



House of Representatives

General Assembly

File No. 243

January Session, 2003

Substitute House Bill No. 6608

House of Representatives, April 8, 2003

The Committee on Insurance and Real Estate reported through REP. OREFICE of the 37th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

AN ACT CONCERNING CLAIMS MADE PURSUANT TO THE CONNECTICUT INSURANCE GUARANTY ASSOCIATION ACT.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 38a-838 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective from passage and*
3 *applicable to claims filed on or after the effective date of this section*):

4 The following terms as used in sections 38a-836 to 38a-853,
5 inclusive, as amended by this act, unless the context otherwise requires
6 or a different meaning is specifically prescribed, shall have the
7 following meanings:

8 (1) "Account" means any one of the three accounts created by
9 section 38a-839;

10 (2) "Affiliate" means any affiliate, as defined in section 38a-1, of an
11 insolvent insurer; [on December thirty-first of the year next preceding
12 the date the insurer becomes an insolvent insurer;]

13 (3) "Association" means the Connecticut Insurance Guaranty
14 Association created under section 38a-839;

15 [(4) "Claimant" means any person filing a first party or liability
16 claim against the association, provided no person who is an affiliate of
17 the insolvent insurer at the time the policy was issued or at the time of
18 the insured event may be a claimant;]

19 [(5)] (4) "Commissioner" means the Insurance Commissioner;

20 [(6)] (5) "Covered claim" means an unpaid claim, including, but not
21 limited to, one for unearned premiums, which arises out of and is
22 within the coverage and subject to the applicable limits of an insurance
23 policy to which sections 38a-836 to 38a-853, inclusive, as amended by
24 this act, apply issued by an insurer, if such insurer becomes an
25 insolvent insurer after October 1, 1971, and [(a)] (A) the claimant or
26 insured is a resident of this state at the time of the insured event; or
27 [(b) the claimant is not a resident of this state, but only under all of the
28 following conditions: (i) The insured is a resident of this state at the
29 time of the insured event; (ii) the insolvent insurer is licensed to do
30 business in this state at the time of the insured event; (iii) the state of
31 the claimant's residence has an association similar to the association
32 created by said sections; and (iv) such claimant is refused coverage by
33 such association because the insolvent insurer is not licensed to do
34 business in the state of the claimant's residence at the time of the
35 insured event; or (c)] (B) the claim is a first party claim for damage to
36 property with a permanent location in this state, provided the term
37 "covered claim" shall not include (i) any claim by or for the benefit of
38 any reinsurer, insurer, insurance pool, or underwriting association, as
39 subrogation recoveries or otherwise; provided that a claim for any
40 such amount, asserted against a person insured under a policy issued
41 by an insurer which has become an insolvent insurer, which, if it were
42 not a claim by or for the benefit of a reinsurer, insurer, insurance pool
43 or underwriting association, would be a "covered claim" may be filed
44 directly with the receiver of the insolvent insurer but in no event shall
45 any such claim be asserted against the insured of such insolvent

46 insurer, [A claim shall not be a "covered claim" if it is filed] (ii) any
47 claim by or on behalf of an individual who is neither a citizen of the
48 United States nor an alien legally resident in the United States at the
49 time of the insured event, or an entity other than an individual whose
50 principal place of business is not in the United States at the time of the
51 insured event, and it arises out of an accident, occurrence, offense, act,
52 error or omission that takes place outside of the United States, or a loss
53 to property normally located outside of the United States or, if a
54 workers' compensation claim, it arises out of employment outside of
55 the United States, (iii) any claim by or on behalf of a person who is not
56 a resident of this state, other than a claim for compensation or any
57 other benefit which arises out of and is within the coverage of a
58 workers' compensation policy, against an insured whose net worth at
59 the time the policy was issued or at any time thereafter exceeded
60 twenty-five million dollars, provided that an insured's net worth for
61 purposes of this section and section 38a-844 shall be deemed to include
62 the aggregate net worth of the insured and all of its subsidiaries as
63 calculated on a consolidated basis; or (iv) any claim by or on behalf of
64 an affiliate of the insolvent insurer at the time the policy was issued or
65 at the time of the insured event;

66 [(7)] (6) "Insolvent insurer" means an insurer [(a)] (A) licensed to
67 transact insurance in this state either at the time the policy was issued
68 or when the insured event occurred, and [(b)] (B) determined to be
69 insolvent by a court of competent jurisdiction, provided the term
70 "insolvent insurer" shall not be construed to mean any insurer with
71 respect to which an order, decree, judgment or finding of insolvency,
72 whether permanent or temporary in nature, or order of rehabilitation
73 or conservation has been issued by a court of competent jurisdiction
74 prior to October 1, 1971;

75 [(8)] (7) "Member insurer" means any person who [(a)] (A) writes
76 any kind of insurance to which sections 38a-836 to 38a-853, inclusive,
77 as amended by this act, apply under section 38a-837, including, but not
78 limited to, the exchange of reciprocal or interinsurance contracts, and
79 [(b)] (B) is licensed to transact insurance in this state. An insurer shall

80 cease to be a member insurer effective on the day following the
81 termination or expiration of its license to transact the kinds of
82 insurance to which said sections 38a-836 to 38a-853, inclusive, as
83 amended by this act, apply, however such insurer shall remain liable
84 as a member insurer for any obligations, including obligations for
85 assessments levied prior to the termination or expiration of the
86 insurer's license and for assessments levied after the termination or
87 expiration which relate to any insurer which became an insolvent
88 insurer prior to the termination or expiration of such insurer's license.
89 In the case of such insurer, the average of its net direct written
90 premium for the five calendar years prior to expiration or termination
91 of its license, whether or not the insurer has net direct written
92 premium in the year preceding such expiration or termination, shall be
93 used as its assessment base for any year following such expiration or
94 termination in which the insurer has no direct written premium;

95 [(9)] (8) "Net direct written premiums" means direct gross
96 premiums written in this state on insurance policies to which sections
97 38a-836 to 38a-853, inclusive, as amended by this act, apply, less return
98 premiums thereon and dividends paid or credited to policyholders on
99 such direct business, provided the term "net direct written premiums"
100 shall not include premiums on any contract between insurers or
101 reinsurers;

102 [(10)] (9) "Person" means an individual, corporation, partnership,
103 association, joint stock company, business trust, limited liability
104 company, unincorporated organization, voluntary organization,
105 governmental entity or other legal entity;

106 [(11)] (10) "Residence" means, when used in reference to a
107 corporation, its principal place of business;

108 [(12)] (11) "United States" has the meaning assigned to it by section
109 38a-1.

110 Sec. 2. Subdivision (2) of section 38a-845 of the general statutes is
111 repealed and the following is substituted in lieu thereof (*Effective from*

112 passage and applicable to claims filed on or after the effective date of this
113 section):

114 (2) Any person having a claim which may be recovered under more
115 than one insurance guaranty association or its equivalent having a like
116 function to that of said association shall seek recovery first from the
117 association operating in the area of the residence of the [claimant]
118 insured except that (A) if it is a first party claim for damage to property
119 with a permanent location, such person shall seek recovery first from
120 the association operating in the location of the property, and (B) if it is
121 a workers' compensation claim, such person shall seek recovery first
122 from the association operating in the area of residence of the claimant.
123 Any recovery under sections 38a-836 to 38a-853, inclusive, as amended
124 by this act, shall be reduced by the amount recoverable from any other
125 insurance guaranty association or its equivalent having a like function
126 to that of said association.

This act shall take effect as follows:	
Section 1	<i>from passage and applicable to claims filed on or after the effective date of this section</i>
Sec. 2	<i>from passage and applicable to claims filed on or after the effective date of this section</i>

INS *Joint Favorable Subst.*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Type	FY 04 \$	FY 05 \$
Insurance Dept.	IF - None	None	None
Revenue Serv., Dept.	GF - Revenue Loss	Potential	Potential

Note: IF=Insurance Fund; GF=General Fund

Municipal Impact: None

Explanation

The bill results in a net expansion of the coverage under the Connecticut Insurance Guaranty Association (CIGA). Since state law allows insurance companies to offset their liability to CIGA by lowering their state premiums tax assessments, the bill could result in a revenue loss to the state. The level of potential revenue loss cannot be determined at this time.

Under CGS 12-202, direct insurance premiums received by insurance companies are subject to a 1.75% tax with certain exceptions. CGS 38-841 allows insurance companies to offset 100% of their CIGA liability. It must be taken over a five-year period. In calendar year 2002, CIGA paid out \$1.3 million in non-workers' compensation claims.

OLR Bill Analysis

sHB 6608

AN ACT CONCERNING CLAIMS MADE PURSUANT TO THE CONNECTICUT INSURANCE GUARANTY ASSOCIATION ACT**SUMMARY:**

This bill expands coverage under the Connecticut Insurance Guaranty Association Act (CIGA) to include an insured person who is a state resident at the time of the accident, occurrence, offense, act, error, omission, or injury. It also eliminates CIGA coverage for certain nonresident claimants. Under current law, claimants who are state residents at the time of the accident, occurrence, offense, act, error, omission, or injury and certain nonresident claimants are covered.

The bill also eliminates CIGA coverage for most claims of nonresidents that are brought (1) against an insured Connecticut resident with a net worth of over \$25 million at the time the policy was issued or at any time thereafter or (2) by or on behalf of an insolvent insurer's affiliate at the time the policy was issued or at the time of the insured event.

The bill defines net worth to include the aggregate net worth of the insured and all of its subsidiaries and calculated on a consolidated basis.

Finally, the bill broadens the definition of an affiliate of an insolvent insurer by eliminating the December 31 of the year next preceding the date the insurer became insolvent as the date to determine affiliation.

EFFECTIVE DATE: Upon passage and applicable to claims filed on or after the bill's effective date.

NONRESIDENT CLAIMS

Under the bill, the exclusion of claims by or on behalf of nonresidents does not apply to workers' compensation claims. Instead, the bill makes the CIGA secondarily liable, requiring instead, that claimants first seek recovery for workers' compensation claims from the association operating in the area of the claimant's residence before

bringing the claim against the CIGA.

The bill eliminates CIGA coverage for the claims of nonresidents who satisfy the following conditions:

1. the insured is a state resident of at the time of the insured event;
2. the claimant is refused coverage by an association because the insolvent insurer is not licensed in the state of the claimant's residence;
3. the claimant's resident state has an similar association; and
4. the insolvent insurers is licensed in Connecticut.

BACKGROUND

Connecticut Insurance Guaranty Association

The association pays the valid property and casualty insurance claims of resident claimants in the event of the insolvency of a member insurer. The association assesses members to obtain funds for this purpose.

COMMITTEE ACTION

Insurance and real Estate Committee

Joint Favorable Report
Yea 17 Nay 0