



House of Representatives

General Assembly

File No. 374

January Session, 2015

Substitute House Bill No. 6865

House of Representatives, April 1, 2015

The Committee on Insurance and Real Estate reported through REP. MEGNA of the 97th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

AN ACT CONCERNING COINSURANCE CLAUSES IN CERTAIN COMMERCIAL INSURANCE POLICIES AND CONTRACTS.

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 Section 38a-308 of the general statutes is repealed and the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, 2015*):

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

12 (2) There shall be printed at the head of such policy the name of the
13 insurer or insurers issuing the policy, the location of the home office

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

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

40 (b) Any policy or contract that includes, either on an unspecified
41 basis as to coverage or for an indivisible premium, coverage against
42 the peril of fire and substantial coverage against other perils need not
43 comply with the provisions of subsection (a) of this section, provided:
44 (1) Such policy or contract shall afford coverage, with respect to the
45 peril of fire, not less than the substantial equivalent of the coverage
46 afforded by said standard fire insurance policy; (2) except as provided
47 under subdivision (1) of subsection (a) of this section for a policy or

48 contract of fire insurance for a commercial property made, issued,
49 renewed or delivered by a [surplus lines] nonadmitted insurer or any
50 agent or representative thereof, the following provisions in said
51 standard fire insurance policy are incorporated therein without
52 change: (A) Mortgagee interests and obligations, (B) the definitions of
53 actual cash value and depreciation, (C) the time period for when a loss
54 is payable after proof of loss, and (D) the time period for when a suit or
55 action for the recovery of a claim may be commenced; (3) such policy
56 or contract is complete as to all of its terms without reference to any
57 other document; and (4) the commissioner is satisfied that such policy
58 or contract complies with the provisions hereof. The provisions of this
59 subsection shall apply to any such policy or contract issued or renewed
60 on or after July 1, 2014.

61 (c) Any policy or contract under subsection (a) or (b) of this section
62 that is made, issued, renewed or delivered by a nonadmitted insurer or
63 any agent or representative thereof on or after October 1, 2015, is for
64 commercial real property and defines "depreciation" differently than as
65 set forth in section 38a-307, shall not include a coinsurance clause. If
66 any such policy or contract includes a coinsurance clause, such clause
67 shall be void and unenforceable.

68 [(c)] (d) None of the provisions of this section shall apply to policies
69 of automobile or aircraft physical damage insurance or to policies of
70 inland marine insurance.

71 [(d)] (e) The provisions of section 38a-346 shall apply in the event of
72 cancellation of a policy issued pursuant to this chapter.

73 [(e)] (f) Any policies made, issued, renewed or delivered through a
74 fire, liability and allied lines underwriting facility established by the
75 Insurance Commissioner pursuant to section 38a-328 shall not be
76 subject to the cancellation of policy provisions or notice of cancellation
77 requirements of section 38a-307, provided such policies comply with
78 any regulation adopted by the Insurance Commissioner pursuant to
79 subsection (a) of section 38a-328.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2015</i>	38a-308

INS *Joint Favorable Subst.*

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.

OFA Fiscal Note**State Impact:** None**Municipal Impact:** None**Explanation**

The bill alters the coinsurance requirements for commercial insurance policies. As this concerns private insurance transactions, there is no state or municipal fiscal impact.

The Out Years**State Impact:** None**Municipal Impact:** None

OLR Bill Analysis**sHB 6865*****AN ACT CONCERNING COINSURANCE CLAUSES IN CERTAIN COMMERCIAL INSURANCE POLICIES AND CONTRACTS.*****SUMMARY:**

This bill prohibits the use of coinsurance clauses in certain fire insurance policies and contracts issued by nonadmitted insurers (see BACKGROUND). A coinsurance clause requires an insured to insure his or her property up to its actual cash value or a percentage specified in the policy, or be partially liable for losses.

By law, nonadmitted insurers may issue commercial property fire insurance policies and contracts that contain a definition of “depreciation” other than what is used in the Connecticut standard fire insurance policy form. The standard form defines “depreciation” as a decrease in value of real property over a period of time due to wear and tear. Under the bill, if a coinsurance clause is included in such a policy or contract, the clause is void and unenforceable.

The bill also makes technical changes, including specifying that the standard fire insurance provisions apply to policies and contracts on renewal.

The bill applies to policies and contracts made, issued, renewed, or delivered by a nonadmitted insurer or its agent or representative on or after October 1, 2015.

EFFECTIVE DATE: October 1, 2015

BACKGROUND***Nonadmitted Insurers***

By law, a nonadmitted insurer (or unauthorized insurer) is an

insurer that (1) has not been granted a certificate of authority by the insurance commissioner to transact insurance business in Connecticut or (2) transacts business not authorized by a valid certificate (CGS § 38a-1(11)(E)).

COMMITTEE ACTION

Insurance and Real Estate Committee

Joint Favorable Substitute

Yea 12 Nay 6 (03/17/2015)