

**Statement
Insurance Association of Connecticut
Insurance & Real Estate Committee**

March 8, 2016

**HB 5516 An Act Concerning the Provisions of the Standard Fire insurance
Policy and Commercial property Insurance Policies Issued by Nonadmitted
Insurers**

My name is Dallas Dodge and I serve as Counsel to the Insurance Association of Connecticut. Thank you for the opportunity to provide comments on HB 5516, An Act Concerning the Provisions of the Standard Fire Insurance Policy and Commercial Property Insurance Policies Issued by Nonadmitted Insurers.

Section 1

Under current law, if an insurer and policyholder cannot come to an agreement as to the cash value of an insured loss, the standard fire policy provides for an independent appraisal process in which an impartial umpire ultimately determines the cash value of the loss. Section 1 of HB 5516 would also require an appraisal to be performed when the parties disagree as to the "scope of loss," and would require appraisers and umpires to make a determination as to the "scope of loss."

The term "scope of loss," however, is not defined in HB 5516. The term is ambiguous, and there is no generally accepted industry definition. As such, it is difficult to comment on the precise effect of section 1 without a specific definition of "scope of loss."

That being said, we would strongly object if "scope of loss" were defined or interpreted in such a way as to require appraisers and umpires to make coverage decisions. The extent of coverage under an insurance policy is a matter of law involving

the interpretation of a contract, and the appraisal process is not the appropriate forum for making such determinations. Appraisers and umpires are not required to have legal training, and they are simply not equipped to engage in complex legal analysis.

Section 2

Section 2 of HB 5516 would require nonadmitted insurers to use fair market value for the purposes of any coinsurance clause in an insurance policy covering commercial property. Often called the "safety valve" of the insurance industry, coinsurance offered by surplus lines or nonadmitted insurers fills a need for coverage in the marketplace by insuring risks that are declined by the standard underwriting and pricing processes of admitted insurance carriers. Because this coverage is necessary for unique and hard to price risks, maximum flexibility is required in writing these policies. The requirement in section 2 may make it more difficult to find appropriate coinsurance, thereby defeating the purpose of surplus lines. For this reason we object to such a requirement.

Thank you for the opportunity to testify on HB 5516.