



Senate

General Assembly

File No. 234

January Session, 2005

Senate Bill No. 1001

Senate, April 11, 2005

The Committee on Insurance and Real Estate reported through SEN. CRISCO of the 17th Dist., Chairperson of the Committee on the part of the Senate, that the bill ought to pass.

AN ACT CONCERNING 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 Section 38a-841 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2005*):

3 (1) Said association shall: (a) Be obligated to the extent of the
4 covered claims existing prior to the determination of insolvency and
5 arising within thirty days after the determination of insolvency, or
6 before the policy expiration date if less than thirty days after the
7 determination, or before the insured replaces the policy or causes its
8 cancellation, if he does so within thirty days of such determination,
9 provided such obligation shall be limited as follows: (i) With respect to
10 covered claims for unearned premiums, to one-half of the unearned
11 premium on any policy, subject to a maximum of two thousand dollars
12 per policy; (ii) with respect to covered claims other than for unearned
13 premiums, such obligation shall include only that amount of each such

14 claim which is in excess of one hundred dollars and is less than three
15 hundred thousand dollars, except that said association shall pay the
16 full amount of any such claim arising out of a workers' compensation
17 policy, provided in no event shall (A) said association be obligated to
18 any claimant in an amount in excess of the obligation of the insolvent
19 insurer under the policy form or coverage from which the claim arises,
20 or (B) said association be obligated for any claim filed with the
21 association after the expiration of two years from the date of the
22 declaration of insolvency unless such claim arose out of a workers'
23 compensation policy and was timely filed in accordance with section
24 31-294c; (b) be deemed the insurer to the extent of its obligations on the
25 covered claims and to such extent shall have all rights, duties, and
26 obligations of the insolvent insurer as if the insurer had not become
27 insolvent; (c) allocate claims paid and expenses incurred among the
28 three accounts [,] created by section 38a-839 [,] separately, and assess
29 member insurers separately (i) in respect of each such account for such
30 amounts as shall be necessary to pay the obligations of said association
31 under subdivision (a) of subsection (1) of this section subsequent to an
32 insolvency; (ii) the expenses of handling covered claims subsequent to
33 an insolvency; (iii) the cost of examinations under section 38a-846; and
34 (iv) such other expenses as are authorized by sections 38a-836 to 38a-
35 853, inclusive. The assessments of each member insurer shall be in the
36 proportion that the net direct written premiums of such member
37 insurer for the calendar year preceding the assessment on the kinds of
38 insurance in such account bears to the net direct written premiums of
39 all member insurers for the calendar year preceding the assessment on
40 the kinds of insurance in such account. Each member insurer shall be
41 notified of its assessment not later than thirty days before it is due. No
42 member insurer may be assessed in any year on any account an
43 amount greater than two per cent of that member insurer's net direct
44 written premiums for the calendar year preceding the assessment on
45 the kinds of insurance in said account, provided if, at the time an
46 assessment is levied on the "all other insurance" account, as defined in
47 subdivision (c) of section 38a-839, the board of directors finds that at
48 least fifty per cent of the total net direct written premiums of a member

49 insurer and all its affiliates, for the year on which such assessment is
50 based, were from policies issued or delivered in Connecticut, on risks
51 located in this state, such member insurer shall be assessed only on
52 such member insurer's net direct written premium that is attributable
53 to the kind of insurance that gives rise to each covered claim. If the
54 maximum assessment, together with the other assets of said
55 association in any account, does not provide in any one year in any
56 account an amount sufficient to make all necessary payments from that
57 account, the shortfall shall be assessed as an obligation of the other two
58 accounts created by section 38a-839 with each member insurer's
59 assessment to be in the proportion that its net direct written premiums
60 for the calendar year preceding the assessment on the kinds of
61 insurance in the accounts to be assessed bears to the total net direct
62 written premiums of all member insurers for the same calendar year
63 on the kinds of insurance in those accounts, subject to the same
64 limitation of two per cent of that member insurer's net direct written
65 premiums for the calendar year preceding the assessment on the kinds
66 of insurance in the account. If after such shortfall assessment the
67 maximum assessment still does not provide in any one year an amount
68 sufficient to make all necessary payments from an account, then the
69 funds available may be prorated and the unpaid portion shall be paid
70 as soon thereafter as funds become available. Said association may
71 defer, in whole or in part, the assessment of any member insurer, if the
72 assessment would cause the member insurer's financial statement to
73 reflect amounts of capital or surplus less than the minimum amounts
74 required for a certificate of authority by any jurisdiction in which the
75 member insurer is authorized to transact insurance provided that
76 during the period of deferment, no dividends shall be paid to
77 shareholders or policyholders. Deferred assessments shall be paid
78 when such payment will not reduce capital or surplus below the
79 minimum amounts required for a certificate of authority. Such
80 payments shall be refunded to those insurers receiving greater
81 assessments because of such deferment or, at the election of the
82 insurer, be credited against future assessments. Each member insurer
83 serving as a servicing facility may set off against any assessment,

84 authorized payments made on covered claims and expenses incurred
85 in the payment of such claims by such member insurer if they are
86 chargeable to the account in respect of which the assessment is made;
87 (d) investigate claims brought against said association and adjust,
88 compromise, settle, and pay covered claims to the extent of said
89 association's obligations, and deny all other claims. The association
90 shall pay claims in any order it deems reasonable, including but not
91 limited to, payment in the order of receipt or by classification. It may
92 review settlements, releases and judgments to which the insolvent
93 insurer or its insureds were parties to determine the extent to which
94 such settlements, releases and judgments may be properly contested;
95 (e) notify such persons as the commissioner may direct under
96 subdivision (a) of subsection (2) of section 38a-843; (f) handle claims
97 through its employees or through one or more insurers or other
98 persons designated by said association as servicing facilities, provided
99 such designation of a servicing facility shall be subject to the approval
100 of the commissioner, and may be declined by a member insurer; (g)
101 reimburse each such servicing facility for obligations of said
102 association paid by such facility and for expenses incurred by such
103 facility while handling claims on behalf of said association and shall
104 pay such other expenses of said association as are authorized by
105 sections 38a-836 to 38a-853, inclusive, as amended by this act.

106 (2) Said association may: (a) Employ or retain such persons as are
107 necessary to handle claims and perform other duties of said
108 association; (b) borrow such funds as may be necessary from time to
109 time to effect the purposes of sections 38a-836 to 38a-853, inclusive, as
110 amended by this act, in accord with the plan of operation under
111 section 38a-842; (c) sue or be sued; (d) intervene as a matter of right as
112 a party in any proceeding before any court in this state that has
113 jurisdiction over an insolvent insurer, as defined in section 38a-838, as
114 amended by this act; (e) negotiate and become a party to such contracts
115 as are necessary to carry out the purpose of said sections; (f) perform
116 such other acts as are necessary or proper to effectuate the purpose of
117 said sections; (g) refund to the member insurers in proportion to the
118 contribution of each such member insurer to that account, that amount

119 by which the assets of the account exceed the liabilities, if, at the end of
120 any calendar year, the board of directors finds that the assets of said
121 association in any account exceed the liabilities of that account as
122 estimated by the board of directors for the coming year.

123 (3) (A) Each insurer paying an assessment under sections 38a-836 to
124 38a-853, inclusive, as amended by this act, may offset one hundred per
125 cent of the amount of such assessment against its premium tax liability
126 to this state under chapter 207. Such offset shall be taken over a period
127 of the five successive tax years following the year of payment of the
128 assessment, at the rate of twenty per cent per year of the assessment
129 paid to the association. Each insurer to which has been refunded by the
130 association, pursuant to subdivision (2) of this section, all or a portion
131 of an assessment previously paid to the association by the insurer shall
132 be required to pay to the Department of Revenue Services an amount
133 equal to the total amount that has been claimed as an offset against the
134 premiums tax liability on the premiums tax return or returns, as the
135 case may be, filed by such insurer and that is attributable to such
136 refunded assessment, provided the amount required to be paid to said
137 department shall not exceed the amount of the refunded assessment. If
138 the amount of the refunded assessment exceeds the total amount that
139 has been claimed as an offset against the premiums tax liability on the
140 premiums tax return or returns filed by such insurer and that is
141 attributable to such refunded assessment, such excess may not be
142 claimed as an offset against the premiums tax liability on a premiums
143 tax return or returns filed by such insurer or, if the offset has been
144 transferred to another person pursuant to subparagraph (B) of this
145 subdivision, by such other person. For purposes of this subparagraph,
146 if the offset has been transferred to another person pursuant to
147 subparagraph (B) of this subdivision, the total amount that has been
148 claimed as an offset against the premiums tax liability on the
149 premiums tax return or returns filed by such insurer includes the total
150 amount that has been claimed as an offset against the premiums tax
151 liability on the premiums tax return or returns filed by such other
152 person. The association shall promptly notify the Commissioner of
153 Revenue Services of the name and address of the insurers to which

154 such refunds have been made, the amount of such refunds and the
155 date on which such refunds were mailed to such insurer. If the amount
156 that an insurer is required to pay to the Department of Revenue
157 Services has not been so paid on or before the forty-fifth day after the
158 date of mailing of such refunds, the insurer shall be liable for interest
159 on such amount at the rate of one per cent per month or fraction
160 thereof from such forty-fifth day to the date of payment.

161 (B) An insurer, in this subparagraph called "the transferor", may
162 transfer any offset provided under subparagraph (A) of this
163 subdivision to an affiliate, as defined in section 38a-1, of the transferor.
164 Any such transfer of the offset by the transferor and any subsequent
165 transfer or transfers of the same offset shall not affect the obligation of
166 the transferor to pay to the Department of Revenue Services any sums
167 which are acquired by refund from the association pursuant to
168 subdivision (2) of this section and which are required to be paid to the
169 Department of Revenue Services pursuant to subparagraph (A) of this
170 subdivision. Such offset may be taken by any transferee only against
171 the transferee's premium tax liability to this state under chapter 207.
172 The Commissioner of Revenue Services shall not allow such offset to a
173 transferee against its premium tax liability unless the transferor, the
174 affiliate to which the offset was originally transferred, each subsequent
175 transferor and each subsequent transferee have filed such information
176 as may be required on forms provided by said commissioner with
177 respect to any such transfer or transfers on or before the due date of
178 the premium tax return on which such offset would have been taken
179 by the transferor if no transfer had been made by the transferor.

180 Sec. 2. Subdivision (6) of section 38a-838 of the general statutes is
181 repealed and the following is substituted in lieu thereof (*Effective*
182 *October 1, 2005*):

183 (6) "Insolvent insurer" means an insurer (A) licensed to transact
184 insurance in this state either at the time the policy was issued or when
185 the insured event occurred, and (B) determined to be insolvent by a
186 court of competent jurisdiction, provided the term "insolvent insurer"

187 shall (i) not be construed to mean any insurer with respect to which an
188 order, decree, judgment or finding of insolvency, whether permanent
189 or temporary in nature, or order of rehabilitation or conservation has
190 been issued by a court of competent jurisdiction prior to October 1,
191 1971, and (ii) include the legal successor of the [insolvent] insurer in
192 the event of the merger of the insolvent insurer.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2005</i>	38a-841
Sec. 2	<i>October 1, 2005</i>	38a-838(6)

INS *Joint Favorable*

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: None

Municipal Impact: None

Explanation

The bill requires the Connecticut Insurance Guaranty Association (CIGA) to transfer funds from one account to another under certain circumstances. The bill has no fiscal impact.

OLR Bill Analysis

SB 1001

**AN ACT CONCERNING THE CONNECTICUT INSURANCE
GUARANTY ASSOCIATION ACT****SUMMARY:**

By law, the Connecticut Insurance Guaranty Association (CIGA) has three accounts: (1) workers' compensation, (2) automobile insurance, and (3) other liability insurance. The bill requires CIGA, when it has insufficient funds in one account to pay claims resulting from an insurer's insolvency after assessing its member insurers the maximum allowed for that account, to access the other two accounts' funds. It does this by assessing its member insurers writing the kinds of insurance covered by those two other accounts, regardless of whether they write the type of insurance for which the insolvency occurred under the third account. CIGA must pay any remaining shortfall as soon as funds become available.

By law, CIGA cannot assess an insurance company in any year more than 2% of its net direct written premiums for the preceding calendar year by the type of insurance in each of the three accounts.

Current law provides that when an account has a shortfall, available funds in that account are paid on a prorated schedule and any unpaid amount is paid as soon as funds become available.

EFFECTIVE DATE: October 1, 2005

BACKGROUND***Insurance Guaranty Association***

CIGA, whose members are licensed insurance companies, pays the valid claims of state residents when a property-casualty insurer becomes financially impaired or insolvent. It pays the claim portion that is over \$100 and less than \$300,000, except for workers' compensation claims, for which there is no dollar limit. It also refunds 50% of unearned premiums, up to \$2,000 a policy.

Member companies are assessed for CIGA's operating expenses, including claim payment liabilities. CIGA notifies an insurer of an assessment at least 30 days before it is due. It can defer an assessment if payment will cause the insurer's capital and surplus to fall below required minimum levels.

CIGA can reduce or refund assessments by recovering funds from the insolvent insurer. An insurance company can credit the full amount of any assessments it pays against its premium tax liability. It must spread the credit over the five years following the assessment, offsetting its premium tax liability each year by 20% of the assessment payment. It can also transfer offsets to its affiliates.

COMMITTEE ACTION

Insurance and Real Estate Committee

Joint Favorable Report

Yea 10 Nay 6