



General Assembly

January Session, 2003

Raised Bill No. 6608

LCO No. 3981

Referred to Committee on Insurance and Real Estate

Introduced by:
(INS)

***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 Section 38a-838 of the general statutes is repealed and the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*):

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

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

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

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

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

18 [(5)] (4) "Commissioner" means the Insurance Commissioner;

19 [(6)] (5) "Covered claim" means an unpaid claim, including, but not
20 limited to, one for unearned premiums, which arises out of and is
21 within the coverage and subject to the applicable limits of an insurance
22 policy to which sections 38a-836 to 38a-853, inclusive, as amended by
23 this act, apply issued by an insurer, if such insurer becomes an
24 insolvent insurer after October 1, 1971, and [(a)] (A) the claimant or
25 insured is a resident of this state at the time of the insured event; or
26 [(b) the claimant is not a resident of this state, but only under all of the
27 following conditions: (i) The insured is a resident of this state at the
28 time of the insured event; (ii) the insolvent insurer is licensed to do
29 business in this state at the time of the insured event; (iii) the state of
30 the claimant's residence has an association similar to the association
31 created by said sections; and (iv) such claimant is refused coverage by
32 such association because the insolvent insurer is not licensed to do
33 business in the state of the claimant's residence at the time of the
34 insured event; or (c)] (B) the claim is a first party claim for damage to
35 property with a permanent location in this state, provided the term
36 "covered claim" shall not include (i) any claim by or for the benefit of
37 any reinsurer, insurer, insurance pool, or underwriting association, as
38 subrogation recoveries or otherwise; provided that a claim for any
39 such amount, asserted against a person insured under a policy issued
40 by an insurer which has become an insolvent insurer, which, if it were
41 not a claim by or for the benefit of a reinsurer, insurer, insurance pool
42 or underwriting association, would be a "covered claim" may be filed
43 directly with the receiver of the insolvent insurer but in no event shall
44 any such claim be asserted against the insured of such insolvent
45 insurer, [A claim shall not be a "covered claim" if it is filed] (ii) any
46 claim by or on behalf of an individual who is neither a citizen of the

47 United States nor an alien legally resident in the United States at the
48 time of the insured event, or an entity other than an individual whose
49 principal place of business is not in the United States at the time of the
50 insured event, and it arises out of an accident, occurrence, offense, act,
51 error or omission that takes place outside of the United States, or a loss
52 to property normally located outside of the United States or, if a
53 workers' compensation claim, it arises out of employment outside of
54 the United States, (iii) any claim by or on behalf of a person who is not
55 a resident of this state, other than a claim for compensation or any
56 other benefit which arises out of and is within the coverage of a
57 workers' compensation policy, against an insured whose net worth at
58 the time the policy was issued or at any time thereafter exceeded
59 twenty-five million dollars, provided that an insured's net worth for
60 purposes of this section and section 38a-844 shall be deemed to include
61 the aggregate net worth of the insured and all of its subsidiaries as
62 calculated on a consolidated basis; or (iv) any claim by or on behalf of
63 an affiliate of the insolvent insurer at the time the policy was issued or
64 at the time of the insured event;

65 [(7)] (6) "Insolvent insurer" means an insurer [(a)] (A) licensed to
66 transact insurance in this state either at the time the policy was issued
67 or when the insured event occurred, and [(b)] (B) determined to be
68 insolvent by a court of competent jurisdiction, provided the term
69 "insolvent insurer" shall not be construed to mean any insurer with
70 respect to which an order, decree, judgment or finding of insolvency,
71 whether permanent or temporary in nature, or order of rehabilitation
72 or conservation has been issued by a court of competent jurisdiction
73 prior to October 1, 1971;

74 [(8)] (7) "Member insurer" means any person who [(a)] (A) writes
75 any kind of insurance to which sections 38a-836 to 38a-853, inclusive,
76 as amended by this act, apply under section 38a-837, including, but not
77 limited to, the exchange of reciprocal or interinsurance contracts, and
78 [(b)] (B) is licensed to transact insurance in this state. An insurer shall
79 cease to be a member insurer effective on the day following the

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

94 [(9)] (8) "Net direct written premiums" means direct gross
95 premiums written in this state on insurance policies to which sections
96 38a-836 to 38a-853, inclusive, as amended by this act, apply, less return
97 premiums thereon and dividends paid or credited to policyholders on
98 such direct business, provided the term "net direct written premiums"
99 shall not include premiums on any contract between insurers or
100 reinsurers;

101 [(10)] (9) "Person" means an individual, corporation, partnership,
102 association, joint stock company, business trust, limited liability
103 company, unincorporated organization, voluntary organization,
104 governmental entity or other legal entity;

105 [(11)] (10) "Residence" means, when used in reference to a
106 corporation, its principal place of business;

107 [(12)] (11) "United States" has the meaning assigned to it by section
108 38a-1.

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

111 *passage*):

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

This act shall take effect as follows:	
Section 1	<i>from passage</i>
Sec. 2	<i>from passage</i>

Statement of Purpose:

To revise the Connecticut Insurance Guaranty Association Act to provide that certain persons insured by a property and casualty insurer that becomes insolvent shall be protected against insured claims brought by a person who is not a resident of this state.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]