



General Assembly

February Session, 2016

**Raised Bill No. 5516**

LCO No. 2536



Referred to Committee on INSURANCE AND REAL ESTATE

Introduced by:  
(INS)

**AN ACT CONCERNING THE PROVISIONS OF THE STANDARD FIRE INSURANCE POLICY AND COMMERCIAL PROPERTY INSURANCE POLICIES ISSUED BY NONADMITTED INSURERS.**

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 Section 38a-307 of the general statutes is repealed and the  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, 2016*):

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 } } location of  
T7 of .... } to the .... day of .... 20.. { 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. The actual cash value at the time of loss for a building  
29 described herein shall be the amount which it would cost to repair or  
30 replace such building with material of like kind and quality, minus  
31 reasonable depreciation. As used herein, "depreciation" means a  
32 decrease in value of real property over a period of time due to wear  
33 and tear.

34 Assignment of this policy shall not be valid except with the written

35 consent of this Company.

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

40 In Witness Whereof, this Company has executed and attested these  
41 presents.

42 .... (Secretary).

43 .... (President).

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

50 Uninsurable and excepted property. This policy shall not cover  
51 accounts, bills, currency, deeds, evidences of debt, money or securities;  
52 nor, unless specifically named hereon in writing, bullion or  
53 manuscripts.

54 Perils not included. This Company shall not be liable for loss by fire  
55 or other perils insured against in this policy caused, directly or  
56 indirectly, by: (a) Enemy attack by armed forces, including action  
57 taken by military, naval or air forces in resisting an actual or an  
58 immediately impending enemy attack; (b) invasion; (c) insurrection;  
59 (d) rebellion; (e) revolution; (f) civil war; (g) usurped power; (h) order  
60 of any civil authority except acts of destruction at the time of and for  
61 the purpose of preventing the spread of fire, provided that such fire  
62 did not originate from any of the perils excluded by this policy; (i)  
63 neglect of the insured to use all reasonable means to save and preserve

64 the property at and after a loss, or when the property is endangered by  
65 fire in neighboring premises; (j) nor shall this Company be liable for  
66 loss by theft.

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

69 Conditions suspending or restricting insurance. Unless otherwise  
70 provided in writing added hereto this Company shall not be liable for  
71 loss occurring (a) while the hazard is increased by any means within  
72 the control or knowledge of the insured; or (b) while a described  
73 building, whether intended for occupancy by owner or tenant, is  
74 vacant or unoccupied beyond a period of sixty consecutive days; or (c)  
75 as a result of explosion or riot, unless fire ensue, and in that event for  
76 loss by fire only.

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

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

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

92 Cancellation of policy. This policy shall be cancelled at any time at  
93 the request of the insured, in which case this Company shall, upon

94 demand and surrender of this policy, refund the excess of paid  
95 premium above the customary short rates for the expired time. This  
96 policy may be cancelled at any time by this Company by giving to the  
97 insured and any third party designated pursuant to section 38a-323a, a  
98 thirty days' written notice of cancellation accompanied by the reason  
99 therefor with or without tender of the excess of paid premium above  
100 the pro rata premium for the expired time, which excess, if not  
101 tendered, shall be refunded on demand. Notice of cancellation shall  
102 state that said excess premium (if not tendered) will be refunded on  
103 demand. Where cancellation is for nonpayment of premium at least ten  
104 days' written notice of cancellation accompanied by the reason therefor  
105 shall be given.

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

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

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

125 Requirements in case loss occurs. The insured shall give immediate  
126 written notice to this Company of any loss, protect the property from  
127 further damage, forthwith separate the damaged and undamaged  
128 personal property, put it in the best possible order, furnish a complete  
129 inventory of the destroyed, damaged and undamaged property,  
130 showing in detail quantities, costs, actual cash value and amount of  
131 loss claims; AND WITHIN SIXTY DAYS AFTER THE LOSS, UNLESS  
132 SUCH TIME IS EXTENDED IN WRITING BY THIS COMPANY, THE  
133 INSURED SHALL RENDER TO THIS COMPANY A PROOF OF  
134 LOSS, signed and sworn to by the insured, stating the knowledge and  
135 belief of the insured as to the following: The time and origin of the loss,  
136 the interest of the insured and of all others in the property, the actual  
137 cash value of each item thereof and the amount of loss thereto, all  
138 encumbrances thereon, all other contracts of insurance, whether valid  
139 or not, covering any of said property, any changes in the title, use,  
140 occupation, location, possession or exposures of said property since  
141 the issuing of this policy, by whom and for what purpose any building  
142 herein described and the several parts thereof were occupied at the  
143 time of loss and whether or not it then stood on leased ground, and  
144 shall furnish a copy of all the descriptions and schedules in all policies  
145 and, if required, verified plans and specification of any building,  
146 fixtures or machinery destroyed or damaged. The insured, as often as  
147 may be reasonably required, shall exhibit to any person designated by  
148 this Company all that remains of any property herein described, and  
149 submit to examinations under oath by any person named by this  
150 Company, and subscribe the same; and, as often as may be reasonably  
151 required, shall produce for examination all books of account, bills,  
152 invoices and other vouchers, or certified copies thereof if originals be  
153 lost, at such reasonable time and place as may be designated by this  
154 Company or its representative, and shall permit extracts and copies  
155 thereof to be made.

156 Appraisal. In case the insured and this Company shall fail to agree  
157 as to the scope of loss, the actual cash value or the amount of loss, then,

158 on the written demand of either, each shall select a competent and  
159 disinterested appraiser and notify the other of the appraiser selected  
160 within twenty days of such demand. The appraisers shall first select a  
161 competent and disinterested umpire; and failing for fifteen days to  
162 agree upon such umpire, then, on request of the insured or this  
163 Company, such umpire shall be selected by a judge of a court of record  
164 in this state in which the property covered is located. The appraisers  
165 shall then appraise the loss, stating separately the scope of loss, actual  
166 cash value and loss to each item; and, failing to agree, shall submit  
167 their differences, only, to the umpire. An award in writing, so  
168 itemized, of any two when filed with this Company shall determine  
169 the scope of loss, the amount of actual cash value and the amount of  
170 loss. Each appraiser shall be paid by the party selecting him and the  
171 expenses of appraisal and umpire shall be paid by the parties equally.

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

178 Abandonment. There can be no abandonment to this Company of  
179 any property.

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

190 than thirty days after proof of loss.

191 Suit. No suit or action on this policy for the recovery of any claim  
192 shall be sustainable in any court of law or equity unless all the  
193 requirements of this policy shall have been complied with, and unless  
194 commenced within twenty-four months next after inception of the loss.

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

198 Sec. 2. Section 38a-308 of the general statutes is repealed and the  
199 following is substituted in lieu thereof (*Effective October 1, 2016*):

200 (a) (1) No policy or contract of fire insurance shall be made, issued,  
201 renewed or delivered by any admitted or nonadmitted insurer or any  
202 agent or representative thereof, on any property in this state, unless it  
203 conforms as to all provisions, stipulations, agreements and conditions  
204 with the form of policy set forth in section 38a-307, as amended by this  
205 act, except that a policy or contract of fire insurance for a commercial  
206 property made, issued, renewed or delivered by a nonadmitted insurer  
207 or any agent or representative thereof may define "depreciation"  
208 differently than as set forth in section 38a-307, as amended by this act.

209 (2) There shall be printed at the head of such policy the name of the  
210 insurer or insurers issuing the policy, the location of the home office  
211 thereof, a statement showing whether such insurer or insurers are  
212 stock or mutual corporations or are reciprocal insurers or Lloyd's  
213 underwriter, provided any company organized under special charter  
214 provisions may so indicate upon its policy and may add a statement of  
215 the plan under which it operates in this state, and there may be added  
216 thereon such device or devices as the insurer or insurers issuing such  
217 policy desire. Such policy shall be clearly designated on the back of the  
218 form as "The Standard Fire Insurance Policy of the State of  
219 Connecticut"; and this designation may include the names of such  
220 other states as have adopted this standard form.

221 (3) The standard fire insurance policy provided for in section 38a-  
222 307, as amended by this act, need not be used for effecting reinsurance  
223 between insurers. If the policy is issued by a mutual, cooperative or  
224 reciprocal insurer having special regulations with respect to the  
225 payment by the policyholder of assessments, such regulations shall be  
226 printed upon the policy and any such insurer may print upon the  
227 policy such regulations as are appropriate to or required by its form of  
228 organization. Insurers issuing the standard fire insurance policy  
229 pursuant to section 38a-307, as amended by this act, are authorized to  
230 affix thereto or include therein a written statement that the policy does  
231 not cover loss or damage caused by nuclear reaction or nuclear  
232 radiation or radioactive contamination, all whether directly or  
233 indirectly resulting from an insured peril under such policy; provided  
234 nothing herein contained shall be construed to prohibit the attachment  
235 to any such policy of an endorsement or endorsements specifically  
236 assuming coverage for loss or damage caused by nuclear reaction or  
237 nuclear radiation or radioactive contamination.

238 (b) Any policy or contract that includes, either on an unspecified  
239 basis as to coverage or for an indivisible premium, coverage against  
240 the peril of fire and substantial coverage against other perils need not  
241 comply with the provisions of subsection (a) of this section, provided:  
242 (1) Such policy or contract shall afford coverage, with respect to the  
243 peril of fire, not less than the substantial equivalent of the coverage  
244 afforded by said standard fire insurance policy; (2) except as provided  
245 under subdivision (1) of subsection (a) of this section for a policy or  
246 contract of fire insurance for a commercial property made, issued,  
247 renewed or delivered by a [surplus lines] nonadmitted insurer or any  
248 agent or representative thereof, the following provisions in said  
249 standard fire insurance policy are incorporated therein without  
250 change: (A) Mortgagee interests and obligations, (B) the definitions of  
251 actual cash value and depreciation, (C) the time period for when a loss  
252 is payable after proof of loss, and (D) the time period for when a suit or  
253 action for the recovery of a claim may be commenced; (3) such policy

254 or contract is complete as to all of its terms without reference to any  
255 other document; and (4) the commissioner is satisfied that such policy  
256 or contract complies with the provisions hereof. The provisions of this  
257 subsection shall apply to any such policy or contract issued or renewed  
258 on or after July 1, 2014.

259 (c) Each policy or contract described in subsection (a) or (b) of this  
260 section that includes a coinsurance clause shall use fair market value  
261 for purposes of such coinsurance clause if the policy or contract (1) is  
262 made, issued, renewed or delivered by a nonadmitted insurer or any  
263 agent or representative thereof on or after October 1, 2016, (2) is for  
264 commercial real property, and (3) defines depreciation differently than  
265 as set forth in section 38a-307, as amended by this act.

266 ~~[(c)]~~ (d) None of the provisions of this section shall apply to policies  
267 of automobile or aircraft physical damage insurance or to policies of  
268 inland marine insurance.

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

271 ~~[(e)]~~ (f) Any policies made, issued or delivered through a fire,  
272 liability and allied lines underwriting facility established by the  
273 Insurance Commissioner pursuant to section 38a-328 shall not be  
274 subject to the cancellation of policy provisions or notice of cancellation  
275 requirements of section 38a-307, as amended by this act, provided such  
276 policies comply with any regulation adopted by the Insurance  
277 Commissioner pursuant to subsection (a) of section 38a-328.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2016</i>	38a-307
Sec. 2	<i>October 1, 2016</i>	38a-308

***Statement of Purpose:***

To add the failure to agree on scope of loss to the situations for which appraisers may be selected under the standard fire policy and to require a nonadmitted insurer that issues a policy for commercial real property that defines depreciation differently than as set forth in section 38a-307 of the general statutes and includes a coinsurance clause to use fair market value for purposes of such coinsurance clause.

*[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.]*