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STATEMENT

PROPERTY CASUALTY INSURERS ASSOCIATION OF AMERICA (PCI)

H.B. 6865 – AN ACT REQUIRING CERTAIN DISCLOSURES CONCERNING COINSURANCE CLAUSES IN COMMERCIAL INSURANCE POLICIES AND CONTRACTS

COMMITTEE ON INSURANCE AND REAL ESTATE

March 5, 2015

The Property Casualty Insurers Association of America (PCI) appreciates the opportunity to comment on H.B. 6865, an act requiring certain disclosures concerning coinsurance clauses in commercial insurance policies and contracts. Our comments are provided on behalf of the member companies of PCI, a national property casualty trade association with over 1,000 member companies. PCI member companies provide 36 percent of Connecticut's property casualty insurance coverage.

This bill would prohibit coinsurance clauses in policies delivered by nonadmitted insurers when the policy defines "depreciation" differently than as set forth in Section 38a-301. Nonadmitted insurance represents that insurance coverage that consumers cannot otherwise find available in the admitted market of private insurers licensed to transact business in the state. In that situation, Connecticut surplus lines law permits the licensed surplus lines broker to export out of the jurisdiction of the state and procure such insurance coverage with an unauthorized but eligible surplus lines insurer. Critical, however, to this placement is the acknowledgement that such insurance, not able to be placed in the admitted market, represents a unique or nonstandard risk. As a result, the surplus lines insurer in order to properly underwrite that risk, must rely on the flexibility and freedom to negotiate the coverage form.

This bill would restrict the coverage flexibility and freedom which is inherent in nonadmitted insurance. The restrictions imposed on nonadmitted insurers pursuant to this bill are contrary to the basic principles associated with surplus lines insurance which allow the insurance needs of difficult to place risks to be met by nonadmitted insurers due to the ability of such insurers to tailor policy provisions to the unique risks. Without this freedom and flexibility, nonadmitted insurers may not be able to write policies for certain risks which may make it difficult, or even impossible, to obtain coverage for such risks.

Coinsurance clauses serve to encourage insureds to carry an appropriate amount of insurance in relation to the value of their property, especially on replacement cost policies. These clauses may be appropriate for some risks, notwithstanding whether an alternate definition of "depreciation" is utilized. By prohibiting the use of these clauses by nonadmitted insurers under these circumstances, this bill may make it difficult for some risks to obtain the insurance coverage which is needed or desired for the risk.

Accordingly, for the foregoing reasons, PCI urges your Committee NOT to advance this bill.