



General Assembly

Amendment

January Session, 2005

LCO No. 5958

SB0099905958SD0

Offered by:
SEN. CRISCO, 17th Dist.

To: Subst. Senate Bill No. 999 File No. 230 Cal. No. 220

**"AN ACT CONCERNING CHANGES TO THE INSURANCE
STATUTES."**

1 Strike section 3 in its entirety and substitute the following in lieu
2 thereof:

3 "Sec. 3. Section 38a-838 of the general statutes is repealed and the
4 following is substituted in lieu thereof (*Effective from passage and*
5 *applicable to insolvencies occurring on or after said date*):

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

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

11 (2) "Affiliate" means any affiliate, as defined in section 38a-1, of an
12 insolvent insurer;

13 (3) "Association" means the Connecticut Insurance Guaranty

14 Association created under section 38a-839;

15 (4) "Commissioner" means the Insurance Commissioner;

16 (5) "Covered claim" means an unpaid claim, including, but not
17 limited to, one for unearned premiums, which arises out of and is
18 within the coverage and subject to the applicable limits of an insurance
19 policy to which sections 38a-836 to 38a-853, inclusive, apply issued by
20 an insurer, if such insurer becomes an insolvent insurer after October
21 1, 1971, and (A) the claimant or insured is a resident of this state at the
22 time of the insured event; or (B) the claim is a first party claim for
23 damage to property with a permanent location in this state, provided
24 the term "covered claim" shall not include (i) any claim by or for the
25 benefit of any reinsurer, insurer, insurance pool, or underwriting
26 association, as subrogation recoveries or otherwise; provided that a
27 claim for any such amount, asserted against a person insured under a
28 policy issued by an insurer which has become an insolvent insurer,
29 which, if it were not a claim by or for the benefit of a reinsurer, insurer,
30 insurance pool or underwriting association, would be a "covered
31 claim" may be filed directly with the receiver of the insolvent insurer
32 but in no event shall any such claim be asserted against the insured of
33 such insolvent insurer, (ii) any claim by or on behalf of an individual
34 who is neither a citizen of the United States nor an alien legally
35 resident in the United States at the time of the insured event, or an
36 entity other than an individual whose principal place of business is not
37 in the United States at the time of the insured event, and it arises out of
38 an accident, occurrence, offense, act, error or omission that takes place
39 outside of the United States, or a loss to property normally located
40 outside of the United States or, if a workers' compensation claim, it
41 arises out of employment outside of the United States, (iii) any claim
42 by or on behalf of a person who is not a resident of this state, other
43 than a claim for compensation or any other benefit which arises out of
44 and is within the coverage of a workers' compensation policy, against
45 an insured whose net worth at the time the policy was issued or at any
46 time thereafter exceeded twenty-five million dollars, provided that an
47 insured's net worth for purposes of this section and section 38a-844

48 shall be deemed to include the aggregate net worth of the insured and
49 all of its subsidiaries as calculated on a consolidated basis, [; or] (iv)
50 any claim by or on behalf of an affiliate of the insolvent insurer at the
51 time the policy was issued or at the time of the insured event, or (v)
52 any claim arising out of a policy issued by an insurer which was not
53 licensed to transact insurance in this state either at the time the policy
54 was issued or when the insured event occurred;

55 (6) "Insolvent insurer" means an insurer (A) (i) licensed to transact
56 insurance in this state either at the time the policy was issued or when
57 the insured event occurred, and [(B)] (ii) determined to be insolvent by
58 a court of competent jurisdiction; [, provided the term "insolvent
59 insurer"] (B) which is the legal successor of an insurer that was
60 licensed to transact insurance in this state either at the time the policy
61 was issued or when the insured event occurred by reason of a merger,
62 provided such merger is approved by an insurance regulator having
63 jurisdiction over such merger; or (C) which succeeds to the policy
64 obligations of an insurer that was licensed to transact insurance in this
65 state at the time the policy was issued or when the insured event
66 occurred by reason of a division whereby policies issued by such
67 licensed insurer were transferred to an insurer later determined to be
68 insolvent, provided such division is approved (i) in a jurisdiction that
69 allows such division, and (ii) by an insurance regulator having
70 jurisdiction over such division. "Insolvent insurer" shall [(i)] not be
71 construed to mean any insurer with respect to which an order, decree,
72 judgment or finding of insolvency, whether permanent or temporary
73 in nature, or order of rehabilitation or conservation has been issued by
74 a court of competent jurisdiction prior to October 1, 1971; [, and (ii)
75 include the legal successor of the insolvent insurer in the event of the
76 merger of the insolvent insurer;]

77 (7) "Member insurer" means any person who (A) writes any kind of
78 insurance to which sections 38a-836 to 38a-853, inclusive, apply under
79 section 38a-837, including, but not limited to, the exchange of
80 reciprocal or interinsurance contracts, and (B) is licensed to transact

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

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

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

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