PA12-162

HB5230

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CONNECTICUT
GENERAL ASSEMBLY
HOUSE

PROCEEDINGS
2012

VOL.55
PART 6
1746 – 2095

The House of Representatives is voting by roll call; all members to the Chamber, please. The House of Representatives is voting by roll call.

DEPUTY SPEAKER GODFREY:

Have all the members voted? Have all the members voted? If so, the -- all the members have voted. The machine will be locked.

The Clerk will take a tally. And the Clerk will announce the tally.

THE CLERK:

House Bill 5483, as amended by House "A."

Total number voting	146
Necessary for passage	74
Voting Yea	146
Nay	0
Not voting	5

DEPUTY SPEAKER GODFREY:

The bill as amended is passed.

Will Clerk please call Calendar 144.

THE CLERK:

On page 7, Calendar 144, Substitute for House Bill Number 5230, AN ACT CONCERNING VARIOUS CHANGES TO PROPERTY AND CASUALTY INSURANCE STATUTES, favorable report on the Committee of Insurance and

Real Estate.

DEPUTY SPEAKER GODFREY:

The distinguished Chairman of the Insurance and Real Estate Committee, Representative Megna.

REP. MEGNA (97th):

Thank you, Mr. Speaker, for that nice introduction.

Mr. Speaker, I move for the committee's acceptance of the committee's joint, favorable report and passage of the bill.

DEPUTY SPEAKER GODFREY:

The question is on acceptance and passage.

Will you explain the bill, please, sir?

REP. MEGNA (97th):

Thank you, Mr. Speaker.

What seems so long ago now is 2011 was an unprecedented year with storms, snow collapses, hurricanes, the October storm. Through that whole process, there were many issues involving consumers, homeowners, condominium unit owners, business owners, with regard to making claim and -- and getting -- and getting paid by their homeowner or their commercial property insurance company. So this bill seeks to create, seeks to fix many of

those defects and create several consumer protections.

First and foremost, last year we -- we saw, Mr. Speaker, some insurance companies had sold policies with hurricane deductibles on it, and the fine print of some of that language would allow them to apply these large hurricane deductibles in the event it wasn't a named hurricane, when it was downgraded to a tropical storm. So this bill fixes that piece and just says it's got to be, if you're going to invoke a hurricane deductible, it's got to be from a named hurricane. And the bill describes, in synch with literally 18 other states, how that would apply.

The bill also adds the word "mitigation" into what -- what really is 38a-13a, in clarifying that when we talk about remediation, we also mean mitigation. We saw -- last year we saw board-up companies. We saw individuals and companies shovelling snow off roofs and having blank contracts signed by homeowners and business owners, and then some homeowners and business owners being stuck with exorbitant prices.

So this essentially clarifies that section of

the law and says mitigation is actually -- when we meant remediation when we wrote that original law, we meant mitigation also.

Further, the bill, Mr. Speaker, takes essential consumer protections in 38a-307, which is a standard fire policy, and says that those protections shall also apply to all the perils in a policy, whether it's a hurricane, windstorm, in addition to just the peril of fire. And those protections are really the definition of actual cash value, payment within 30 days of a proof of loss, and the ability to bring an action within 18 months after the claim has been filed.

Mr. Speaker, the Clerk is in possession of LCO 3207. I ask that it be called and I be permitted to summarize.

DEPUTY SPEAKER GODFREY:

The Clerk is in possession of LCO 3207, which will be designated House Amendment Schedule "A." Will the Clerk please call the amendment.

THE CLERK:

LCO Number 3207, House "A," offered by Representative Menga and Senator Crisco.

DEPUTY SPEAKER GODFREY:

The gentleman has asked leave of the Chamber to summarize. Is there objection? Hearing none, please proceed, Representative Megna.

REP. MEGNA (97th):

Thank you, Mr. Speaker.

This amendment actually clarifies within that hurricane deductible piece. It's meant for homeowners' and condominium unit owner master policies. And it also, and the amendment also prevents public insurance adjusters from charging fees on any amount of money not received by a homeowner or business owner, such as a fee on a policy deductible or a fee on money that they never received, the policyholder doesn't receive, may be entitled to, and may or may not collect it.

Last year, the Department of Insurance disclosed that there were multiple complaints from consumers about overcharging or fees by public insurance adjusters, and this part of the amendment will -- will fix that and protect consumers throughout the state.

With that, I move adoption of the amendment, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

The question is on adoption of House Amendment Schedule "A." Will you remark further, sir?

REP. MEGNA (97th):

No.

DEPUTY SPEAKER GODFREY:

The distinguished Ranking Member of the Insurance and Real Estate Committee, Representative Sampson.

REP. SAMPSON (80TH):

Thank you, Mr. Speaker.

Just a question to the proponent of --

DEPUTY SPEAKER GODFREY:

Sure.

REP. SAMPSON (80th):

-- the amendment, if I could.

DEPUTY SPEAKER GODFREY:

Proceed.

REP. SAMPSON (80th):

Through you, Mr. Speaker.

And just a -- a clarification with regard to the new section, with regard to public adjuster proceeds. I -- I just want to clarify that this -- this section does, indeed, require that it is the policyholder that is the one responsible to make the

payment and not the insurance carrier directly.

Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Megna, would you care to respond?

REP. MEGNA (97th):

The -- the contract signed is between the -- the public insurance adjuster and the property owner, and it's a direction or authorization for the insurer to direct the commission or whatever the fee is to the public insurance adjuster. Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Sampson.

REP. SAMPSON (80th):

Thank you, Mr. Speaker.

I -- I guess the reason why I'm asking is that I -- I think the -- the -- the change to the underlying bill is fine, and I -- and I have no issue with the amendment, whatsoever. It just -- it does not clearly state who is responsible for making this payment in the language that's written here. It just says that the -- and -- and I agree with the intent, that the -- that the public adjuster should

only be responsible for the amount of commission based on -- or a fee, rather -- based on the amount collected. But it doesn't describe in here who is responsible to make payment to whom.

And I just want -- I would just want to make sure that we're on the record as far as our intent goes, that it is the duty of the policyholder and not the duty of the insurance company to make the payment.

Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Does -- is that as question, Representative Sampson? I'm sorry. Is there a question in there?

REP. SAMPSON (80th):

I guess --

DEPUTY SPEAKER GODFREY:

I -- I --

REP. SAMPSON (80th):

-- that's a statement.

DEPUTY SPEAKER GODFREY:

-- didn't hear the question mark.

REP. SAMPSON (80th):

Well --

DEPUTY SPEAKER GODFREY:

My -- my bad.

REP. SAMPSON (80th):

Mr. Speaker, I will -- let me reframe the question and state that what I would like to do is ask the proponent if the legislative intent is there to indicate that it is the responsibility of the policyholder to make this payment rather than the insurance company.

DEPUTY SPEAKER GODFREY:

Representative Megna.

REP. MEGNA (97th):

I -- I can't answer that question to the Ranking Member, but the intent is for no public adjuster to take a fee that is greater than whatever their agreement is by contract. So that contract that the public adjuster signs with a policyholder is separate than this. It's not the -- it's something -- actually, the contract is in regulation; there's a contract in regulation within the Department of the Insurance, so whatever that contract put out by the Department of Insurance would hold.

Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Sampson.

REP. SAMPSON (80th):

Thank you, Mr. Speaker.

And thank -- and thank you, for that answer.

I, again, I mean, and maybe I'm driving for a little too much information based on what is written and contained in this language here. And -- and I'm -- I'm more than satisfied with the -- the amendment as is.

And I would urge my colleagues to vote favorably for it.

Thank you.

DEPUTY SPEAKER GODFREY:

Thank you, sir.

Remark further on House Amendment Schedule "A?" Will you remark further on House Amendment Schedule "A?"

If not, let me try your minds. All those in favor, signify by saying aye.

REPRESENTATIVES:

Aye.

DEPUTY SPEAKER GODFREY:

Opposed, nay.

The ayes have it. The amendment is adopted.

Remark further on the bill as amended?

Representative -- Representative Widlitz.

REP. WIDLITZ (98th):

Thank you, Mr. Speaker.

Through you to the Chairman of the Insurance Committee, I'm having a little trouble understanding the -- the impact of this bill.

Am I correct in interpreting this as if you have coverage for your homeowners' insurance and a hurricane comes along with established winds of 75 miles per hour, the insurance company can add an additional deductible; am I interpreting that correctly?

DEPUTY SPEAKER GODFREY:

Representative Megna.

REP. MEGNA (97th):

In terms of -- the Department of Insurance approves homeowner and commercial policies, and they permit insurance companies to have really two deductibles. One is your -- your normal deductible, whatever you opt. I can't imagine you see a hundred dollars anymore, but it's probably 250, 500, a thousand, or it may be 10,000, whatever that is.

But the department permits the sale of policies

that have a separate hurricane deductible, and that deductible would come into play when -- with the passage of this law, only when a named hurricane comes into the state.

So currently the -- the insurance industry sells policies with essentially two deductibles. I don't know, there may be carriers out there that don't offer hurricane deductibles, but essentially it looks like it's part of that normal business. So you do have two, separate deductibles.

But the one, what this will do is say from now on only when there's a named hurricane can you invoke this hurricane deductible, which is usually a percent of the limit of liability on their building and it could be extremely substantial.

What we saw last year is some of these policies that were sold had fine print in there that allowed these companies to apply that huge deductible for tropical storms. I mean, we read many articles about companies waiving. They weren't waiving it, it's just that their language said when a hurricane comes, this deductible will apply.

But some of the language was not clear or was written so that they can invoke that when it was not

a named hurricane, a tropical storm or something less. So this will prevent them, when you do buy a -- a policy with a hurricane deductible. Not only a named hurricane would invoke that huge deductible.

Through you, Mr. Speaker, I hope I answered the -- the question.

DEPUTY SPEAKER GODFREY:

Representative Widlitz.

REP. WIDLITZ (98th):

Thank you, Mr. Speaker.

So am I correct in assuming that this would have to be clearly outlined in any policy that a homeowner would purchase, that it's not just an --

REP. MEGNA (97th):

Yeah.

REP. WIDLITZ (98th):

-- elective action that an insurance company could take to add on a deductible, unless that's actually specified in the contract; is that correct?

Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Megna.

REP. MEGNA (97th):

Yeah, actually, I'm -- I'm -- thank you,

Mr. Speaker; through you.

I'm -- I'm glad you mentioned that. But the -- the Department of Insurance has a bulletin that specifically states how you could use these, that I think -- I believe that it has to be in plain sight. They have to set forth the amount they -- on the front of the policy and inform them that, hey, you know, that one percent equals X number of dollars. So there is a lot of notice that the department requires of these carriers when they offer hurricane deductibles to people, and that's all part of the -- the regulatory process.

Through you --

DEPUTY SPEAKER GODFREY:

Representative --

REP. MEGNA (97th):

-- Mr. Speaker.

DEPUTY SPEAKER GODFREY:

-- Widlitz.

REP. WIDLITZ (98th):

Thank you, very much, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Thank you, madam.

Will you remark further on the bill as amended?

Will you remark further on the bill as amended?

Representative Sampson.

REP. SAMPSON (80th):

Thank you, Mr. Speaker.

I -- I just want to speak favorably on -- on the bill, briefly, and clarify the section regarding the windstorm deductible, for the benefit of my colleagues also.

When we had the tropical storm or Hurricane Irene, depending on the day, which is precisely the problem that this bill addresses, previously when that incident occurred, Irene was a hurricane before it reached Connecticut and was downgraded to a tropical storm. And the way our law was written, folks that had windstorm damage could have been subject to the windstorm deductible as the law was written so that any storm, if it was ever named a hurricane, essentially, would have been part of this deductible.

Most of the carriers waived that deductible, which was very, very good to the consumers in our state. But this bill seeks to clarify the language so that going forward, only named hurricanes that reach the threshold of 75 miles an hour winds within

our state will be affected, and the hurricane windstorm deductible would then be applied.

So I think the other changes to the bill are -- are more or less technical, and we've already addressed the amendment, so I would urge my colleagues to support this bill and vote in the affirmative.

Thank you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Thank you, sir.

Will you remark further on the bill as amended? Will you remark further on the bill as amended?

If not, staff and guests please come to the well of the House. Members take your seats. The machine will be open.

THE CLERK:

The House of Representatives is voting by roll call; all members to the Chamber, please. The House of Representatives is voting by roll call.

DEPUTY SPEAKER GODFREY:

Have all the members voted? Have all the members voted? If so, the machine will be locked.

The Clerk will take a tally. And the Clerk will announce the tally.

THE CLERK:

House Bill 5230, as amended by House "A."

The total number voting	145
Necessary for passage	73
Yea	145
Nay	0
Not voting	6

DEPUTY SPEAKER GODFREY:

The bill as amended is passed.

Mr. Clerk, kindly call Calendar 255.

THE CLERK:

On page 16, Calendar 255, Substitute for House Bill Number 5446, AN ACT CONCERNING THE PAYMENT PROCEDURE FOR THE STERILIZATION AND VACCINATION OF CERTAIN DOGS AND CATS AND PROVIDING FOR ANIMAL CONTROL OFFICER TRAINING, favorable report of the Committee on Environment.

DEPUTY SPEAKER GODFREY:

The distinguished Dean of the House of Representatives, Representative Mushinsky.

REP. MUSHINSKY (85th):

Thank you, Mr. Speaker.

I move acceptance of the Joint Committee's favorable report and passage of the bill.

JOINT
STANDING
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collision repair. And we again have been told that we're not on a particular list. When we are they have a hard time finding us on the list.

They also will say that you can use any shop that you want, but they don't say you can use any shop that you want as long as they agree with our pricing schedule. But the last time I looked at an insurance company policy for auto insurance, it says you have glass coverage or you don't. it says you have a deductible or you don't. it doesn't say that you need to call the TPA. They're only going to pay the shop 70 percent up and make $10 for a kit and $40 flat labor.

So there's a line there that I think is being miss stepped, and I think that there is a huge ball of wax that needs to have more time than this bill addresses. Thank you very much for your time.

REP. MEGNA: Thank you very much. Are there any questions? Thank you very much for your testimony. We're going to move onto House Bill 5230. Susan Giacalone? You just scared everybody out of the room.

SUSAN GIACALONE: I'll wait. Was it something I said?

REP. MEGNA: I don't know if you're going to skim through the different sections?

SUSAN GIACALONE: I'm going to try.

REP. MEGNA: Probably skim it, it would be three minutes I think.

SUSAN GIACALONE: Oh, that's what it was? Good HB5230

afternoon. For the record, my name is Susan Giacalone. I'm here on behalf of the Insurance Association of Connecticut in regards to House Bill 5230.

This is a very large bill, actually. I would argue (inaudible). I have submitted very lengthy testimony so I'm going to try to summarize and hit each piece in my (inaudible) in my three minutes.

We oppose this bill in its entirety. It's very confusing. It actually will change the very nature of how we do business in Connecticut and require us to amend every form we file in the system. It's a very costly endeavor with no apparent reasonable consumer benefit.

I don't believe there's anyone here to testify in support of this bill. I do know the industry is forced to testify in opposition to it.

First Section 1 deals with the hurricane deductibles. It's trying to -- attempting to put in the hurricane guidelines. They have been recently amended by the department into statutes. Because it's been put in by the department they've amended them. we believe that's where they should remain. Keeping it with the department allows the department the flexibility but they need it over the summer.

If they need to go forward this does not flow with what the department did. There's a lot of inconsistency that would create a vast number of problems.

Section 2 of the bill wants to add mitigation into the prior notice that has to be given to

an insured by a vendor prior to work starting. Mitigation under unlike repair work, mediation work, mitigation has begun instantly. There's immediate (inaudible). There's a time considered to it.

A delay in requiring the written notice actually can delay it and can jeopardize coverage.

Section 4 of the bill seeks to eliminate the distance versus priority provision from the appraisal process. It's a vital step in the appraisal process to -- by removing it you're saying the two parties have already shown they can agree to stay in their appraisal process, you're not going to bring about revolution of the claim.

The whole purpose of the appraisal process is to resolve claims. That's the need for the (inaudible) party to come in and get this claim process moving. Can I keep going?

REP. MEGNA: Good ahead.

SUSAN GIACALONE: Okay. I'll try to be quick. Five B actually changes -- it puts in the provision -- again a lot of these provisions aren't done anywhere else in the country and for the reason this would change -- and say as long as an insurer that has filed a claim within 180 days we can't put any time parameters on when they have to complete their obligations under the contract and if they make a demand for payment we have to make it, either whole or partial.

First of all, 180 days is excessive. I mean, why is an insurer given 180 days to file a loss or claim. I mean, it's needed. There's

all types of risks that are inherent in delaying even the notice of the claim, especially a fire loss or stolen property.

And then the other piece of it, in talking about the full payment, you're negating the whole purpose of the replacement cost policy. You don't get the whole replacement value until the work is actually completed or shown that it's in stages. This is saying that you can't do that anymore; you can't put parameters on it.

You have either full payment being made and dealing with the replacement policy or at least endless unlimited claims that will never act.

The other sections that are in this I'm really not sure what they're doing. It's kind of confusing. They're trying to insert words that maybe aren't really relatable. They conflict with existing statutory law and language. It conflicts with practices, we're not sure how they apply to writers, extended policy coverages.

We don't see the need for them or the necessity for them, especially cause it's going to require that we make every single policy every issued in the state, for what reason we're not sure.

Those reasons, as I conclude, and again I submitted a long testimony.

REP. MEGNA: You never like any of my bills.

SUSAN GIACALONE: That's not true.

REP. MEGNA: You have to find one that you like.

Just briefly go down a few -- Section 2, which inserts the word mitigation.

SUSAN GIACALONE: Right.

REP. MEGNA: The policy holder has a contractual obligation with the insurer. It's their obligation to mitigate.

SUSAN GIACALONE: Correct.

REP. MEGNA: And by leaving it so there's an open-ended contract is really to a total disadvantage to that policyholder. The insurer has nothing really to worry about because you have your contract that says you've got to mitigate and protect the loss from further damage.

So that obligation is still there. This doesn't negatively impact the insurer. You don't have to respond to that, I just want to point out why this bill isn't -- excuse me?

SUSAN GIACALONE: I would like to if I can, actually.

REP. MEGNA: Yeah, sure.

SUSAN GIACALONE: I agree with you. I mean, it doesn't -- it could negatively impact the consumer. That's why we don't disagree the consumer should be given some idea of the scope and the nature, but to make it predicated upon prior to any work being done, we're more concerned about the impact on the consumer that this is going to have because it could jeopardize actually their coverage because if it delays they're mitigating the work and it jeopardizes future exposure to future loss, and their contractual

obligations.

That's where our concern lies. We don't disagree that they should be getting something, we just don't want it to predicate -- you know, anything that's going to delay that work from getting done.

REP. MEGNA: I'm sorry. You said it jeopardizes what?

SUSAN GIACALONE: It could -- because it's a delay, they're saying you have to have this in writing prior to any work commencing, it could delay the mitigation work from actually starting.

REP. MEGNA: Yes.

SUSAN GIACALONE: Which then could jeopardize -- cause they're required, as you stated, by law and by contract to mitigate their loss.

REP. MEGNA: Whenever a mitigation is building, it is presented with a contract. It's already written out, and that law simply asks them to add five words to that contract. It's going to cost maybe no more than 10,000 dollars or 20,000, and we're going to board up your house.

It doesn't delay the process at all. I mean, the time the mitigation company takes to break out a three-page, prewritten contract that obligates the property owner to present a first born, so to speak, it's just really adding a couple of words.

The estimated total price and a description of work to be completed. So and to get back to my other point, that the insurer is protected

because the obligation is on behalf of that building owner. But I just wanted to go onto one other section in terms of the standard fire policy.

On behalf of your association, do all the -- the standard file policy addresses a few perils. And it's attached to the homeowner -- with all the regulated property policies. And in that standard fire policy let's go to that Section 38A 307, you have clauses that talk about actual cash value, payment within 30 days of a proof of loss, appraisal, just to name a few, eighteen months to file a suit in court.

Are you saying that all those perils under the homeowner or the commercial policy to which that standard fire policy is attached, all those items, actual cash value, payment after proof of loss, 18 months to bring suit, appraisal, all those would apply to every peril in the homeowner or commercial property policy that's regulated and it's required to contain the standard fire policy?

SUSAN GIACALONE: I don't have that answer. That -- we've read that we didn't see that presenting itself here. I can get you an answer to that.

REP. MEGNA: So on behalf of the insurers you don't know that?

SUSAN GIACALONE: Well, no, I don't. I personally -- I can get that information for you. What I can tell you is that if it is a fire policy pursuant to existing statutory law, the standard fire policy providers, the fire policy. That's existing, that's 38A 308 I believe.

I do know that we -- the bill uses the terms commercial insurance and commercial property insurance. Well, commercial general liability policies doesn't provide coverage to the structure.

REP. MEGNA: No, we're talking -- just assume it's about (inaudible) policy, say a home owner.

SUSAN GIACALONE: Well, again homeowners use a renter's policy, an HO4 policy. It's a homeowner's policy. It doesn't provide any coverage for the rental property. It provides coverage for the contents, the renters' belongings, their liability.

So to try to say that those provisions have to apply to every homeowner policy or every commercial policy --

REP. MEGNA: Every (inaudible) under regulated property policy that is required to have the standard file policy attached to it. you're saying you're not sure?

SUSAN GIACALONE: Well, I'm saying they're not interchangeable. I can find out from my membership.

REP. MEGNA: This is the reason that's in front of us. Currently there's an attorney representing insurers out there presenting that argument in the court saying that actual cash value doesn't apply to a hurricane loss. It only applies to a fire.

The 18 months to bring an action doesn't apply to one of the storm losses last year, it only applies to a fire. And that's what this bill is seeking to clarify.

SUSAN GIACALONE: So more clarity so I can bring it back to my membership and get an answer for you, again we did not get that nor read of it at all. What you're seeking to do then is you're trying to take the provisions that apply in the standard file policy and apply them to all homeowners and commercial policies?

REP. MEGNA: Property policies, of which the standard file policy is supposed to be attached to, which is what we think is merely a clarification of what the existing practice is.

SUSAN GIACALONE: I can bring that back. I can certainly tell you that's not how any of our members read it.

REP. MEGNA: That's fine. I'm done. Thank you for that answer.

SUSAN GIACALONE: Okay.

REP. MEGNA: Just moving onto Section 4, the word disinterested. When one of your insurance companies, you get into a disagreement with a policy holder they may opt for this appraisal clause, in which they would pick a disinterested appraiser. What exactly does disinterested mean?

SUSAN GIACALONE: We would have to hire someone outside our company, a independent appraiser to represent or an attorney or someone other than --

REP. MEGNA: If you hired that person and they came from you and your adjuster would probably have a value in mind and that's what is being

contested. So say your adjuster had a value of $50,000. You're going to hire a disinterred appraiser?

SUSAN GIACALONE: Um-hmm.

REP. MEGNA: Would you hire an appraiser that said to the insurance adjuster I think that value should be 100,000?

SUSAN GIACALONE: My understanding is I don't think we're -- first of all, I'm going to just say I'm not the one doing the hiring but my understanding is we hire the disinterested party. We're not asking them up front what are you going to value this at, we're going to hire you. It's we have to hire them and my comments I have received from my members that sometimes, yeah, their values come in higher than our adjusters have put on it. So it does not?

REP. MEGNA: No. You probably wouldn't hire that individual again, I wouldn't. I would argue. You try to hire somebody that sees it the way you see it from my experience in the appraisal business.

SUSAN GIACALONE: Likewise on your side of the coin, they're going to do the same thing. That's why they have to be (inaudible).

REP. MEGNA: In that same incidence, say the policy holder is a business, a small business. And he wants to contest the amount of income loss the insurer is offering him, and he believes he's entitled to a greater amount under the contract. So he opts for the appraisal clause.

You're going to most likely hire an accountant

or somebody to argue that, or you may have an adjuster argue it, and independent adjuster at your company. But what would be the harm -- I mean, the policy holder is going to hire somebody that sees the loss of income in his eyes or her eyes, and his accountant may be the most qualified individual to argue that.

So would you say that this accountant wouldn't qualify a disinterested person and he would have to go out and hire another individual to do the appraisal?

SUSAN GIACALONE: Should lawyers be -- I can't get into splitting hairs. I don't do this. I don't get into who qualifies, who doesn't qualify. What I can say is that you're talking about moving the disinterested provision and now you don't have to have that disinterested provision, which the whole purpose there is to bring in people who have absolutely no vested interest in the outcome of that claim.

They're just going to put a value on it, they're going to -- the whole point of this is to bring about resolution of the claim. If you remove that, you're saying we're either going to keep the paying party in the process, who've already shown they can't agree, or someone who is related to them who as you're indicating is going to have an interest in this, it's not going to bring about resolution of the claim. It's rendering the practice moot.

REP. MEGNA: It's always the umpire that brings about the resolution, because those two appraisers have to pick an umpire. And whoever that umpire is is going to decide what that number is. But why -- my thought is why

burden the policy holder with an extra layer of expense? It's discouraging and probably the carrier -- would help eliminate a layer of expense to the career on the claims side.

SUSAN GIACALONE: You're still talking about these two parties who can't agree on anything. Let's show them right now, they can't agree because that's why they're at this. They have to pick the umpire.

REP. MEGNA: Yes.

SUSAN GIACALONE: So if they can't agree of the value of the claim how are they going to pick the umpire? Now you're bringing in these two disinterested parties who have no vested interest in the outcome of the claim, at least they can come up with that disinterested party.

It's a vital step in bringing about resolution of claims. You remove it you're just forcing more cases to go into litigation.

REP. MEGNA: Into what, into litigation?

SUSAN GIACALONE: Into litigation.

REP. MEGNA: But they have to go through the appraisal process before litigation according to most of the policies I read.

SUSAN GIACALONE: Yeah, and they're just going to make that process moot. It's going to be okay, we did it, now we're going to go to litigation. So by removing it, you are rendering it almost useless. So by keeping that disinterested provision in there, it still gives it some opportunity to actually do it -- what they're doing to resolve the

claims.

REP. MEGNA: Actually just to back up, I think most policies say that you need -- if you can't agree on an umpire you ask a judge in a court to make that decision for you. So you believe that many of these -- in the absence of an independent disinterested, which doesn't exist for all intents and purposes there is no such thing as a disinterested appraiser -- you're saying that it's going to go into the courtroom to decide on an ump if those two people have disagreed?

SUSAN GIACALONE: No, what I said is what it will go through the appraisal process and then end up in litigation to actually resolve the claim, that the appraisal process would just be a pointless step.

REP. MEGNA: Because as a general rule, I mean, most of what goes into an appraisal is building damage, unless it's very subjective. But as a general rule, the appraiser can just hand it over on their differences, what they already can't agree on. But anyway, thank you very much. I don't want to belabor that point. Are there any questions?

SUSAN GIACALONE: Thank you.

REP. MEGNA: Thank you very much. Kristina Baldwin.

KRISTINA BALDWIN: Good afternoon, Representative Megna, Senator Crisco. I'm Kristina Baldwin on behalf of the Property Casualty Insurers Association. Section 1 codifying the insurance department's hurricane deductible guidelines with some modifications.

We oppose codifying this because, you know, all disasters are different, and we're talking about hurricanes. It's important that there's select ability so that if something unsuspected happens down the road in the next hurricane, I mean, I don't think anything -- anyone foresaw what happened after Irene.

So if something happens in the future, if this is done by guidelines the department would be able to quickly make the necessary revisions, whereas if you codify them the legislature is going to have to come back into session and amend the statutes.

Also as they've mentioned, there are some differences between the guidelines and the statute. The guidelines are -- we're supposed to comply with the guidelines by March 1, Thursday. So, you know, we've been since the guidelines were issued in December working on complying with them, and now this bill would put into place a different process.

So we have concerns with those differences, so we'd rather it wasn't codified but if it's going to be codified we'd like it to at least be the same.

Regarding Section 2, adding mitigation, I understand what you're saying and we're insurance companies. We like contracts, but I think we need to again think about disasters, think about, you know, the case where there's no power, the roads are blocked.

You've got these people coming in to board up your house. They may not be able to get you this contract and if we add mitigation to this it's actually going to void the contract, which we're concerned about the coverage

implications for our policyholders.

We also have concerns regarding the appraisal process taking out the disinterested provision, and we have concerns regarding the provisions that wouldn't allow us to keep a hold back for replacement cost coverage.

REP. MEGNA: Thank you.

KRISTINA BALDWIN: Thank you.

REP. MEGNA: I have some questions, so I'll probably address the issues, but in terms of the replacement costs, from what I understand, from what I see, most insurers simply say notify us in 180 days that you're going to exercise that replacement cost provision, and that's it. jus notify us.

Some insurers say notify us in 180 days after they make a payment to you and make sure you repair it within one year from there, but most of what I see, the independents that usually I (inaudible) I see just notify us in 180 days.

I've heard -- I haven't seen it but I've heard from the people that there may be a direct writer out there that literally says you have to have that building, that home repaired in 180 days otherwise we're not going to give you that replacement cost, and it became an issue last year with all the storms we had back to back that six months may not be enough time to even start the reconstruction.

Literality you can look around the state right now and find homes that are still devastated parts as a result of those storms. So what this is seeking to do is just say very few insurance companies do what the other guys do,

just say notify us in 180 days. Actually it doesn't even say that, just says you can't deny it.

KRISTINA BALDWIN: This language would prohibit us from holding back any payment, and we can't be free to completely open end this, because what the replacement cost is could grow if the repair isn't made within a reasonable timeframe.

REP. MEGNA: But you still have your contractual rights, so it can grow without you being notified and agreeing on it. I mean, once you settle it it's settled. It literally can grow. I mean, you have the ability if it does grow they need to notify you and you get an opportunity to inspect it.

Otherwise you really don't have to pay for it. so it can't really -- it can't harm you under the contract, but do you understand what I'm saying?

KRISTINA BALDWIN: Yes, but I think this bill would say that we would be required to make the entire payment. We couldn't say you have to repair the house within a certain -- or the property within a certain timeframe, and that's a concern because we need to see prompt repairs.

REP. MEGNA: But what is prompt? What kind of timeframe is a prompt repair?

KRISTINA BALDWIN: Well, I would have to discuss that with our members but we're concerned with a set limit.

REP. MEGNA: I know. I think I've heard like Massachusetts is one year, or two years I

think, two years. But this is our concern about that, that if there's policies out there, replacement costs, that there's limits -- it's sort of deceptive because it limits the collection for the six months or the repair.

And sometimes that's actually impossible and you can't even come to an agreement with the insurer for three months. And if it's a major fire or something, just fixing up the building, to reconstruct it in six months could be an impossibility. So that's all a concern.

KRISTINA BALDWIN: And you know what happens with that case, with the direct writer?

REP. MEGNA: Excuse me?

KRISTINA BALDWIN: Do you know what happens? You mentioned the direct writer that was imposing that limit.

REP. MEGNA: Actually --

KRISTINA BALDWIN: Oh, I'm sorry. I'm not supposed to ask any questions, am I?

REP. MEGNA: This is a direct writer out of -- it's a court case out of New Jersey that was brought to my attention.

KRISTINA BALDWIN: Okay.

REP. MEGNA: And the courts ruled for the insurers and yeah, you don't have to give them the replacement costs, because the contract limits the repair timeframe to six months. To tell you the truth, I don't even know if that policy is written here, but I'm assuming that

same policy is being sold in Connecticut.

But thank you very much. Are there any questions? No? Thank you very much. I have the last people up, I guess I got Phil, Rich Ouelette, I don't know if a bunch of you want to just -- you're all together with the Connecticut Association of Public Insurance Adjusters?

Maybe we could have you all come up at the same time. If you're nice we'll let them. You could roll up a couple of seats there, then if you want to grab one of those seats. You could actually sit over here if you want.

And identify yourselves and everybody else, identify yourselves after you, Richard.

RICHARD OUELETTE: Good afternoon, and thank you, Representative Megna and Senator Crisco and the rest of the members here. My name is Richard Ouelette, and I happen to be the president of the Connecticut Association of Public Insurance Adjustors.

And we're here on behalf of Bill --

REP. MEGNA: Rich, do you want to let these guys identify themselves?

PHIL FLAKER: I'm Phil Flaker, treasure of the Connecticut Association.

REP. MEGNA: And it's nice to see Susan opposing one of your bills.

VIN VIZZO: Good afternoon. I'm Vin Vizzo and vice president of the Connecticut Association.

MICHAEL BAYER: Good afternoon. I'm Michael Bayer.

I'm the chairman of the legislative committee for CAPIA.

MARIA SHIOLLO: I'm Maria Shiollo, secretary.

REP. MEGNA: I think you have to move up here with us, please. Okay. Shoot, Rich.

RICHARD OUELETTE: Yeah, we're here on behalf of this bill 5230, that does encompass a lot within itself and we're not opposed to the whole bill, there are some things that we agree with. Your hurricane deductible clarifies the issue. The mitigation -- I don't think there's a real big issue because it gives a range.

It's not asking the vendor for an exact amount, and we've seen, those of us that have seen this bill -- this bill that you have previously passed in action, we find that it really clarifies a lot of issues with the homeowner or the policy holder, whoever it may be.

So that they have an idea of what that cost is going to be, whether it's water extraction mitigation, (inaudible) or whatever may happen. Were in full agreeance that immediate action has to be taken to protect the property from further damage, but it's a good idea to have the policyholder have at least a range of what it's going to be.

The third item, the perils, we support that language as well. The fourth one, however, is the disinterested party, which we're truly opposed to. It's defeating the provisions of the appraisal process completely.

The appraisal provision within the policy

follows the guidelines of the arbitration rules here for Connecticut, and it's really a judicial venue to follow to try to get these claims settled and that people reach an impasse on.

And the appraisal process also generates judicial economy, where by going through the appraisal process, it lightens up the courts in hearing these unnecessary cases.

And the two parties of appraisers agree on an umpire. If you have, as Susan has said, and as you will hear other people reiterate in the letter from our council that went to you. I believe you received that, Bob?

It basically states that here again this appraisal process is to have a new set of eyes take a look at this procedure, and if you have an appraiser, an adjuster, an insurance company adjuster and you have a public adjuster or it might be just the homeowner himself that submitted a contractor's estimate.

But if there's a dispute in the loss and damage, then the provision of the appraisal process allows them to choose their own appraiser, where the two appraisers agree on an umpire and the fee is split mutually and the three parties are the arbitration panel, and they reach an agreement at no direction from the people that hired them supposedly.

And by not allowing -- by removing this word disinterested, if you've got a dispute and an impasse on the loss and claim, you're never going to agree on an umpire, and it's going to have to go to court in order to have an umpire chosen by the judicial system.

I've had it happen personally in claims that we've handled in the past, and it adds anywhere from 1,000 to 1,200 dollars just in expenses to petition the courts to have an umpire appointed, and not to say what the additional delay is in getting that appointment.

The 165 line policy states that the appraisal process will be done by impartial people and it should -- disinterested, correct, thank you -- and between the three parties the claim gets resolved.

Furthermore, it adds a little complexity into the payment schedule, because we've already had it here in Connecticut, this case where the public adjuster cannot be the appraiser because you're paid based on a contingency fee and that is not allowable in the appraisal process to be paid on contingency.

REP. MEGNA: Do you mind me jumping in? so, Rich, in a typical appraisal, who would you hire if you're representing a policy holder? You're going to hire an appraiser. Who would you hire? Give me a couple of names.

RICHARD OUELETTE: I would probably hire a builder. Depending upon what kind of claim I have, if I've got a burnt out building, a fire building, I'd probably look to hire a builder of some nature that can actually physically build the -- rebuild the situation.

REP. MEGNA: You would hire a builder?

RICHARD OUELETTE: Possibly.

REP. MEGNA: Would you hire a public adjuster that

is also an appraiser?

RICHARD OUELETTE: I might.

REP. MEGNA: Okay.

RICHARD OUELETTE: Depending upon the circumstances. So I'd try to get somebody with some expertise in the field that I'm trying to appraise.

REP. MEGNA: Well, what if the public adjuster had more of an expertise than depreciation, the policy, the kind of scope of the repairs, and more so than a builder?

RICHARD OUELETTE: He might, but if the claim is properly presented in preparation of the formal appraisal, then the appraiser has the right information to work off of in preparation of his submission.

REP. MEGNA: Is there anybody in your firm that does appraisal work?

RICHARD OUELETTE: Yes, I do.

REP. MEGNA: You do?

RICHARD OUELETTE: Yes.

REP. MEGNA: Okay. And you're a public adjuster?

RICHARD OUELETTE: Yes.

REP. MEGNA: Okay. So sometimes a public adjuster will hire you, who is a public adjuster, to do the appraisal work, correct?

RICHARD OUELETTE: If need be, yes.

REP. MEGNA: And your bill will be above and beyond the contingency that the public adjuster is paid by the homeowner or the building owner?

RICHARD OUELETTE: No. My bill is predicated on an hourly basis as to how much time I spend in my file.

REP. MEGNA: I understand that. I understand that, but the homeowner will have to give up 10 percent of the settlement, and will also have to pay your bill?

RICHARD OUELETTE: In some respects.

REP. MEGNA: Yes. So the homeowner is literally paying two public adjusters to do --

RICHARD OUELETTE: Well, they've hired a public adjuster to represent them, and they've hired an appraiser, if he's a public adjuster or an under --

REP. MEGNA: It's just a different hat you're wearing though.

RICHARD OUELETTE: But I'm there -- they're not hiring me as a public adjuster, they're hiring me as their appraiser. There's many times, Bob, where we'll go into a situation where the insured has gotten three different contractors' estimates at the direction of the insurance company, and they will submit them to the insurance company adjuster.

And just to use a hypothetical as a number, maybe the insurance company adjusted at 30 grand, and they've received estimates from 50 to 75,000 between the three builders that they submitted.

So now not knowing what a public insurance adjuster was from the onset of their fire or their claim, they now begin to ask questions and somebody says, geez, you ought to go to a public adjuster.

So they'll come into -- we'll interview with them and we'll look at this situation and we'll say well, you shouldn't be hiring us as a public adjuster. You submitted a claim, you've done what the policy requires you to do. You've submitted a claim with three different contractor estimates.

They came back to you with an offer which is unacceptable. Now you have a dispute. You don't hire me as a public adjuster, you hire me as your appraiser.

REP. MEGNA: I totally agree with you, and I actually do that, but an unscrupulous public adjuster might say, might want -- say the claim is a $200,000 claim. They would rather have 10 percent of that, $20,000, rather than a $4,000 appraisal bill, correct? Where's the incentive for them to --

RICHARD OUELETTE: Well, if you have reached an impasse, if there's an impasse and you see who the players are in the arena where you're trying to settle the case, again referring to the language of the policy here, if there's an impasse and you're looking to resolve the impasse, you go through the next step, which is hiring a new set of eyes, so to speak, to take a look at your problem, along with the insurance company hiring a new set of eyes.

Those two new set of eyes hire a third set of eyes. Now between the three set of eyes, that claim will get resolved through the

arbitration, through the -- following the arbitration laws.

REP. MEGNA: And the set of the eyes that's the policy holder hires kind of is the same vision, so to speak, as the policy holder, correct?

RICHARD OUELETTE: Well, if it's warranted, yes.

REP. MEGNA: You're not going to hire somebody that's going to say, Mrs. Jones, I think your claim is ridiculous.

RICHARD OUELETTE: Well, I can tell you that sometimes the expectation is out of whack and you have to put people back into perspective and that happens.

REP. MEGNA: Thank you. That's why that's in front of us. On the 180 day provision, do you know of any companies currently that --

RICHARD OUELETTE: Allstate is right now -- they're the ones that carry the language that you have to rebuild within 180 days from the day we give you the money. They do not follow the language of the ISO form where it is stipulated that we simply put you on notice of your intent to make a claim for the whole back.

And that's a big factor that's trickling through the area and as you may comment, I believe we sent you a case about the New Jersey issue where the courts have found that -- they sided with them because that was the language of their policy.

So we're trying to -- I think it's a good idea to try to eliminate that problem before it

trickles itself into the Connecticut area.

REP. MEGNA: But that policy is being sold here?

RICHARD OUELETTE: Oh, sure it is.

REP. MEGNA: You see it?

RICHARD OUELETTE: Sure it is. and I presently have a case right now that's gone beyond the 180 days. We haven't made a formal claim yet for the whole back. We've made them aware that we're making a claim for the whole back money, but the parties are not quite ready yet, and that claim is just short of two years old.

I'm anxious to see what's going to happen when it comes time when we submit the receipts and invoices.

REP. MEGNA: Mike, you wanted to --

MICHAEL BAYER: Yeah, Bob. I have, for example, foremost does the (inaudible) of course one year from the date of loss for repairs, and there's nothing in the policy that actually says that. It has a standard language that, you know, you must give notice within 180 days and you've got to pay the loss that you intend to make claim at some future point.

However, they arbitrarily decided one year. I think part of our problem is that a lot of the carriers I've seen more and more ,and that's just that there's nothing in the policy that gives them that, the contractual right to enforce a timeframe.

So there's somewhat arbitrarily they come up with a date or a time that they want to

enforce, for whatever reason. Obviously there could be -- it could be argued that maybe that the insured won't be able to comply, they won't be able to get the repair done, therefore they won't pay.

REP. MEGNA: So you haven't seen an enforcement of that provision, is what you're saying?

MICHAEL BAYER: I have seen them try to enforce it many times by putting timeframes that you've got to repair or replace within 180 days, where the policy doesn't say that at all. The contract says you must give notice of your intent to repair or replace within 180 days.

There is nothing currently in the law in the state of Connecticut putting a timeframe on it. I think the courts have actually said in certain -- and I don't have -- I can't cite a case, that a reasonable amount of tip time, reasonable being based on what the particular circumstances are with regard to what happened t your claim.

Are we dealing with a $2 million home that burnt to the ground versus a $200,000 home that burnt to the ground. The cost or the timeframe to replace or repair the $2 million home is going to be a lengthier process than doing the replacing of a $200,000 home.

So I think there's a lot of -- I think what the your bill is trying to do is simply say, look, all we're -- we understand that a notice needs to be given within 180 days that you intend to but let's not put a timeframe, let's not limit it to six months, which is totally ludicrous because we know that claims don't get settled often for six months and the clock has already expired.

And I think what we all would like to see in a reasonable amount of time to repair and replace the property. That's all we're asking.

REP. MEGNA: Okay. Thank you.

PHIL FLAKER: Thanks, Bob. I think you've crafted a very consumer-oriented bill. We agree with I think all the provisions and I'd add one thing to what Mike said is there is one carrier in particular who sent a check out, even if it's nowhere near sufficient, to repair the property. They even gave you money so the clock's ticking. That would be Allstate, and they do it all the time.

Sometimes it takes six months before they send that check. And we later settled the loss, three months later, for double or triple. So the six months is really unfair, so we think you've done a good job. I do agree, however, with Susan that the provision with regard to the disinterested parties is the only problem, and that it is not as consumer friendly, I think, as it was intended.

And I can see that the intent from this whole bill was to really favor the consumer and to give them advocacy, but I think that it has too many problems when you're getting involved with the same sets of eyes and go to court for every umpire, cause that's what's going to happen, you know, it just is.

Because if I'm sitting there with an Allstate adjuster who shall not be named and he and I are still butting heads, we're still going to butt them once we go to appraisal. And we're not picking the appraiser. In general I think

we all favor the provisions of this bill because I think they have the consumer orientation to them, each and every one.

REP. MEGNA: Are there any other questions? No? Thanks a lot. Now we're going to move onto Senate Bill 203. Hugh Goldberg.

HUGH GOLDBERG: Good afternoon, and thanks to Representative Megna and Senator Crisco. My name is Hugh Goldberg. I live in Brookfield and I am here just as a concerned and affected citizen concerning this legislation. I come to you in strong support of Senate Bill 203 because this legislation will finally provide relief for innocent Connecticut residents who through no fault of their own have lost value in their property.

It's a matter of fairness and responsibility. In April of 2011 my car was rear ended while my wife and I were stopped at a yield sign. The Connecticut state police officer ticketed the other driver and Progressive insurance, the other driver's insurance company, assumed 100 percent of the liability.

The $7,323 repair included substantial body work, painting, and the replacement of the -- and the welding of a frame segment replacement. As a result, much of my 2007 Toyota's retail market value has been lost, mostly due to the repaired frame.

Toyota disqualifies all vehicles with repaired frames on the certified pre-owned warranty program. In May of 2011 I document -- I filed a documented claim for my car's diminished value with Progressive, and my claim and following requests were completely dismissed without even a good faith appraisal of my

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Statement of the National Association of Mutual Insurance Companies to the Insurance and Real Estate Committee

HB-5230, "An Act Concerning Various Changes to Property and Casualty Insurance Statutes"

Paul Tetrault, Northeast State Affairs Manager

February 28, 2012

I am pleased to provide comments on behalf of the National Association of Mutual Insurance Companies (NAMIC) regarding HB-5230, "An Act Concerning Various Changes to Property and Casualty Insurance Statutes." NAMIC is the largest and most diverse national property and casualty insurance trade and political advocacy association in the United States. Its 1,400 member companies write all lines of property/casualty insurance business and include small, single-state, regional, and national carriers accounting for 50 percent of the automobile/ homeowners market.

NAMIC opposes HB-5230 and urges the Committee not to give it a favorable report. In NAMIC's view, the bill's many diverse provisions are either unnecessary or problematic or both.

Section 1, which would establish certain standards for the application of hurricane deductibles, addresses and issue which has already been fully addressed by the Connecticut Insurance Department through a revision of its Filing Review Guidelines Related to Underwriting Coastal Homeowners Insurance Policies. NAMIC believes it is preferable to have such standards addressed through Department guidelines rather than statute because guidelines allow for flexibility in responding to changing market conditions and other circumstances.

Section 2, which would add mitigation services to the list of services for which notice must be provided, could add delay to mitigation activities that would exacerbate a loss.

Sections 3 and 5, the intent of which is not clear, would apparently require a range of coverages currently available in the marketplace to adhere to the restrictive language of the statutory Standard Fire Policy. It would seem that these sections could have a broad and extensive negative impact in reducing diversity in the marketplace that benefits insurance consumers.

Section 4 would amend statutory appraisal clause language to eliminate the requirement that each party selects a "disinterested" party to represent them in the appraisal process. It is not clear what problem or issue this provision is meant to address such as whether there have been problems with the procedure outlined in statute. To the extent that eliminating the requirement could interfere with the process of arriving at an agreed value, it would seem that the change would undermine the effectiveness of the appraisal process.

It is also unclear from the suggested text what issue or problem is meant to be addressed by Section 6.

In sum, in NAMIC's view, each section of HB-5230 is either unnecessary or problematic, with some provisions raising serious concern about their potential impact. For these reasons, we oppose the bill.

Thank you for the opportunity to present NAMIC's views. I would be happy to provide additional information to benefit the Committee's deliberations.

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STATE OF CONNECTICUT

INSURANCE DEPARTMENT

FTR

Testimony of the
Connecticut Insurance Department

Before

The Insurance and Real Estate Committee
February 28th, 2012

Raised Bill No. 5230—An Act Concerning Various Changes to Property and Casualty Insurance Statutes

Senator Crisco and Representative Megna, committee-co-chairs, Senator Kelly and Representative Sampson, ranking members, and Members of the Committee, the Insurance Department appreciates the opportunity to submit written testimony on Raised Bill No. 5230.

As you may be aware, the Connecticut Insurance Department issued revised underwriting coastal guidelines specifically related to the hurricane deductible after the storms of last fall. Those guidelines specified that a hurricane deductible is applied only to losses due to a hurricane occurring anywhere in the state as reported by the National Weather Service (NWS) with maximum sustained winds of 74 mph.

While the Connecticut Insurance Department is supportive of the intent behind this proposal, we do not believe a statute related to hurricane deductibles is needed. The property and casualty industry follows the guidelines issued by the Department and placing this language in statute reduces our ability to modify guidelines in a timely fashion to respond to ever-changing market conditions. In fact, if our prior underwriting guidelines had been a state statute the Department would not have been able to amend it quickly and incorporate more appropriate language that has now been in place for several months.

However, should the committee move forward on the hurricane deductible provisions, the Department would like to recommend that the proposed language for the hurricane deductible trigger in Section 1 of the bill be revised to reflect the language used in the guidelines that were issued by the Department December 9, 2011, a copy of which is attached to this testimony. The department worked closely with the National Weather Service (NWS) and National Oceanographic and Atmospheric Association (NOAA) in developing the language in our guidelines.

The Department recommends adding the following language to mirror the current guidelines that are in place:

When the Hurricane Deductible begins:

Commencing with the issuance of a **hurricane warning** by the NWS for anywhere in the State of Connecticut.

When the Hurricane Deductible ends:

Ending the earlier of: (i) 24 hours following termination of the last **hurricane warning** issued for any part of Connecticut by the NWS; or (ii) 24 hours after the hurricane is downgraded from a hurricane by the NWS for any part of Connecticut.

On other provisions in H. 5230, several of the changes recommended to the Standard Fire Policy (SFP) statute represent the manner in which the department has regulated the property line of business for many years to ensure transparency and consistency in the property contracts in Connecticut. However, there are some significant revisions that would need to be made in order for the bill to work effectively and not create additional ambiguities.

Specifically, s. 38a-307 still includes the language limiting the laws applicability to fire and lightning. Therefore, as drafted, many provisions would only continue to apply to fire and lightning loss. This would conflict with the homeowner policy which is a preferred contract offering coverage on a replacement cost basis with broad perils and worldwide comprehensive coverage. The SFP language in Section 4 limits the laws applicability to a fire policy and does not address the package homeowner policy. In addition, the Department holds all companies to the standard that an HO-3 is a preferred policy and must be a replacement cost policy.

In addition, some provisions of the SFP do not contain as many consumer protections as the standard ISO homeowners policy and the Department is concerned that simply changing the description from 'Standard Fire' to 'Homeowners' may have unintended consequences. For example, the 'Conditions suspending or restricting insurance' also known as the 'Increase in Hazard' provision potentially gives the insurer more latitude to deny a claim and shouldn't be included in the standard homeowners policy. Further, the wording of the SFP is written in legalese and not in plain language as current ISO homeowner's policies are written.

The Department believes that an alternative approach may be to add to the listing provided in 38a-308(b) those provisions of the Standard Fire Policy that should be made applicable to homeowners. Further, the Committee may also want to consider granting the Department authority to promulgate regulations on standard, minimum homeowner provisions.

The Department would also like to raise concerns about the deletion of "disinterested" in Section 4 of the proposal. Previously, the Insurance Services Office (ISO) had requested the use of the term "competent and impartial" for appraiser language in a previous HO 2000 form filing. The Department prohibited ISO from including this terminology since it was determined that the term "impartial" is not the same as "disinterested" and was subjective. Disinterested means "not having an interest in" and the Department held ISO to the standard fire policy language of "competent and disinterested" for the appraiser and umpire. Retaining the term "disinterested" ensures objectivity on the part of both the consumer and company appraisers.

The Department requests that the effective date of any new requirements enacted apply to insurance policies issued or renewed on or after October 1, 2012. Insurers will need to file new forms reflecting the various changes being proposed and issue new forms to their policyholders.

Thank you for the opportunity to submit testimony and we would welcome the opportunity to work with members of the committee on H. 5230.

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Statement

Insurance Association of Connecticut

Insurance and Real Estate Committee

February 28, 2012

HB 5230, An Act Concerning Various Changes To Property And Casualty Insurance Statutes

The Insurance Association of Connecticut, IAC, is opposed to HB 5230 as it contains numerous unnecessary and confusing provisions which will do severe harm to the property insurance market in Connecticut for no apparent reason or consumer benefit. The changes contemplated in HB 5230 amend standardized forms that have been used throughout the country, and Connecticut, for decades without incident.

Section 1

The IAC opposes section 1, which would set standards for hurricane deductibles in homeowners' insurance policies. Last December, the Insurance Department revised its Guidelines Related to Underwriting Coastal Homeowners Insurance Policies to clarify its requirements for hurricane deductibles and when they may be imposed. Department approvals of insurers' policy forms are based on compliance with those Guidelines.

The issues presented in section 1 have already been directly addressed by the revised Guidelines. Continued use of the Guidelines would also provide the Department with more flexibility to make future revisions when deemed necessary. As such, the IAC believes that section 1 is unnecessary.

If the decision is made to go forward with section 1, the IAC would request the opportunity to work with the Committee and the Insurance Department to correct several problems with the wording of section 1, which in its current form creates inconsistencies and conflicts with the Guidelines and existing Department practices.

Section 2

While the industry believes insureds should be advised regarding the extent and cost of work performed by vendors doing mitigation work following a loss, it does not support mandating that an insured receive written notification prior to the commencement of such work as would be required pursuant to Section 2. Unlike work done to repair or remediate a loss, work performed for mitigation purposes is time sensitive. Mitigation work must be performed quickly to limit the extent of loss and the potential for future damage. Demanding a written notice prior to work commencing will have an onerous effect on insureds that want the recovery process to begin immediately, which could either drive up the cost of the claim or even jeopardize one's coverage.

Section 3

Section 3 is extremely confusing and overreaching. Mandating that all the provisions in a standard fire policy apply to all homeowners and commercial property insurance policies in Connecticut ignores the realities of the marketplace and current law. The standard fire policy is the basic bare bones homeowner's policy. Consumers have the ability to purchase expanded coverage through either extended coverage policies or adding riders to the Standard Fire policy, Section 38a-311. This section would in effect remove those options for the consumer and be in direct conflict with existing law.

Additionally, this section would require that all homeowner's and commercial policies bear the same title, regardless of the coverage it provides. Different policies provide different levels of coverage and are often labeled in a way to reflect that, like a Renter's Policy. Insurers have developed brand names for their products, which are used and marketed throughout the country. Consumers like choice. Consumers like being able to distinguish products. Agents assist consumers by explaining coverage differences and help ensure the consumer is getting the coverage that fits their needs. Labeling all policies the same will actually lead to confusion in the market as a consumer may have problems understanding the distinction between policies, thinking that all policies are the same providing the same conditions and level of benefits. A one size fits all approach does not work. Consumers may end up buying coverage they may not want or need.

Finally, this section is in direct conflict with existing statutory language which already mandates that "The Standard Fire Policy of Connecticut" be printed on all standard fire policies. Would this section now dictate that the same policy bear two labels?

Subsection (b) (2) of this section is confusing. It is unclear the purpose of this section or what it does. Most homeowners and commercial policies provide for coverage against fire, but not all such policies provide coverage for the structure. For example, a renter's policy provides coverage for the renter's personal property, among other things, but does not provide coverage for the rental property. Likewise, not all commercial insurance policies insure commercial property. Matter of fact, a Commercial General Liability policy, specifically exempts property. Policies providing coverage for fire damage to a structure already must conform to the provisions of the standard fire policy making this provision unnecessary. (Section 38a-308). Additionally, amending the enumerated statutory sections as provided for in this subsection would completely alter the intent of some of those sections or are meaningless as the enumerated section does not contain the term "fire policy" or the section has been repealed. Making change for change sake is a costly proposition with no demonstrated consumer benefit.

Section4

Section 4 seeks to remove a vital step in the appraisal process which is designed to bring about resolution to stalled claims. Currently if an insured, or their representative, and the insurer have reached an impasse as to the value of a claim the appraisal clause may be invoked. Current law mandates that each party appoint a "disinterested party" to represent them and to pick a disinterested umpire. The intent of this requirement is for each party to bring in a qualified party who can render a fair assessment of the situation, someone who does not have an interest in the outcome. Section 4's elimination of the "disinterested party" requirement will render the appraisal process moot. Deleting this provision means that the two parties, who have already demonstrated that they reach an agreement, could be the same two parties attempting to settle the claim in the appraisal process. Or that another party with a vested interest may be substituted which will do nothing to bring about resolution. Such an unnecessary change to the appraisal process will only serve to further delay settlement of claims increasing the likelihood of litigation. Unnecessary delay drives up claims and litigation costs consequentially increasing premiums for all policyholders. The "disinterested party" requirement is a vital step that allows the appraisal process to work and should not be changed.

Section 5

It is unclear what the change in Section 5(a) of this bill is seeking to accomplish. The current limitation in Section 38a-313, which this section is amending, clearly applies to the provisions and perils contained in the standard fire policy. It is unclear what the addition of the terms

"homeowners insurance policy" and "commercial property insurance" actually mean in the context of this section. Applying the provisions of Section 38a-313 to all homeowners and commercial policies simply based upon a policy's title amounts to unworkable overreach.

Subsection (b) of this section improperly removes vital tools for insurers in the investigation and resolution of claims. Subsection (b) would prohibit insurers from setting time parameters for the insured to complete their obligations under the contract as long as the insured provided notice of the claim within 180 days from the date of loss. This provision exists nowhere else and for good reason. First, giving the insured 180 days to report a loss runs contrary to statutory and contractual provisions which require an insured to timely report, mitigate losses and to bring about the timely resolution of claims. Also, permitting an insured an unlimited time to make repairs will result in increased repair costs, additional associated payments (like alternative housing) and may result in duplication of work already performed. One hundred eighty days is excessive and improperly impairs an insurer's ability to investigate claims as evidence and documentation can become missing or destroyed. If an insured suffers a loss from a fire or has property stolen, why should they be given 180 days to report the loss and an unlimited time to repair or replace?

Limiting an insurer's ability to set necessary parameters alters the very way replacement policies function. Pursuant to this section an insured could demand full payment regardless of the status of the repair or replacement, changing the fundamental nature of how a replacement policy works. Under a replacement policy an insured is not paid the full replacement value until all repairs or replacement has actually been made. Pursuant to the terms of 5(b) of this bill as long as the insured files a claim within 180 days of the date of loss, an insurer could not refuse to pay the full value of the claim and be subjected to never ending claims.

Section 6

It is unclear what Section 6 is seeking to accomplish. Current statutory language already states that for any condition in a fire policy to be valid it must be contained within the body of the policy. What is unclear is what replacing the term "fire" with "insured peril" does. Would the change contemplated by this section now mean that for any condition associated with any expanded coverage to be applicable it must be found in the policy language and not in a rider where it is normally found? If that is the case, riders will become obsolete removing consumer choice from the market driving up the cost of the basic policy. Demanding that every applicable condition be found within the body of the policy will require that every policy be rewritten. Such

an expensive and time consuming endeavor will only result in creating voluminous meaningless documents.

Property insurance is designed to provide options to the consumer. Currently, an insured can purchase coverage, beyond the basic fire policy, that is designed to meet their insurance needs. HB 5230's attempt to statutorily redefine property insurance products essentially will eliminate consumer choice while doing severe harm to Connecticut's vibrant competitive property insurance market.

HB 5230 alters the very nature of property coverage available in the Connecticut market containing terms and requirements that do not exist anywhere else in the country. It is a well settled practice that the standard fire form must contain certain provisions, a practice used throughout the country. Expanded coverage forms likewise are used by insurers throughout the country. Insurers will have to amend and re-file all their forms and reprogram systems for Connecticut in order to comply with the requirements of HB 5230. The Department will be tasked with having to review each and every filing. This is a costly endeavor for the State and insurers alike that has no demonstrated consumer benefit that cannot be done by July 1, 2012.

The IAC urges your rejection of HB 5230.

Property Casualty Insurers
Association of America
Shaping the Future of American Insurance
2600 South River Road, Des Plaines, IL 60018-3286

Kristine Baldwin 17/12

STATEMENT

PROPERTY CASUALTY INSURERS ASSOCIATION OF AMERICA (PCI)

H.B. No. 5230 – *AN ACT CONCERNING VARIOUS CHANGES TO PROPERTY AND CASUALTY INSURANCE STATUTES.*

COMMITTEE ON INSURANCE AND REAL ESTATE

February 28, 2012

The Property Casualty Insurers Association of America (PCI) appreciates the opportunity to comment on H.B. 5230, which would make a number of major changes relative to commercial property and homeowners insurance. 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 43 percent of Connecticut's property casualty coverage.

PCI has serious concerns with a number of the provisions of this bill. These concerns will be addressed by bill section and are as follows:

Section 1. Hurricane Deductible Provisions

Section one of this bill would codify, with some notable modifications, many of the provisions in the guidelines recently issued by the Insurance Department relative to hurricane deductibles. These guidelines were developed by the Department after months of consideration and discussion to address issues which arose in conjunction with Hurricane Irene. While the insurance industry does not agree with all of the provisions in the guidelines, we do agree with the process by which they were developed and that addressing issues related to hurricane deductibles through guidelines issued by the Insurance Department is the best course of action.

Insurance plays an important role in assisting in recovery following disasters. Once the first responders have left the scene, it is insurers that are looked to next to provide the financial assistance needed to rebuild and recover. Each disaster and the issues resulting from each disaster are different and regulators need the flexibility to be able to deal with unanticipated issues. By putting in statute the Insurance Department's hurricane deductible guidelines, this bill would take away this necessary flexibility. If this bill is enacted, then if issues arise in the future following a hurricane related to deductibles, the legislature would have to come back into session and pass legislation in order to address issues which may require provisions which do not comport with this proposed language. This process may result in unnecessary delay at a time when quick action may be necessary.

PCI also has concerns with the provisions of this legislation which differ from the guidelines. The guidelines were just issued in December, 2011, with compliance required by March 1, 2012. Insurance companies have been in the process of complying with the new guidelines and this legislation would make changes to requirements in this regard, thereby requiring insurers to begin compliance efforts anew if this bill were passed. This will add unnecessary burdens and expense to writing policies in Connecticut.

Specifically, among the differences between the guidelines and this bill, this bill would require written notice of the hurricane deductible to be provided to "prospective" insureds prior to policy issuance. PCI is concerned that this requirement would be very burdensome and PCI is further concerned that this requirement would make it difficult to sell policies over the telephone or internet in a time efficient manner. This bill also differs from the Department guidelines relative to the permissible deductible duration. The Department guidelines would allow deductibles to continue to be applied until the earlier of 24 hours following the termination of the last hurricane warning or 24 hours after the hurricane is downgraded for any part of CT. While this legislation tracks the guidelines relative to the downgraded storm durational criteria, it differs from the guidelines regarding the first criteria and would require the application of the deductibles to cease upon the end of the hurricane warning, as opposed to 24 hours after such ending. Highly Damaging winds will continue beyond the end of the hurricane warning and it is only equitable that insurers should be authorized to impose hurricane deductibles during this period of high risk. In addition, it would be very difficult to determine whether damages occurred prior to or after the end of the hurricane warning, thereby leading to much potential confusion and litigation.

Section 2. Adding Mitigation To Services For Which Written Estimate and Scope of Work is Required

PCI is concerned about the addition of mitigation services to the services for which a written estimate and scope of work are required as well as the provisions requiring the voiding of contracts for mitigation services if the written estimate and scope of work are not provided. Mitigation services must be provided as soon as possible in order to limit additional losses and the written estimate/scope of loss requirements included in this bill may delay the provision of such services and increase losses.

Section 3. Provisions Relating To The Standard Fire Policy and Homeowners and Commercial Property Policies

PCI is concerned that the provisions of Section 3 will require insurers to make changes to all of their existing homeowners and commercial property coverage forms. Obviously, this would be very burdensome and expensive and the timely review of all of these filings would greatly strain the Insurance Department's resources. Since the provisions of the standard fire policy already apply to homeowners and commercial property policies, it would seem that these additional burdens and expenses be undertaken by insurers with no benefit to consumers.

Section 4. Amendment To Appraisal Process

Section four of this bill would remove the requirement that appraisers selected by the insured and the insurer for the appraisal process be disinterested appraisers. The appraisal process is designed to quickly resolve differences relative to the amount of loss without requiring a lawsuit. The

appraisal clause is part of every fire policy in the United States and has been proven to be an effective way to resolve valuation disputes for many years.

By removing the disinterested requirement for appraisers in the appraisal process, this bill would abrogate one of the basic underlying tenets of the appraisal process – that unbiased experts evaluate loss to arrive at a fair and accurate valuation of the loss. If the disinterested requirement is removed, it is likely that the appraisal process could disintegrate into the insurance company adjuster and the public adjuster providing appraisals of the loss. PCI would submit that this is exactly the scenario that often results in disputes which necessitate the use of the appraisal process and would amount to a major step backward in the value of the appraisal process as a tool to resolve disputes.

Section 5. Replacement Cost Coverage

Section five of this bill would prohibit insurers from holding back a portion of the value of a replacement cost claim if the repair, rebuilding or replacement has not been completed by a date certain. Replacement cost coverage provides an additional benefit beyond the depreciated actual cash value loss so that the insured is able to repair or replace the property. One of the basic principles of replacement cost coverage requires that the insured not receive the expanded indemnification provided under replacement cost coverage until the property is actually repaired and/or replaced. As a result, the insured first collects their depreciated or actual cash value loss, and when the property is repaired or replaced in accordance with the conditions of the policy, the insured is paid the difference between the actual cash value loss and the replacement cost loss. The money withheld is customarily referred to as a "holdback."

This bill would prohibit the insurer from withholding any payment in order to ensure that the property is rebuilt. This contradicts the premise upon which replacement cost coverage is based, which is to ensure that the homeowner is able to rebuild the property. Without a holdback, the insurer has no way to ensure that the property is rebuilt and the payment in excess of the depreciated value of the property simply becomes a windfall to the policyholder. Authorizing the provision of windfalls in connection with homeowners insurance would present moral hazard concerns and would not be beneficial. This would also likely result in increased premium costs for replacement cost coverage.

For the foregoing reasons, PCI urges your Committee to not favorably advance HB 5230.

S - 649

CONNECTICUT
GENERAL ASSEMBLY
SENATE

PROCEEDINGS
2012

VOL. 55
PART 14
4223 – 4505

Thank you, Madam President.

Calendar page 8, Calendar 394, House Bill 5032, move to place the item on the consent calendar.

THE CHAIR:

So ordered, sir.

SENATOR LOONEY:

Thank you, Madam President.

Also, calendar page 8, Calendar 396, House Bill 5230, move to place the item on the consent calendar.

THE CHAIR:

So ordered, sir.

SENATOR LOONEY:

Thank you, Madam President.

Moving to calendar page 11, Calendar 424, House Bill 5495, move to place the item on the consent calendar.

THE CHAIR:

So ordered, sir.

SENATOR LOONEY:

Thank you, Madam President.

Madam President, Calendar page 13, Calendar 450, House Bill 5447, move to place the item on the consent calendar.

THE CHAIR:

So ordered, sir.

SENATOR LOONEY:

Thank you, Madam President.

Calendar page 15, Calendar 464, House Bill 5344, move to

(HB 5283)

On page 3, Calendar 240, House Bill 3283; page 3, Calendar 299, House Bill 5437; page 5, Calendar 349, Senate Bill 374; page 6, Calendar 375, House Bill 5440; page 6, 362, House Bill 5011.

On page 7, Calendar 376, House Bill 5279; on page 7, 387, House Bill 5290; on page 8, 394, House Bill 5032; on page 8, 396, House Bill 5230.

Also on page 8, Calendar 398, House Bill 5241; on page 8, Calendar 393, House Bill 5307; on page 9, Calendar 403, House Bill 5087; on page 9, Calendar 406, House Bill 5276; on page 9, 407, House Bill 5484; on page 11, Calendar 424, House Bill 5495; on page 12, Calendar 435, House Bill 5232; on page 13, Calendar 5 -- excuse me Calendar 450, House Bill 5447; on page 14, Calendar 455, House Bill 3 -- I'm sorry -- House Bill 5353.

On page 14, Calendar 453, House Bill 5543; on page 14, Calendar 459, House Bill 5271; on page 15, Calendar 464, House Bill 5344; on page 15, Calendar 465, House Bill 5034; on page 16, Calendar 469, House Bill 5038; on page 17, Calendar 475, House Bill 5550; on page 17, Calendar 474, House Bill 5233; on page 17, Calendar 477, House Bill 5421.

Page 18, 480, House Bill 5258; on page 18, Calendar 479, House Bill 5500; page 18, Calendar 482, House Bill 5106; on page 18, Calendar 483, House Bill 5355; on page 19, Calendar 489, House Bill 5248; on page 19, Calendar 488, House Bill 5321; on page 20, Calendar 496, House Bill 5412.

On page 21, Calendar 504, House Bill 5319; page 21, Calendar 505, House Bill 5328; on page 22, Calendar 508, House Bill 5365; on page 22, Calendar 510, House Bill 5170; on page 23, Calendar 514, House Bill 5540; on page 23, Calendar 517, House Bill 5521.

Page 24, Calendar 521, House Bill 5343; page 24, Calendar 518, House Bill 5298; page 24, Calendar 523, House Bill 5504; page 29, Calendar 355, Senate Bill 418; on page 13, Calendar 444, 5037; and Calendar 507, House Bill 5467.

THE CHAIR:

Senator -- Senator Suzio.

SENATOR SUZIO:

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TIMOTHY B KEHOE
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Bills placed on the Consent Calendar on May 9, 2012

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State of Connecticut

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Bills from Senate Agenda Number 3 from the May 9th Senate Session that were placed on the Consent Calendar

HB5304
HB 5342

Good evening, Madam President.

I just want to clarify. I thought I heard the Clerk call House Bill 5034? Is that on the consent calendar?

THE CHAIR:

Do you know what page that is, sir?

SENATOR SUZIO:

No I -- he was reading so fast, Madam, I couldn't get it.

THE CHAIR:
It's -- yes it's 53 -- I don't know.

SENATOR SUZIO:

5034.

THE CHAIR:

5034, yes sir.

SENATOR SUZIO:

I object to that being put on the consent calendar, Madam President.

THE CHAIR:

Okay, that will be removed.

Senator Looney.

SENATOR LOONEY:

Thank you, Madam President.

Yes, just seeing that -- ask to remove that item from the consent calendar.

THE CHAIR:

So ordered.

At this time we'll call a roll call vote on the consent calendar.

Mr. Clerk.

THE CLERK:

Immediate roll call has been ordered in the Senate. Senators please return to the Chamber. Immediate roll call has been ordered in the Senate.

THE CHAIR:

Senator Coleman, we need your vote, sir.

Senator Kissel, Senator Kissel. Senator Kissel, will you vote on the consent calendar please?

All members have voted?

If all members have voted, the machine will be closed.

Mr. Clerk, will you call the amendment -- I meant the tally.

THE CLERK:

On today's consent calendar.

Total Number Voting	36
Necessary for Adoption	19
Those Voting Yea	36
Those Voting Nay	0
Those Absent and Not Voting	0

THE CHAIR:

The consent calendar has passed.

Senator Looney.

SENATOR LOONEY:

Thank you, Madam President.

Madam President, I believe the Clerk is in possession of Senate Agenda Number 6 for today's session.