



General Assembly

January Session, 2005

Raised Bill No. 1301

LCO No. 4455

04455_____INS

Referred to Committee on Insurance and Real Estate

Introduced by:
(INS)

AN ACT CONCERNING THE VOLUNTARY RESTRUCTURING OF INSURERS.

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

1 Section 1. (NEW) (*Effective October 1, 2005*) As used in sections 1 to
2 20, inclusive, of this act:

3 (1) "Applicant" means an insurer that is or becomes domiciled in
4 this state with the intention of filing a petition under section 4 of this
5 act together with any person that is part of an insurance holding
6 company system with the insurer;

7 (2) "Assessment deficit" or "assessment surplus" means the
8 difference between the estimated assessment paid by the applicant for
9 any year and:

10 (A) The applicant's actual proportionate share of regulatory
11 expenditure for the previous year if the applicant was domiciled in this
12 state on March fifteenth of the previous year; or

13 (B) The actual redomestication expenditure for the previous year
14 attributable to the applicant if the applicant was not domiciled in this

15 state on March fifteenth of the previous year;

16 (3) "Commissioner" means the Insurance Commissioner;

17 (4) "Claim" means the right to payment, whether or not such right is
18 reduced to judgment, liquidated, unliquidated, fixed, contingent,
19 matured, unmatured, disputed, undisputed, legal, equitable, secured,
20 or unsecured, including claims based on incurred but unreported
21 losses, or a right to an equitable remedy for breach of performance if
22 such breach gives rise to a right to payment, whether or not such right
23 to an equitable remedy is reduced to judgment, fixed, contingent,
24 matured, unmatured, disputed, undisputed, secured, or unsecured;

25 (5) "Interest" means an equity security of the applicant;

26 (6) "Department" means the Insurance Department;

27 (7) "Equity security holder" means the holder of an equity security
28 of the applicant;

29 (8) "Guaranty association" means a guaranty association, as defined
30 in section 38a-905 of the general statutes, or foreign guaranty
31 association, as defined in section 38a-905 of the general statutes, that is
32 potentially obligated with respect to the applicant's policies;

33 (9) "Insurer" means insurer, as defined in section 38a-1 of the
34 general statutes;

35 (10) "Party in interest" means any person that has a claim against the
36 applicant or any policyholder;

37 (11) "Person" means person, as defined in section 38a-1 of the
38 general statutes;

39 (12) "Policy" means a contract of insurance or a contract of
40 reinsurance;

41 (13) "Policyholder" means an insured or a reinsured of the applicant;

42 (14) "Proportionate share" means, for a particular applicant as of
43 December thirty-first of the previous year, the ratio of:

44 (A) The gross assets of that applicant; to

45 (B) The gross assets of all applicants, other than those that were not
46 domiciled in this state on March fifteenth of that calendar year;

47 (15) "Redomestication" means ____;

48 (16) "Redomestication expenditure" means, for any calendar year:

49 (A) The amount that the department's expenditures attributable to
50 the regulation of applicants increases as a result of any applicant
51 redomiciling to this state on or after March fifteenth of that year; less

52 (B) Filing fees, examination costs, and any other fees in relation to
53 insurance regulation in this state paid to this state by applicants that
54 redomiciled to this state on or after March fifteenth of that year, but
55 excluding any premium taxes;

56 (17) "Regulatory expenditure" means, for any calendar year:

57 (A) The amount of the department's expenditures attributable to the
58 regulation of applicants domiciled in this state on March fifteenth of
59 that year; less

60 (B) Filing fees, examination costs, and any other fees in relation to
61 insurance regulation in this state paid to this state by applicants
62 domiciled in this state on March fifteenth of that year, but excluding
63 any premium taxes.

64 Sec. 2. (NEW) (*Effective October 1, 2005*) (a) A court that considers
65 petitions brought under sections 1 to 20, inclusive, of this act shall have
66 the same jurisdiction as a court under chapter 704c of the general
67 statutes. Venue for such petitions shall be in the judicial district of New
68 Britain.

69 (b) The court may issue any order, process or judgment that is
70 necessary or appropriate to carry out the provisions of sections 1 to 20,
71 inclusive, of this act. No provision of sections 1 to 20, inclusive, of this
72 act providing for the raising of an issue by a party in interest shall be
73 construed to preclude the court from, on its own motion, taking any
74 action or making any determination necessary or appropriate to
75 enforce or implement court orders or rules, or to prevent an abuse of
76 process.

77 Sec. 3. (NEW) (*Effective October 1, 2005*) (a) The applicant shall
78 provide any notice required under any provision of sections 1 to 20,
79 inclusive, of this act in accordance with the regulations adopted by the
80 commissioner pursuant to section 20 of this act or in accordance with
81 an order of the court.

82 (b) If notice is given in accordance with this section, any orders
83 under sections 1 to 20, inclusive, of this act shall be conclusive with
84 respect to all persons, regardless of whether they received notice.

85 Sec. 4. (NEW) (*Effective October 1, 2005*) An applicant may
86 commence a case under sections 1 to 20, inclusive, of this act by filing a
87 petition with the court. The applicant shall file a plan with the petition.
88 No petition or plan shall be filed without the consent of the Insurance
89 Commissioner.

90 Sec. 5. (NEW) (*Effective October 1, 2005*) (a) Except as provided in
91 subsection (b) of this section, a plan may place a claim or an interest in
92 a particular class only if such claim or interest is substantially similar
93 to the other claims or interests in such class.

94 (b) A class may not contain claims which would be in different
95 classes under chapter 704c of the general statutes. A class may consist
96 solely of (1) claims under reinsurance agreements, (2) claims of
97 commercial creditors, or (3) claims of policyholders under policies that
98 are not covered by guaranty associations.

99 (c) A plan may designate a separate class of claims consisting only
100 of every unsecured claim that is less than or reduced to an amount that
101 the court approves as reasonable and necessary for administrative
102 convenience.

103 Sec. 6. (NEW) (*Effective October 1, 2005*) (a) Notwithstanding any
104 provision of law, a plan shall:

105 (1) Designate, subject to section 5 of this act, classes of claims and
106 interests;

107 (2) Specify any class of claims or interests that is not impaired under
108 the plan;

109 (3) Specify the treatment of any class of claims or interests that is
110 impaired under the plan;

111 (4) Provide the same treatment for each claim or interest of a
112 particular class, unless the holder of a particular claim or interest
113 agrees to a less favorable treatment of such particular claim or interest;

114 (5) Provide adequate means for the plan's implementation such as:

115 (A) Retention by the applicant of all or any part of the property of
116 the applicant;

117 (B) Transfer of all or any part of the property, or assumption of any
118 liabilities, of the applicant to one or more entities, whether or not
119 organized before or after the confirmation of such plan;

120 (C) Merger or consolidation of the applicant with one or more
121 persons;

122 (D) Sale of all or any part of the property of the applicant either
123 subject to or free of any lien, or the distribution of all or any part of the
124 property of the applicant among those having an interest in such
125 property of the applicant;

- 126 (E) Satisfaction of any lien;
- 127 (F) Cancellation or modification of any indenture or similar
128 instrument;
- 129 (G) Curing or waiving of any default;
- 130 (H) Extension of a maturity date or a change in an interest rate or
131 other term of outstanding securities or policies;
- 132 (I) Amendment of the applicant's charter; or
- 133 (J) Issuance of securities of the applicant, or of any entity acting
134 pursuant to subparagraph (B) or (C) of subdivision (5) of this
135 subsection, for cash, for property, for existing securities, or in exchange
136 for claims or interests, or for any other appropriate purpose.
- 137 (6) Provide for the inclusion in the charter of the applicant, or of any
138 corporation acting pursuant to subparagraph (B) or (C) of subdivision
139 (5) of this subsection, of a provision prohibiting the issuance of
140 nonvoting equity securities, and providing, as to the several classes of
141 securities possessing voting power, an appropriate distribution of such
142 power among such classes, including, in the case of any class of equity
143 securities having a preference over another class of equity securities
144 with respect to dividends, adequate provisions for the election of
145 directors representing such preferred class in the event of default in
146 the payment of such dividends; and
- 147 (7) Contain only provisions that are consistent with the interests of
148 creditors and equity security holders and with public policy with
149 respect to the manner of selection of any officer, director or trustee
150 under the plan and any successor to such officer, director or trustee.
- 151 (b) A plan may:
- 152 (1) Notwithstanding any other provision of this subsection, impair
153 or leave unimpaired any class of interests or secured or unsecured

154 claims;

155 (2) Subject to section 17 of this act, provide for the assumption,
156 rejection or assignment of any executory contract or unexpired lease of
157 the applicant not previously rejected under section 17 of this act;

158 (3) Provide for:

159 (A) The settlement or adjustment of any claim or interest belonging
160 to the applicant; or

161 (B) The retention and enforcement by the applicant or by a
162 representative of the applicant appointed for such purpose of any such
163 claim or interest;

164 (4) Provide for the sale of all or substantially all of the property of
165 the applicant, and the distribution of the proceeds of such sale among
166 holders of claims or interests;

167 (5) Provide for the transfer of claims to another insurer provided the
168 transferee is unconditionally obligated to pay all or a percentage of
169 each claim in accordance with the policies issued by the applicant.
170 Claims may be adjusted and compromised by the transferee.
171 Satisfaction of a claim by payment of a percentage of the amount of
172 such claim pursuant to a plan shall have the same effect as if the claim
173 had been paid in full. The transferee may adjust claims in the ordinary
174 course of its business and shall have the right to dispute such claims in
175 good faith, including the initiation or defense of legal actions with
176 respect to such claims;

177 (6) Provide for the transfer of rights to payment under ceding
178 reinsurance agreements to any person. Such transferee shall have the
179 right to collect and enforce collection of such reinsurance for the
180 amount payable to the ceding insurer without diminution because of
181 insolvency or because the applicant has failed to pay all or a portion of
182 the claim based on the amounts paid or allowed pursuant to section 18
183 of this act. The transfer of such rights shall not give rise to any defense

184 regarding the reinsurer's obligations under the reinsurance agreement
185 regardless of whether such agreement or other applicable law
186 prohibits the transfer of rights under the reinsurance agreement.
187 Except as provided in this subsection, any transfer of rights pursuant
188 to this subdivision shall not impair any rights or defenses of the
189 reinsurer which existed prior to the transfer or would have existed in
190 the absence of the transfer. Except as otherwise provided in this
191 subsection, any transfer of rights pursuant to this subdivision shall not
192 relieve the transferee or the applicant from obligations owed to the
193 reinsurer pursuant to the reinsurance or other agreement;

194 (7) Include any other appropriate provision not inconsistent with
195 the applicable provisions of sections 1 to 20, inclusive, of this act.

196 Sec. 7. (NEW) (*Effective October 1, 2005*) (a) A class of claims or
197 interests is impaired under a plan unless, with respect to each claim or
198 interest of such class, the plan:

199 (1) Leaves unaltered the legal, equitable and contractual rights to
200 which such claim or interest entitles the holder of such claim or
201 interest; or

202 (2) Notwithstanding any contractual provision or applicable law
203 that entitles the holder of such claim or interest to demand or receive
204 accelerated payment of such claim or interest after the occurrence of a
205 default, the plan:

206 (A) Cures any such default that occurred before or after the
207 commencement of the case under sections 1 to 20, inclusive, of this act,
208 other than a default of a kind specified in subsection (c) of section 17 of
209 this act;

210 (B) Reinstates the maturity of such claim or interest as such maturity
211 existed before such default;

212 (C) Compensates the holder of such claim or interest for any
213 damages incurred as a result of any reasonable reliance by such holder

214 on such contractual provision or such applicable law; and

215 (D) Does not otherwise alter the legal, equitable or contractual rights
216 to which such claim or interest entitles the holder of such claim or
217 interest.

218 Sec. 8. (NEW) (*Effective October 1, 2005*) An acceptance or rejection of
219 a plan may not be solicited after the filing of a petition from a holder of
220 a claim or interest with respect to such claim or interest, unless, at the
221 time of or before such solicitation, there is transmitted to such holder
222 the plan or a summary of the plan and a written disclosure statement
223 approved by the Insurance Commissioner as containing adequate
224 information. As used in this section, "adequate information" means
225 information of a kind, and in sufficient detail, as far as is reasonably
226 practicable in light of the nature and history of the applicant and the
227 condition of the applicant's books and records, that the commissioner
228 determines would enable the holder of an impaired claim or interest to
229 make an informed judgment about the plan.

230 Sec. 9. (NEW) (*Effective October 1, 2005*) (a) The holder of a claim or
231 interest may accept or reject a plan. If the United States is a creditor or
232 equity security holder, the Secretary of the Treasury may accept or
233 reject the plan on behalf of the United States. Where the holder of a
234 policy and the holder of a claim against the insured covered by the
235 policy both seek to accept or reject a plan, the holder of the policy shall
236 be entitled to accept or reject the plan unless the court, upon motion of
237 the holder of the claim against the insured, determines that the holder
238 of the policy is not able to pay the claim from its own assets or from
239 other insurance.

240 (b) For the purposes of subsections (c) and (d) of this section, a
241 holder of a claim or interest that has accepted or rejected the plan
242 before the commencement of the case under sections 1 to 20, inclusive,
243 of this act is deemed to have accepted or rejected such plan, as the case
244 may be, if:

245 (1) The solicitation of such acceptance or rejection was in
246 compliance with other applicable law, rule or regulation governing the
247 adequacy of disclosure in connection with such solicitation; or

248 (2) If there is not any such law, rule or regulation, such acceptance
249 or rejection was solicited after disclosure to such holder of adequate
250 information, as defined in section 8 of this act.

251 (c) A class of claims has accepted a plan if such plan has been
252 accepted by creditors, other than any entity designated under
253 subsection (e) of this section, that hold at least two-thirds in amount
254 and more than one-half in number of the claims of such class held by
255 creditors, other than any entity designated under subsection (e) of this
256 section, that have accepted or rejected such plan.

257 (d) A class of interests has accepted a plan if such plan has been
258 accepted by holders of such interests, other than any entity designated
259 under subsection (e) of this section, that hold at least two-thirds in
260 amount of the allowed interests of such class held by holders of such
261 interests, other than any entity designated under subsection (e) of this
262 section, that have accepted or rejected such plan.

263 (e) On request of a party in interest, and after notice and a hearing,
264 the court may designate any entity whose acceptance or rejection of
265 such plan was not in good faith, or was not solicited or procured in
266 good faith or in accordance with the provisions of sections 1 to 20,
267 inclusive, of this act.

268 (f) Notwithstanding any other provision of this section, a class that
269 is not impaired under a plan, and each holder of a claim or interest of
270 such class, are conclusively presumed to have accepted the plan and
271 solicitation of acceptances with respect to such class from the holders
272 of claims or interests of such class is not required.

273 (g) Notwithstanding any other provision of this section, a class is
274 deemed not to have accepted a plan if such plan provides that the

275 claims or interests of such class do not entitle the holders of such
276 claims or interests to receive or retain any property under the plan on
277 account of such claims or interests.

278 (h) Unless otherwise ordered by the court for cause shown, the
279 amount of any claim under a policy or reinsurance agreement shall be
280 the greater of the applicant's reserves with respect to such policy or
281 reinsurance agreement or the premium paid by the creditor to the
282 applicant. Either the applicant or any creditor under a policy or
283 reinsurance agreement may request a determination of a claim for
284 purposes of voting under this section. A determination of a creditor's
285 claim under this section shall not be binding on the applicant or the
286 creditor for any other purpose.

287 Sec. 10. (NEW) (*Effective October 1, 2005*) (a) The applicant may, with
288 the consent of the Insurance Commissioner, modify a plan at any time
289 before confirmation, but may not modify such plan so that such plan
290 as modified fails to meet the requirements of sections 5 and 6 of this
291 act. After the applicant of a plan files a modification of such plan with
292 the court, the plan as modified becomes the plan.

293 (b) The applicant may, with the consent of the commissioner,
294 modify a plan at any time after confirmation of such plan and before
295 substantial consummation of such plan, but may not modify such plan
296 so that such plan as modified fails to meet the requirements of sections
297 5 and 6 of this act. Such plan as modified under this subsection
298 becomes the plan only if circumstances warrant such modification and
299 the court, after notice, confirms such plan as modified under section 11
300 of this act.

301 (c) The proponent of a modification shall comply with section 9 of
302 this act with respect to the plan as modified.

303 (d) Any holder of a claim or interest that has accepted or rejected a
304 plan is deemed to have accepted or rejected, as the case may be, such
305 plan as modified, unless, within the time fixed by the court, such

306 holder changes such holder's previous acceptance or rejection.

307 Sec. 11. (NEW) (*Effective October 1, 2005*) After notice, the court shall
308 hold a hearing on confirmation of a plan at which a party in interest
309 may object to confirmation of a plan.

310 Sec. 12. (NEW) (*Effective October 1, 2005*) The court shall confirm a
311 plan only if the following requirements are met:

312 (1) The plan complies with the applicable provisions of sections 1 to
313 20, inclusive, of this act.

314 (2) The applicant complies with the applicable provisions of sections
315 1 to 20, inclusive, of this act.

316 (3) The plan has been proposed in good faith and not by any means
317 prohibited by law.

318 (4) Any payment made or to be made by the applicant or by a
319 person issuing securities or acquiring property under the plan for
320 services, transaction fees or costs and expenses in or related to the case,
321 or related to the plan and incident to the case, has been approved by,
322 or is subject to the approval of, the court as reasonable.

323 (5) The applicant has disclosed the identity and affiliations of any
324 individual proposed to serve, after confirmation of the plan, as a
325 director, officer, or voting trustee of the applicant, an affiliate of the
326 applicant participating in a joint plan with the applicant or a successor
327 to the applicant under the plan and:

328 (A) The appointment to, or continuance in, such office of such
329 individual, is consistent with the interests of creditors and equity
330 security holders and with public policy; and

331 (B) The proponent of the plan has disclosed the identity of any
332 insider that will be employed or retained by the reorganized applicant,
333 and the nature of any compensation for such insider.

334 (6) The commissioner has approved the plan.

335 (7) With respect to each impaired class of claims or interests, each
336 holder of a claim or interest of such class:

337 (A) Has accepted the plan; or

338 (B) Will receive or retain under the plan on account of such claim or
339 interest property of a value, as of the effective date of the plan, that is
340 not less than the amount that such holder would so receive or retain if
341 the applicant were liquidated under title 38a of the general statutes on
342 such date.

343 (8) With respect to each class of claims or interests:

344 (A) Such class has accepted the plan; or

345 (B) Such class is not impaired under the plan.

346 (9) Except to the extent that the holder of a particular claim has
347 agreed to a different treatment of such claim, the plan provides that all
348 expenses of the administration of the case are paid in full in cash.

349 (10) If a class of claims is impaired under the plan, at least one class
350 of claims that is impaired under the plan has accepted the plan,
351 determined without including any acceptance of the plan by any
352 insider.

353 (11) Confirmation of the plan is not likely to be followed by the
354 liquidation, or the need for further financial reorganization, of the
355 applicant or any successor to the applicant under the plan, unless such
356 liquidation or reorganization is proposed in the plan.

357 (12) All fees payable under sections 1 to 20, inclusive, of this act, as
358 determined by the Insurance Commissioner at the hearing on
359 confirmation of the plan, have been paid or the plan provides for the
360 payment of all such fees on the effective date of the plan.

361 (13) If the applicable requirements of this section, except those in
362 subdivision (8) of this subsection, are met with respect to a plan, the
363 court, on request of the proponent of the plan, shall confirm the plan if
364 the plan does not discriminate unfairly, and is fair and equitable, with
365 respect to each class of claims or interests that is impaired under, and
366 has not accepted, the plan.

367 (14) For the purpose of this subsection, the condition that a plan be
368 fair and equitable with respect to a class includes the following
369 requirements: With respect to a class of secured claims, the plan
370 provides:

371 (A) That the holders of such claims retain the liens securing such
372 claims, whether or not the property subject to such liens is retained by
373 the applicant or transferred to another entity, to the extent of the
374 allowed amount of such claims; and

375 (B) That each holder of a claim of such class receive on account of
376 such claim deferred cash payments totaling at least the allowed
377 amount of such claim, of a value, as of the effective date of the plan, of
378 at least the value of such holder's interest in the applicant's interest in
379 such property;

380 (C) For the sale of any property that is subject to the liens securing
381 such claims, free and clear of such liens, with such liens to attach to the
382 proceeds of such sale, and the treatment of such liens on proceeds
383 under subparagraph (A) or (B) of this subdivision; or

384 (D) For the realization by such holders of the undisputed equivalent
385 of such claims.

386 (15) With respect to a class of unsecured claims:

387 (A) The plan provides that each holder of a claim of such class
388 receive or retain on account of such claim property of a value, as of the
389 effective date of the plan, equal to the allowed amount of such claim;
390 or

391 (B) The holder of any claim or interest that is junior to the claims of
392 such class will not receive or retain under the plan on account of such
393 junior claim or interest any property.

394 (16) With respect to a class of interests:

395 (A) The plan provides that each holder of an interest of such class
396 receive or retain on account of such interest property of a value, as of
397 the effective date of the plan, equal to the greatest of the allowed
398 amount of any fixed liquidation preference to which such holder is
399 entitled, any fixed redemption price to which such holder is entitled,
400 or the value of such interest; or

401 (B) The holder of any interest that is junior to the interests of such
402 class will not receive or retain under the plan on account of such junior
403 interest any property.

404 Sec. 13. (NEW) (*Effective October 1, 2005*) (a) The provisions of a
405 confirmed plan shall bind the applicant, any entity issuing securities
406 under the plan, any entity acquiring property under the plan and any
407 creditor or equity security holder whether or not the claim or interest
408 of such creditor or equity security holder is impaired under the plan
409 and whether or not such creditor or equity security holder or general
410 partner has accepted the plan.

411 (b) Except as otherwise provided in the plan or the order confirming
412 the plan, the confirmation of a plan vests all of the property of the
413 applicant in the applicant.

414 (c) Except as otherwise provided in the plan or in the order
415 confirming the plan, after confirmation of a plan, the property dealt
416 with by the plan is free and clear of all claims and interests of creditors
417 and equity security holders in the applicant.

418 (d) Except as otherwise provided in this subsection, in the plan or in
419 the order confirming the plan, the confirmation of a plan:

420 (1) Discharges the applicant from any debt that arose before the date
421 of such confirmation, and any debt under a policy entered into or
422 issued before the date of such confirmation, whether or not (A) the
423 holder of a claim asserts such claim under sections 1 to 20, inclusive, of
424 this act; or (B) the holder of such claim has accepted the plan; and

425 (2) Terminates all rights and interests of equity security holders
426 provided for by the plan.

427 Sec. 14. (NEW) (*Effective October 1, 2005*) (a) Notwithstanding any
428 provision of law relating to financial condition, the applicant and any
429 entity organized or to be organized for the purpose of carrying out the
430 plan shall carry out the plan and shall comply with any orders of the
431 court.

432 (b) The court may direct the applicant and any other necessary party
433 to execute or deliver or to join in the execution or delivery of any
434 instrument required to effect a transfer of property dealt with by a
435 confirmed plan, and to perform any other act, including the
436 satisfaction of any lien, that is necessary for the consummation of the
437 plan.

438 Sec. 15. (NEW) (*Effective October 1, 2005*) If a plan requires
439 presentment or surrender of a security or the performance of any other
440 act as a condition to participation in distribution under the plan, such
441 action shall be taken not later than five years after the date of the entry
442 of the order of confirmation. Any entity that has not within such time
443 presented or surrendered such entity's security or taken any such other
444 action that the plan requires may not participate in distribution under
445 the plan.

446 Sec. 16. (NEW) (*Effective October 1, 2005*) On request of a party in
447 interest at any time not later than one hundred eighty days after the
448 date of the entry of the order of confirmation, and after notice and a
449 hearing, the court may revoke such order only if such order was
450 procured by fraud. An order under this section revoking an order of

451 confirmation shall:

452 (1) Contain such provisions as are necessary to protect any entity
453 acquiring rights in good faith reliance on the order of confirmation;
454 and

455 (2) Revoke the discharge of the applicant.

456 Sec. 17. (NEW) (*Effective October 1, 2005*) (a) Except as provided in
457 subsection (d) of this section, the applicant, subject to the court's
458 approval, may assume or reject any executory contract or unexpired
459 lease of the applicant. Executory contracts shall include policies which
460 are, at the time of assumption or rejection, within the period of
461 coverage.

462 (b) If there has been a default in an executory contract or unexpired
463 lease of the applicant, the applicant may not assume such contract or
464 lease unless, at the time of assumption of such contract or lease, the
465 applicant:

466 (1) Cures, or provides adequate assurance that the applicant will
467 promptly cure, such default;

468 (2) Compensates, or provides adequate assurance that the applicant
469 will promptly compensate, a party other than the applicant to such
470 contract or lease, for any actual pecuniary loss to such party resulting
471 from such default; and

472 (3) Provides adequate assurance of future performance under such
473 contract or lease.

474 (c) Subsection (b) of this section shall not apply to a default that is a
475 breach of a provision relating to:

476 (1) The insolvency or financial condition of the applicant at any time
477 before the closing of the case;

478 (2) The commencement of a case under sections 1 to 20, inclusive, of

479 this act; or

480 (3) The satisfaction of any penalty rate or provision relating to a
481 default arising from any failure of the applicant to perform
482 nonmonetary obligations under the executory contract or unexpired
483 lease.

484 (d) (1) The applicant may not assume or assign any executory
485 contract or unexpired lease of the applicant, whether or not such
486 contract or lease prohibits or restricts assignment of rights or
487 delegation of duties, if:

488 (A) Applicable law excuses a party to such contract or lease, other
489 than the applicant, from accepting performance from or rendering
490 performance to an entity other than the applicant, whether or not such
491 contract or lease prohibits or restricts assignment of rights or
492 delegation of duties; and

493 (B) Such party does not consent to such assumption or assignment;
494 or

495 (C) Such contract is a contract to make a loan, or extend other debt
496 financing or financial accommodations, to or for the benefit of the
497 applicant, or to issue a security of the applicant.

498 (2) The limitations in subdivision (1) of this subsection shall not
499 impair the applicant's right to assume executory contracts that are
500 policies or reinsurance agreements.

501 (e) Except as provided in subsection (d) of this section,
502 notwithstanding a provision in an executory contract or unexpired
503 lease of the applicant, or in applicable law, that prohibits, restricts or
504 conditions the assignment of such contract or lease, the applicant may
505 assign such contract or lease, except that the applicant may not assign
506 a reinsurance agreement under this section if such assignment would
507 result in such reinsurance agreement covering policies that were
508 issued by any person other than the applicant.

509 (f) The applicant may assign an executory contract or unexpired
510 lease of the applicant only if:

511 (1) The applicant assumes such contract or lease in accordance with
512 the provisions of this section; and

513 (2) Adequate assurance of future performance by the assignee of
514 such contract or lease is provided, whether or not there has been a
515 default in such contract or lease.

516 (g) Notwithstanding a provision in an executory contract or
517 unexpired lease of the applicant, or in applicable law that terminates or
518 modifies, or permits a party other than the applicant to terminate or
519 modify, such contract or lease or a right or obligation under such
520 contract or lease on account of an assignment of such contract or lease,
521 such contract, lease, right or obligation may not be terminated or
522 modified under such provisions because of the assumption or
523 assignment of such contract or lease by the trustee.

524 (h) The rejection of an executory contract or unexpired lease of the
525 applicant constitutes a breach of such contract or lease.

526 (i) Assignment by the applicant to an entity of a contract of lease
527 assumed under this section relieves the applicant from any liability for
528 any breach of such contract or lease occurring after such assignment.

529 Sec. 18. (NEW) (*Effective October 1, 2005*) (a) After the filing of a
530 petition under section 4 of this act and before confirmation of a plan,
531 the applicant shall notify each creditor whose claim is impaired under
532 the plan of the amount which the applicant proposes to use as a basis
533 for making a distribution under the plan. Such amount may, if the plan
534 so provides, include an estimate of amounts that the applicant may
535 become obligated to pay to or on behalf of such creditor in the future.
536 Any estimate shall not provide a basis for submitting a claim to a
537 reinsurer under a reinsurance agreement.

538 (b) If a creditor disputes the amount proposed by the applicant in

539 such notice, the creditor may request a hearing as to the valid amount
540 of such claim and the best estimate of amounts that may be owed in
541 the future. In any such hearing, the creditor shall have the burden of
542 proof as to such amount.

543 Sec. 19. (NEW) (*Effective October 1, 2005*) (a) (1) Upon application to
544 the department for redomestication for the purpose of filing a petition
545 under sections 1 to 20, inclusive, of this act, the applicant shall pay a
546 fee to the department in the amount of one hundred twenty-five
547 thousand dollars or such lesser amount as the Insurance
548 Commissioner deems adequate for appropriate and thorough review
549 of the application.

550 (2) Subsequent to the filing of an application for redomestication,
551 the applicant shall reimburse the Insurance Department for all legal,
552 actuarial, accounting and other professional fees and all other fees and
553 expenses incurred by the department in connection with the
554 application.

555 (b) (1) Every March fifteenth, the commissioner shall assess each
556 applicant an amount equal to the greater of: (A) One thousand dollars,
557 or (B) the sum of that applicant's proportionate share of estimated
558 regulatory expenditure for that calendar year and that applicant's
559 assessment deficit, less its assessment surplus.

560 (2) The calculation of the assessment surplus or deficit shall reflect
561 the total cost of any examinations, which shall be borne by the
562 companies so examined, and shall include the following expenses:

563 (A) One hundred fifty per cent of the total salaries and benefits paid
564 to the examining personnel of the department engaged in those
565 examinations, including, but not limited to, examiners, actuaries,
566 attorneys, managers and paraprofessionals, less any salary
567 reimbursements;

568 (B) All reasonable technology costs related to the examination

569 process. Technology costs shall include the actual cost of software and
570 hardware utilized in the examination process and the cost of training
571 examination personnel in the proper use of the software or hardware;

572 (C) All necessary and reasonable education and training costs
573 incurred by the state to maintain the proficiency and competence of the
574 examining personnel.

575 (3) Each applicant shall pay the assessment to the department on or
576 before the following fifteenth day of April.

577 (4) An insurer that redomiciles to this state after March fifteenth of
578 any year and that qualifies as an applicant upon redomestication shall
579 pay an assessment equal to the commissioner's estimate of
580 redomestication expenditure attributable to that applicant.

581 (5) All revenues collected pursuant to this section shall be deposited
582 in the Insurance Fund established in section 38a-52a of the general
583 statutes. Such assessment shall be in addition to any taxes and fees
584 otherwise payable to the state.

585 (c) Except with respect to policy renewals required by law or
586 contract, no applicant shall be subject to any assessment or assignment
587 in connection with any residual market, fair plan or assigned-risk plan
588 mechanisms in this state.

589 Sec. 20. (NEW) (*Effective October 1, 2005*) The Insurance
590 Commissioner may adopt regulations, in accordance with chapter 54
591 of the general statutes, to implement sections 1 to 19, inclusive, of this
592 act.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2005</i>	New section
Sec. 2	<i>October 1, 2005</i>	New section
Sec. 3	<i>October 1, 2005</i>	New section

Sec. 4	<i>October 1, 2005</i>	New section
Sec. 5	<i>October 1, 2005</i>	New section
Sec. 6	<i>October 1, 2005</i>	New section
Sec. 7	<i>October 1, 2005</i>	New section
Sec. 8	<i>October 1, 2005</i>	New section
Sec. 9	<i>October 1, 2005</i>	New section
Sec. 10	<i>October 1, 2005</i>	New section
Sec. 11	<i>October 1, 2005</i>	New section
Sec. 12	<i>October 1, 2005</i>	New section
Sec. 13	<i>October 1, 2005</i>	New section
Sec. 14	<i>October 1, 2005</i>	New section
Sec. 15	<i>October 1, 2005</i>	New section
Sec. 16	<i>October 1, 2005</i>	New section
Sec. 17	<i>October 1, 2005</i>	New section
Sec. 18	<i>October 1, 2005</i>	New section
Sec. 19	<i>October 1, 2005</i>	New section
Sec. 20	<i>October 1, 2005</i>	New section

Statement of Purpose:

To allow for the reorganization of certain insurance companies.

[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.]