interest of the
 21 insured, against all DIRECT LOSS BY FIRE, LIGHTNING AND BY
 22 REMOVAL FROM PREMISES ENDANGERED BY THE PERILS
 23 INSURED AGAINST IN THIS POLICY, EXCEPT AS HEREINAFTER
 24 PROVIDED, to the property described hereinafter while located or
 25 contained as described in this policy, or pro rata for five days at each
 26 proper place to which any of the property shall necessarily be removed
 27 for preservation from the perils insured against in this policy, but not
 28 elsewhere.

29 Assignment of this policy shall not be valid except with the written
 30 consent of this Company.

31 This policy is made and accepted subject to the foregoing provisions
 32 and stipulations and those hereinafter stated, which are hereby made a
 33 part of this policy, together with such other provisions, stipulations
 34 and agreements as may be added hereto, as provided in this policy.

35 In Witness Whereof, this Company has executed and attested these

36 presents.

37 ... (Secretary).

38 ... (President).

39 Concealment, fraud. This entire policy shall be void if, whether
40 before or after a loss, the insured has wilfully concealed or
41 misrepresented any material fact or circumstance concerning this
42 insurance or the subject thereof, or the interest of the insured therein,
43 or in case of any fraud or false swearing by the insured relating
44 thereto.

45 Uninsurable and excepted property. This policy shall not cover
46 accounts, bills, currency, deeds, evidences of debt, money or securities;
47 nor, unless specifically named hereon in writing, bullion or
48 manuscripts.

49 Perils not included. This Company shall not be liable for loss by fire
50 or other perils insured against in this policy caused, directly or
51 indirectly, by: (a) Enemy attack by armed forces, including action
52 taken by military, naval or air forces in resisting an actual or an
53 immediately impending enemy attack; (b) invasion; (c) insurrection;
54 (d) rebellion; (e) revolution; (f) civil war; (g) usurped power; (h) order
55 of any civil authority except acts of destruction at the time of and for
56 the purpose of preventing the spread of fire, provided that such fire
57 did not originate from any of the perils excluded by this policy; (i)
58 neglect of the insured to use all reasonable means to save and preserve
59 the property at and after a loss, or when the property is endangered by
60 fire in neighboring premises; (j) nor shall this Company be liable for
61 loss by theft.

62 Other Insurance. Other insurance may be prohibited or the amount
63 of insurance may be limited by endorsement attached hereto.

64 Conditions suspending or restricting insurance. Unless otherwise
65 provided in writing added hereto this Company shall not be liable for

66 loss occurring (a) while the hazard is increased by any means within
67 the control or knowledge of the insured; or (b) while a described
68 building, whether intended for occupancy by owner or tenant, is
69 vacant or unoccupied beyond a period of sixty consecutive days; or (c)
70 as a result of explosion or riot, unless fire ensue, and in that event for
71 loss by fire only.

72 Other perils or subjects. Any other peril to be insured against or
73 subject of insurance to be covered in this policy shall be by
74 endorsement in writing hereon or added hereto.

75 Added provisions. The extent of the application of insurance under
76 this policy and of the contribution to be made by this Company in case
77 of loss, and any other provision or agreement not inconsistent with the
78 provisions of this policy, may be provided for in writing added hereto,
79 but no provision may be waived except such as by the terms of this
80 policy is subject to change.

81 Waiver provisions. No permission affecting this insurance shall
82 exist, or waiver of any provision be valid, unless granted herein or
83 expressed in writing added hereto. No provision, stipulation or
84 forfeiture shall be held to be waived by any requirement or proceeding
85 on the part of this Company relating to appraisal or to any
86 examination provided for herein.

87 Cancellation of policy. This policy shall be cancelled at any time at
88 the request of the insured, in which case this Company shall, upon
89 demand and surrender of this policy, refund the excess of paid
90 premium above the customary short rates for the expired time. This
91 policy may be cancelled at any time by this Company by giving to the
92 insured and any third party designated pursuant to section 38a-323a, a
93 thirty days' written notice of cancellation accompanied by the reason
94 therefor with or without tender of the excess of paid premium above
95 the pro rata premium for the expired time, which excess, if not
96 tendered, shall be refunded on demand. Notice of cancellation shall
97 state that said excess premium (if not tendered) will be refunded on

98 demand. Where cancellation is for nonpayment of premium at least ten
99 days' written notice of cancellation accompanied by the reason therefor
100 shall be given.

101 Mortgagee interests and obligations. If loss hereunder is made
102 payable, in whole or in part, to a designated mortgagee not named
103 herein as the insured, such interest in this policy may be cancelled by
104 giving to such mortgagee a ten days' written notice of cancellation.

105 If the insured fails to render proof of loss such mortgagee, upon
106 notice, shall render proof of loss in the form herein specified within
107 sixty (60) days thereafter and shall be subject to the provisions hereof
108 relating to appraisal and time of payment and of bringing suit. If this
109 Company shall claim that no liability existed as the mortgagor or
110 owner, it shall, to the extent of payment of loss to the mortgagee, be
111 subrogated to all the mortgagee's rights of recovery, but without
112 impairing mortgagee's right to sue; or it may pay off the mortgage debt
113 and require an assignment thereof and of the mortgage. Other
114 provisions relating to the interests and obligations of such mortgagee
115 may be added hereto by agreement in writing.

116 Pro rata liability. This Company shall not be liable for a greater
117 proportion of any loss than the amount hereby insured shall bear to
118 the whole insurance covering the property against the peril involved,
119 whether collectible or not.

120 Requirements in case loss occurs. The insured shall give immediate
121 written notice to this Company of any loss, protect the property from
122 further damage, forthwith separate the damaged and undamaged
123 personal property, put it in the best possible order, furnish a complete
124 inventory of the destroyed, damaged and undamaged property,
125 showing in detail quantities, costs, actual cash value and amount of
126 loss claims; AND WITHIN SIXTY DAYS AFTER THE LOSS, UNLESS
127 SUCH TIME IS EXTENDED IN WRITING BY THIS COMPANY, THE
128 INSURED SHALL RENDER TO THIS COMPANY A PROOF OF
129 LOSS, signed and sworn to by the insured, stating the knowledge and

130 belief of the insured as to the following: The time and origin of the loss,
131 the interest of the insured and of all others in the property, the actual
132 cash value of each item thereof and the amount of loss thereto, all
133 encumbrances thereon, all other contracts of insurance, whether valid
134 or not, covering any of said property, any changes in the title, use,
135 occupation, location, possession or exposures of said property since
136 the issuing of this policy, by whom and for what purpose any building
137 herein described and the several parts thereof were occupied at the
138 time of loss and whether or not it then stood on leased ground, and
139 shall furnish a copy of all the descriptions and schedules in all policies
140 and, if required, verified plans and specification of any building,
141 fixtures or machinery destroyed or damaged. The insured, as often as
142 may be reasonably required, shall exhibit to any person designated by
143 this Company all that remains of any property herein described, and
144 submit to examinations under oath by any person named by this
145 Company, and subscribe the same; and, as often as may be reasonably
146 required, shall produce for examination all books of account, bills,
147 invoices and other vouchers, or certified copies thereof if originals be
148 lost, at such reasonable time and place as may be designated by this
149 Company or its representative, and shall permit extracts and copies
150 thereof to be made.

151 Appraisal. In case the insured and this Company shall fail to agree
152 as to the actual cash value or the amount of loss, then, on the written
153 demand of either, each shall select a competent and disinterested
154 appraiser and notify the other of the appraiser selected within twenty
155 days of such demand. The appraisers shall first select a competent and
156 disinterested umpire; and failing for fifteen days to agree upon such
157 umpire, then, on request of the insured or this Company, such umpire
158 shall be selected by a judge of a court of record in this state in which
159 the property covered is located. The appraisers shall then appraise the
160 loss, stating separately actual cash value and loss to each item; and,
161 failing to agree, shall submit their differences, only, to the umpire. An
162 award in writing, so itemized, of any two when filed with this
163 Company shall determine the amount of actual cash value and loss.

164 Each appraiser shall be paid by the party selecting him and the
165 expenses of appraisal and umpire shall be paid by the parties equally.

166 Company's options. It shall be optional with this Company to take
167 all, or any part, of the property at the agreed or appraised value, and
168 also to repair, rebuild or replace the property destroyed or damaged
169 with other of like kind and quality within a reasonable time, on giving
170 notice of its intention so to do within thirty days after the receipt of the
171 proof of loss herein required.

172 Abandonment. There can be no abandonment to this Company of
173 any property.

174 When loss payable. The amount of loss for which this Company
175 may be liable shall be payable thirty days after proof of loss, as herein
176 provided, is received by this Company and ascertainment of the loss is
177 made either by agreement between the insured and this Company
178 expressed in writing or by the filing with this Company of an award as
179 herein provided. [This] Upon request by the insured, this Company
180 and the insured [may] shall agree in writing to a partial payment of the
181 amount of loss as an advance payment. Any advance payment shall be
182 credited against the total amount of loss due to the insured. An
183 advance payment shall not affect the requirement of this Company to
184 pay the total amount of loss not later than thirty days after proof of
185 loss.

186 Suit. No suit or action on this policy for the recovery of any claim
187 shall be sustainable in any court of law or equity unless all the
188 requirements of this policy shall have been complied with, and unless
189 commenced within eighteen months next after inception of the loss.

190 Subrogation. This Company may require from the insured an
191 assignment of all right of recovery against any party for loss to the
192 extent that payment therefor is made by this Company.

This act shall take effect as follows and shall amend the following sections:

Section 1	<i>October 1, 2011</i>	38a-307
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Statement of Purpose:

To require insurers, upon request by an insured, to provide partial payment of the amount of loss covered under a fire loss insurance policy as an advance payment.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]