



# House of Representatives

**File No. 564**

General Assembly

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February Session, 2012 **(Reprint of File No. 177)**

Substitute House Bill No. 5230  
As Amended by House Amendment  
Schedule "A"

Approved by the Legislative Commissioner  
April 20, 2012

***AN ACT CONCERNING VARIOUS CHANGES TO PROPERTY AND CASUALTY INSURANCE STATUTES.***

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

1 Section 1. Section 38a-316a of the general statutes is repealed and  
2 the following is substituted in lieu thereof (*Effective October 1, 2012*):

3 (a) No insurer that delivers, issues for delivery, renews, amends or  
4 endorses a homeowners insurance policy in this state shall refuse to  
5 renew or issue such a policy solely on the basis that the insured or  
6 prospective insured has failed to install permanent storm shutters on  
7 his or her residential dwelling as a means of mitigating loss from  
8 hurricanes or other severe storms.

9 (b) (1) For a (A) personal risk insurance policy, as defined in section  
10 38a-663, other than a private passenger nonfleet automobile insurance  
11 policy, (B) condominium association master policy under section 47-83,  
12 or (C) unit owners' association property insurance policy under section  
13 47-255, issued or renewed on or after July 1, 2012, an insurer may  
14 impose a hurricane deductible in such policy in lieu of an overall

15 policy deductible during the period commencing with the issuance of  
16 a hurricane warning by the National Hurricane Center of the National  
17 Weather Service in any part of the state if such hurricane results in a  
18 maximum sustained surface wind of seventy-four miles per hour or  
19 more for any part of this state.

20 (2) Such imposition shall be applied during the period (A)  
21 commencing not earlier than the National Weather Service National  
22 Hurricane Center's issuance of a hurricane warning for any part of this  
23 state, and (B) ending twenty-four hours after said National Hurricane  
24 Center's termination of the last hurricane warning for any part of this  
25 state or twenty-four hours after said National Hurricane Center's last  
26 downgrade of the hurricane from hurricane status for any part of this  
27 state, whichever is earlier.

28 (3) The commissioner may adopt regulations, in accordance with the  
29 provisions of chapter 54, to implement the provisions of subdivision  
30 (1) of this subsection and the most current guidelines and bulletins  
31 issued by the Insurance Department and in effect that pertain to  
32 hurricane deductibles.

33 Sec. 2. Section 38a-313a of the 2012 supplement to the general  
34 statutes is repealed and the following is substituted in lieu thereof  
35 (*Effective July 1, 2012*):

36 (a) Prior to commencing any repair, [or] remediation or mitigation  
37 pursuant to a loss occurring on or after [October 1, 2011] July 1, 2012,  
38 and covered under a personal risk insurance policy, as defined in  
39 section 38a-663, or a commercial risk policy, as defined in section 38a-  
40 663, the person who will perform the repair, [or] remediation or  
41 mitigation shall provide an insured with a written notice that indicates  
42 the scope of the work to be completed and the estimated total price.  
43 Such notice shall not be required for (1) any repair of an automobile  
44 that is subject to this chapter, or (2) any repair that is subject to chapter  
45 400.

46 (b) If the person performing the repair, [or] remediation or

47 mitigation fails to provide the written notice in accordance with  
48 subsection (a) of this section to an insured, any contract between such  
49 person and such insured for such repair, [or] remediation or mitigation  
50 shall be void.

51 (c) As used in this section, "remediation" includes, but is not limited  
52 to, cleaning services.

53 Sec. 3. Section 38a-308 of the general statutes is repealed and the  
54 following is substituted in lieu thereof (*Effective July 1, 2012*):

55 (a) No policy or contract of fire insurance shall be made, issued or  
56 delivered by any insurer or any agent or representative thereof, on any  
57 property in this state, unless it conforms as to all provisions,  
58 stipulations, agreements and conditions with the form of policy set  
59 forth in section 38a-307. There shall be printed at the head of such  
60 policy the name of the insurer or insurers issuing the policy, the  
61 location of the home office thereof, a statement showing whether such  
62 insurer or insurers are stock or mutual corporations or are reciprocal  
63 insurers or Lloyd's underwriter, provided any company organized  
64 under special charter provisions may so indicate upon its policy and  
65 may add a statement of the plan under which it operates in this state,  
66 and there may be added thereon such device or devices as the insurer  
67 or insurers issuing such policy desire. Such policy shall be clearly  
68 designated on the back of the form as "The Standard Fire Insurance  
69 Policy of the State of Connecticut"; and this designation may include  
70 the names of such other states as have adopted this standard form. The  
71 standard fire insurance policy provided for in section 38a-307 need not  
72 be used for effecting reinsurance between insurers. If the policy is  
73 issued by a mutual, cooperative or reciprocal insurer having special  
74 regulations with respect to the payment by the policyholder of  
75 assessments, such regulations shall be printed upon the policy and any  
76 such insurer may print upon the policy such regulations as are  
77 appropriate to or required by its form of organization. Insurers issuing  
78 the standard fire insurance policy pursuant to section 38a-307 are  
79 authorized to affix thereto or include therein a written statement that

80 the policy does not cover loss or damage caused by nuclear reaction or  
81 nuclear radiation or radioactive contamination, all whether directly or  
82 indirectly resulting from an insured peril under such policy; provided  
83 nothing herein contained shall be construed to prohibit the attachment  
84 to any such policy of an endorsement or endorsements specifically  
85 assuming coverage for loss or damage caused by nuclear reaction or  
86 nuclear radiation or radioactive contamination.

87 (b) Any policy or contract [which] that includes, either on an  
88 unspecified basis as to coverage or for an indivisible premium,  
89 coverage against the peril of fire and substantial coverage against other  
90 perils need not comply with the provisions of subsection (a) [hereof] of  
91 this section, provided: (1) [such] Such policy or contract shall afford  
92 coverage, with respect to the peril of fire, not less than the substantial  
93 equivalent of the coverage afforded by said standard fire insurance  
94 policy; [,] (2) the following provisions in [relation to mortgagee] said  
95 standard fire insurance policy are incorporated therein without  
96 change: (A) Mortgagee interests and obligations, [in said standard fire  
97 insurance policy shall be incorporated therein without change,] (B) the  
98 definitions of actual cash value and depreciation, (C) the time period  
99 for when a loss is payable after proof of loss, and (D) the time period  
100 for when a suit or action for the recovery of a claim may be  
101 commenced; (3) such policy or contract is complete as to all of its terms  
102 without reference to any other document; and (4) the commissioner is  
103 satisfied that such policy or contract complies with the provisions  
104 hereof. The provisions of this subsection shall apply to any such policy  
105 or contract issued or renewed on or after July 1, 2012.

106 (c) None of the provisions of this section shall apply to policies of  
107 automobile or aircraft physical damage insurance or to policies of  
108 inland marine insurance.

109 (d) The provisions of section 38a-346 shall apply in the event of  
110 cancellation of a policy issued pursuant to this chapter.

111 (e) Any policies made, issued or delivered through a fire, liability

112 and allied lines underwriting facility established by the Insurance  
113 Commissioner pursuant to section 38a-328 shall not be subject to the  
114 cancellation of policy provisions or notice of cancellation requirements  
115 of section 38a-307, provided such policies comply with any regulation  
116 adopted by the Insurance Commissioner pursuant to subsection (a) of  
117 section 38a-328.

118 Sec. 4. Section 38a-726 of the general statutes is repealed and the  
119 following is substituted in lieu thereof (*Effective July 1, 2012*):

120 (a) No public adjuster shall charge or collect a fee if, within thirty  
121 days of a loss to a structure covered by a fire insurance policy, the  
122 insurer offers in writing to pay the full policy limits.

123 (b) Any fee charged to an insured by a public adjuster shall be based  
124 only on the amount of the insurance settlement proceeds actually  
125 received by the insured and shall be collected by such public adjuster  
126 after the insured has received such proceeds from the insurer.

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the 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 chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

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**OFA Fiscal Note**

**State Impact:** None

**Municipal Impact:** None

**Explanation**

The bill has no state or municipal impact as it concerns private property and casualty insurance coverage.

House "A" made technical and clarifying changes that had no fiscal impact.

**The Out Years**

**State Impact:** None

**Municipal Impact:** None

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**OLR Bill Analysis****sHB 5230 (as amended by House "A")\******AN ACT CONCERNING VARIOUS CHANGES TO PROPERTY AND CASUALTY INSURANCE STATUTES.*****SUMMARY:**

This bill broadens the applicability of standard fire insurance policy provisions regarding the (1) period when a loss is payable after proof of loss, (2) period when a suit or action for the recovery of a claim must be commenced, and (3) definitions of actual cash value and depreciation.

The bill specifies when insurers may impose a hurricane deductible in the policy instead of an overall policy deductible under homeowners and certain other policies issued or renewed on or after July 1, 2012.

The bill requires people who mitigate losses incurred on or after July 1, 2012 that are covered by a personal risk insurance or commercial risk policy to give the insured, before any work begins, written notice of the work to be completed and the estimated total price. If the person performing the mitigation does not do so, any contract for the mitigation between that person and the insured is void. The requirement does not apply to repairs to an automobile covered by insurance or repairs that are covered by the laws governing home improvement contractors. The bill does not define "mitigation."

By law, insurance adjusters may not charge or collect a fee if, within 30 days of a loss to a structure covered by a fire insurance policy, the insurer offers in writing to pay the full policy limits. The bill requires that any fee the adjuster charges the insured to be (1) based only on the amount of the insurance settlement proceeds actually received by the

insured and (2) collected by the adjuster after the insured has received the proceeds from the insurer.

\* House Amendment "A" (1) expands the scope of the hurricane deductible provisions to apply to personal risk and condominium association policies rather than just homeowners' policies, (2) delays the effective date of these provisions from July 1, 2012 to October 1, 2012, and (3) adds the provision on adjusters.

EFFECTIVE DATE: July 1, 2012, except that the hurricane deductibles provisions are effective October 1, 2012.

### **EXTENSION OF STANDARD FIRE INSURANCE POLICY REQUIREMENTS**

By law, a fire insurance policy must meet various requirements (CGS § 38a-307). A policy that covers against fire and other perils generally does not need to meet these requirements with regard to coverage of perils other than fire.

The bill extends to the coverage against these other perils the provisions of standard fire policies that specify the following:

1. The amount of loss for which the company is liable is payable 30 days after it receives proof of loss and the loss is ascertained. The company and the insured may agree in writing to a partial payment as an advance payment, but this does not affect the requirement for the company to pay the total amount of loss within 30 days after proof of loss.
2. No suit or action on the policy for the recovery of any claim may be sustained in any court unless all the requirements of the policy have been complied with and the suit or action is commenced within 18 months after the loss.
3. The actual cash value at the time of loss for a building is the amount which it would cost to repair or replace the building with material of like kind and quality, minus reasonable

depreciation.

Depreciation means a decrease in the value of real property over a period of time due to wear and tear.

These provisions apply to policies or contracts issued or renewed on or after July 1, 2012.

**HURRICANE DEDUCTIBLES**

The bill allows insurers to impose a hurricane deductible in the policy in lieu of an overall policy deductible for homeowners and certain other policies issued or renewed on or after July 1, 2012, if a hurricane results in a maximum sustained surface wind of 74 miles per hour or more for any part of the state. This provision applies to a (1) homeowners', tenants', mobile manufactured home, and other property and casualty insurance for personal, family, or household needs other than workers' compensation insurance; (2) condominium association master policy; and (3) unit owners' association property insurance policy.

The deductible applies from the time the National Hurricane Center issues a hurricane warning for any part of this state and ends 24 hours after the National Hurricane Center (1) terminates the last hurricane warning for any part of this state or (2) issues its last downgrade of the hurricane from hurricane status for any part of this state, whichever is earlier.

This provision is effective October 1, 2012, but the bill applies it retroactively to policies issued or renewed between July 1, 2012 and then.

The bill allows the insurance commissioner to adopt regulations to implement this provision and the department's most current guidelines and bulletins dealing with hurricane deductibles.

**COMMITTEE ACTION**

Insurance and Real Estate Committee

Joint Favorable Substitute

Yea 18 Nay 1 (03/15/2012)