



General Assembly

February Session, 2014

**Raised Bill No. 5366**

LCO No. 796



Referred to Committee on INSURANCE AND REAL ESTATE

Introduced by:  
(INS)

**AN ACT CONCERNING CERTAIN SURPLUS LINES INSURANCE  
POLICIES AND THE DUTIES OF SURPLUS LINES INSURANCE  
BROKERS.**

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

1 Section 1. Section 38a-308 of the general statutes is repealed and the  
2 following is substituted in lieu thereof (*Effective October 1, 2014*):

3 (a) (1) No policy or contract of fire insurance shall be made, issued  
4 or delivered by any admitted or nonadmitted insurer or any agent or  
5 representative thereof, on any property in this state, unless it conforms  
6 as to all provisions, stipulations, agreements and conditions with the  
7 form of policy set forth in section 38a-307, except that a policy or  
8 contract of fire insurance for a commercial property made, issued or  
9 delivered by a nonadmitted insurer or any agent or representative  
10 thereof may provide for replacement costs with materials other than  
11 like kind and quality or define "depreciation" differently than as set  
12 forth in section 38a-307, or both.

13 (2) There shall be printed at the head of such policy the name of the

14 insurer or insurers issuing the policy, the location of the home office  
15 thereof, a statement showing whether such insurer or insurers are  
16 stock or mutual corporations or are reciprocal insurers or Lloyd's  
17 underwriter, provided any company organized under special charter  
18 provisions may so indicate upon its policy and may add a statement of  
19 the plan under which it operates in this state, and there may be added  
20 thereon such device or devices as the insurer or insurers issuing such  
21 policy desire. Such policy shall be clearly designated on the back of the  
22 form as "The Standard Fire Insurance Policy of the State of  
23 Connecticut"; and this designation may include the names of such  
24 other states as have adopted this standard form.

25 (3) The standard fire insurance policy provided for in section 38a-  
26 307 need not be used for effecting reinsurance between insurers. If the  
27 policy is issued by a mutual, cooperative or reciprocal insurer having  
28 special regulations with respect to the payment by the policyholder of  
29 assessments, such regulations shall be printed upon the policy and any  
30 such insurer may print upon the policy such regulations as are  
31 appropriate to or required by its form of organization. Insurers issuing  
32 the standard fire insurance policy pursuant to section 38a-307 are  
33 authorized to affix thereto or include therein a written statement that  
34 the policy does not cover loss or damage caused by nuclear reaction or  
35 nuclear radiation or radioactive contamination, all whether directly or  
36 indirectly resulting from an insured peril under such policy; provided  
37 nothing herein contained shall be construed to prohibit the attachment  
38 to any such policy of an endorsement or endorsements specifically  
39 assuming coverage for loss or damage caused by nuclear reaction or  
40 nuclear radiation or radioactive contamination.

41 (b) Any policy or contract that includes, either on an unspecified  
42 basis as to coverage or for an indivisible premium, coverage against  
43 the peril of fire and substantial coverage against other perils need not  
44 comply with the provisions of subsection (a) of this section, provided:  
45 (1) Such policy or contract shall afford coverage, with respect to the  
46 peril of fire, not less than the substantial equivalent of the coverage

47 afforded by said standard fire insurance policy; (2) except as provided  
48 under subdivision (1) of subsection (a) of this section for a policy or  
49 contract of fire insurance for a commercial property made, issued or  
50 delivered by a surplus lines insurer or any agent or representative  
51 thereof, the following provisions in said standard fire insurance policy  
52 are incorporated therein without change: (A) Mortgagee interests and  
53 obligations, (B) the definitions of actual cash value and depreciation,  
54 (C) the time period for when a loss is payable after proof of loss, and  
55 (D) the time period for when a suit or action for the recovery of a claim  
56 may be commenced; (3) such policy or contract is complete as to all of  
57 its terms without reference to any other document; and (4) the  
58 commissioner is satisfied that such policy or contract complies with the  
59 provisions hereof. The provisions of this subsection shall apply to any  
60 such policy or contract issued or renewed on or after July 1, 2012.

61 (c) None of the provisions of this section shall apply to policies of  
62 automobile or aircraft physical damage insurance or to policies of  
63 inland marine insurance.

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

66 (e) Any policies made, issued or delivered through a fire, liability  
67 and allied lines underwriting facility established by the Insurance  
68 Commissioner pursuant to section 38a-328 shall not be subject to the  
69 cancellation of policy provisions or notice of cancellation requirements  
70 of section 38a-307, provided such policies comply with any regulation  
71 adopted by the Insurance Commissioner pursuant to subsection (a) of  
72 section 38a-328.

73 Sec. 2. Section 38a-741 of the 2014 supplement to the general statutes  
74 is repealed and the following is substituted in lieu thereof (*Effective*  
75 *October 1, 2014*):

76 (a) The commissioner shall maintain on a current basis a list of those  
77 lines of insurance or their components for which coverages are

78 believed by the commissioner to be generally unavailable from  
79 licensed insurers. The commissioner shall republish the list and make  
80 it available to all licensees every six months. Any person may request  
81 in writing that the commissioner add or remove a line of insurance or  
82 its component from the current list at the next publication of the list.  
83 The commissioner's determinations of lines of insurance or their  
84 components to be added to or removed from the list shall not be  
85 subject to chapter 54, provided, prior to making determinations, the  
86 commissioner shall provide opportunity for comments from interested  
87 persons.

88 (b) (1) When any policy of insurance is procured or renewed under  
89 the authority of such license providing a line of insurance or its  
90 component that does not, on the effective date of coverage, appear on  
91 the current published list, both the licensee and the insured shall write  
92 signed statements setting forth facts showing that such licensee and  
93 such insured were unable after diligent effort to procure, from any  
94 authorized insurer or insurers, the full amount of insurance required to  
95 protect the interest of such insured, and further showing (A) that the  
96 amount of insurance procured from [an unauthorized] a nonadmitted  
97 insurer or insurers is only the excess over the amount so procurable  
98 from authorized insurers, (B) the type of policy, and (C) if such policy  
99 is for real property, the location of such property. Such licensee shall  
100 file such signed statements in electronic format with the commissioner  
101 on February fifteenth, May fifteenth, August fifteenth and November  
102 fifteenth of each year.

103 (2) The provisions of subdivision (1) of this subsection shall not  
104 apply to any policy of insurance procured under the authority of such  
105 license for an insured that is an exempt commercial purchaser, as  
106 defined in Section 527 of the Dodd-Frank Wall Street Reform and  
107 Consumer Protection Act, P.L. 111-203, as amended from time to time,  
108 provided (A) the surplus lines broker has disclosed to such exempt  
109 commercial purchaser that such insurance may or may not be available  
110 from an authorized insurer, that may provide greater protection with

111 more regulatory oversight, and (B) such exempt commercial purchaser  
112 has subsequently requested such broker, in writing, to procure such  
113 policy from [an unauthorized] a nonadmitted insurer.

114 (c) A licensee shall not procure from a nonadmitted insurer a  
115 homeowners insurance policy for one-to-four-unit owner-occupied  
116 residential real property if such policy (1) provides for replacement  
117 costs with materials other than like kind and quality, or (2) defines  
118 "actual cash value" or "depreciation" differently than as set forth in  
119 section 38a-307.

120 Sec. 3. Section 38a-740 of the general statutes is repealed and the  
121 following is substituted in lieu thereof (*Effective October 1, 2014*):

122 The commissioner may, by regulation adopted in accordance with  
123 chapter 54: (1) Establish such proper standards as [he may deem] the  
124 commissioner deems necessary to guide surplus lines brokers  
125 procuring any such policy of insurance, as is permitted under  
126 subsection (a) of section 38a-794, from any such [unauthorized]  
127 nonadmitted insurer; (2) require any [unauthorized] nonadmitted  
128 insurer from which any surplus lines broker has procured or intends to  
129 procure any policy of insurance, as is permitted under subsection (a) of  
130 section 38a-794, to file with [him] the commissioner such evidence and  
131 in such form as [he may prescribe] the commissioner prescribes so as  
132 to enable [him] the commissioner to establish the financial stability,  
133 qualifications and general suitability of such [unauthorized]  
134 nonadmitted insurer to issue any policy of insurance through any  
135 surplus lines broker, under section 38a-794; and (3) establish such  
136 reasonable filing fees as may be necessary to defray the cost [to him] of  
137 examining evidence filed with [him by an unauthorized] the  
138 commissioner by a nonadmitted insurer either voluntarily or pursuant  
139 to the provisions of this section.

140 Sec. 4. Section 38a-742 of the general statutes is repealed and the  
141 following is substituted in lieu thereof (*Effective October 1, 2014*):

142 The licensee shall keep a complete and separate record of all policies  
143 procured from [unauthorized] nonadmitted insurers under such  
144 license. Such records shall be open to the examination of the  
145 commissioner at all reasonable times and shall show: (1) The exact  
146 amount of each kind of insurance permitted under sections 38a-741 to  
147 38a-744, inclusive, as amended by this act, and 38a-794 that has been  
148 procured for each insured; (2) the gross premiums charged by the  
149 insurers for each kind of insurance permitted under section 38a-794; (3)  
150 the amount of each kind of premiums of insurance permitted by  
151 section 38a-794 [which] that were returned to each insured; (4) the  
152 name of the insurer or insurers [which] that issued each of such  
153 policies; (5) the effective dates of such policies; and (6) the terms for  
154 which they were issued.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2014</i>	38a-308
Sec. 2	<i>October 1, 2014</i>	38a-741
Sec. 3	<i>October 1, 2014</i>	38a-740
Sec. 4	<i>October 1, 2014</i>	38a-742

**Statement of Purpose:**

To permit surplus lines insurance policies for commercial property to deviate from certain replacement cost and depreciation requirements and to provide that surplus lines insurance policies homeowners include such cost and depreciation requirements.

*[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.]*