



# STATE OF CONNECTICUT

## INSURANCE DEPARTMENT

### Testimony Of The Insurance Department

Before  
The Insurance And Real Estate Committee

Raised Bill No. 6509 - An Act Concerning the Connecticut Insurance Guaranty Association  
and the Connecticut Life and Health Insurance Guaranty Association

March 8, 2011

Senator Crisco and Representative Megna, committee co-chairs and ranking members, and Members of the Committee, the Insurance Department is pleased to present its views on Raised Bill 6509 concerning Connecticut's insurance guaranty associations. This is a legislative proposal of the Insurance Department, with minor redrafting by Legislative Commissioner's Office. The Department would like to thank the Co-Chairmen of the Committee for raising this bill on our behalf.

The Connecticut Insurance Guaranty Association (CIGA) and the Connecticut Life and Health Insurance Guaranty Association (CLHIGA) were created in 1971 and 1972, respectively, to serve as a safety net for consumers of insolvent insurers licensed in Connecticut.

Raised Bill 6509 will amend the CIGA Act and the CLHIGA Act to more closely follow the provisions of the National Association of Insurance Commissioners insurance guaranty association model acts. It will also allow insurance companies to offset their premium tax liability by 50% of the amount of assessments they pay to the Connecticut insurance guaranty associations, instead of 100%.

The proposed changes to the insurance guaranty association statutes are summarized as follows:

#### **Amendments to the Connecticut Insurance Guaranty Association (CIGA) Act**

**Section 1** amends and adds definitions to the CIGA Act.

**Sec. 2** makes nonsubstantive technical changes.

**Sec. 3** adds a requirement that the CIGA Board of Directors include two public representatives and replacement of board members due to insolvency, illness, conflict of interest.

**Sec. 4** amends the powers and duties of CIGA, including provisions:

- raising the coverage from \$400,000 to \$500,000 for claims other than workers' compensation; raising coverage for unearned premiums (from one-half of the unearned premium up to \$2,000 maximum, to all unearned premium up to a \$10,000 maximum);

- terminating obligation to defend insured upon payment of covered claim limit or policy limit;
- a right to pursue and retain salvage and subrogation recoveries;
- deletes the rule that if a member insurer's (including all affiliates) total net direct written premium are from policies issued in the state on risks located in the state, then the insurer will only be assessed under the "all other insurance" account for the member's premium that is attributable to the kinds of insurance that gives rise to each covered claim;
- provide right to appoint and direct legal counsel for defense of covered claims, the right to contest settlements and judgments entered within 120 days prior to order of liquidation;
- authorizes CIGA to coordinate and cooperate with other guaranty associations and receivers, including via membership in other organizations of state guaranty associations;
- allow insurers to offset their premium tax liability by 50% of the amount of assessments they pay to CIGA, instead of a 100% tax offset under current law, and allow insurers to recoup cost of assessments not subject to offset in rates charged.<sup>1</sup>

**Sec. 5** makes a technical change to law governing CIGA's plan of operation.

**Sec. 6.** deletes provision dealing with receivers' acceptance of CIGA claim determinations and claim settlements (receivership statutes will govern this issue); provides that no claim for any amount due any reinsurer, insurer, insurance pool, HMO, self-insurer may be asserted against a person insured under a policy issued by the insolvent insurer other than to the extent the claim exceeds CIGA's obligation limits; amends CIGA's right of recoupment against high net worth

---

<sup>1</sup> NAIC Property and Casualty Insurance Guaranty Association Model Act recognizes three ways member insurers may be allowed to recoup assessments paid to the guaranty association: through the rates charged consumers; by an explicit policyholder surcharge, or by tax offsets. For over thirty years (1971 to 2000) insurance guaranty association assessments were recouped in the premium rates insurers charged by the insurers without any premium tax offset. However, in 2000, (during better economic times) the legislature changed the CIGA Act to fully socialize the costs of guaranty association assessments by establishing a 100% premium tax offset with a right to transfer any premium tax credit to an affiliate. This change in the law was part of a 91 page amendment to a bill passed on the last day of the legislative session. This same legislation in 2000 also changed the CLHIGA Act to provide a similar 100% premium tax offset for insurers writing life and health insurance in Connecticut.

The public policy of Connecticut should require insurers to share the economic loss associated with providing the insurance insolvency protection for consumers of insurance products as a cost of doing business. This concept is much like what exists for banking institutions which, as a cost of business, are required to pay the Federal Deposit Insurance Corporation for protection of customers' deposits at rates based on the assessable deposits and the risk category of the bank. This legislation will put more "skin in the game" for insurers with respect to the costs of the insurance guaranty associations, including a greater sensitivity toward expenditures each association authorizes, rather than simply passing 100% of such costs as a premium tax offset to state revenue that otherwise would be collected.

insureds by expanding the exception for municipalities to include any governmental entity (i.e., the State, municipality, school district, etc.).

**Sec. 7** amends rules on exhaustion of other coverage prior to claim against CIGA, and reduction of amounts CIGA pays on claims due to claimant's recovery under other insurance policies.

**Sec. 8** Deletes provision regarding set aside of judgments, decisions, and orders entered by default of an insolvent insurer or its failure to defend an insured (because it is moved to Sec. 4(d)).

### **Amendments to the Connecticut Life and Health Insurance Guaranty Association (CLHIGA) Act.**

**Sec. 9** makes several minor technical changes to the CLHIGA Act concerning coverage and limitations, and adds an exclusion from coverage for hospital, medical, prescription drug benefits pursuant to Medicare Part C and Part D.

**Sec. 10** adds a provision that specifies that meetings or records of CLHIGA may be opened to the public upon majority vote of the CLHIGA Board of Directors.

**Sec. 11** adds requirement that the CLHIGA Board of Directors include two public representatives.

**Sec. 12** amends the powers and duties of CLHIGA to specify that it must provide the liquidator (upon request) a report on premiums collected by CLHIGA for coverage.

**Sec. 13** amends the rules on the power of CLHIGA to assume any of the contracts of reinsurance of an insolvent ceding member insurer (including shortening the time of election of such decision from one year to six months and clarification of obligations resulting from such election).

**Sec. 14** limits CLHIGA's ability to levy non-pro rata assessments for funding its administrative and legal costs and other expenses to \$300 per member insurer in any calendar year.

**Sec. 15** permits CLHIGA member insurers to offset their premium tax liability by 50% (instead of 100%) of the amount of assessments they pay to CLHIGA for CLHIGA benefits paid to insureds.<sup>2</sup>

---

<sup>2</sup> NAIC Life and Health Insurance Guaranty Association Model Act provides an optional section for a premium tax offset for insurers to recoup guaranty association assessments and the drafting note states that some states allow a tax credit and others do not. The NAIC neither endorses nor rejects the tax credit concept. Since 1972, CLHIGA member insurers were authorized to offset their premium tax with 50% of any assessment they pay to CLHIGA. In 2000, (during better economic times) the legislature changed the CLHIGA Act to fully socialize the costs of guaranty association assessments by establishing a 100% premium tax offset with a right to transfer any premium tax credit to an affiliate. Returning to a 50% premium tax offset will fairly balance the need to require insurers to share the costs of insolvency fund protection for the products they sell. Incidentally, it will also reduce the loss of state tax revenue associated with guaranty fund tax offsets.

**Sec. 16** amends law governing CLHIGA's plan of operation to have provisions that reference telephone conference call meetings.

**Sec. 17** makes technical changes to duties of Commissioner (deletes language on appointment as liquidator or rehabilitator because it is redundant with existing receivership statutes; limits appeals of CLHIGA Board action to "final" actions; receiver may notify persons of CLHIGA coverage involving an impaired or "insolvent" insurer).

**Sec. 18**

- References to impaired insurer are changed to impaired or insolvent insurer.
- Allows CLHIGA and similar associations to receive early access distributions from the receivership estate and to petition the receivership court for such distribution if one is not made within 120 days of the date the court declares the insurer insolvent.
- Recites that CLHIGA's receivership claim shall be paid in full with interest prior to any receivership distribution to stockholders of the insurer.
- Changes and expands the prohibition on using the coverage of CLHIGA in the marketing and solicitation of insurance;
- Language is deleted concerning right of a receiver to recover distributions to affiliates because these provisions duplicate receivership statute, sec. 38a-933a.
- Requires the Commissioner to approve a summary document prepared by CLHIGA describing its coverages and limitations together with a disclaimer warning consumers about the limitations and conditions of coverage, that consumers should not rely on such coverage in making insurance purchasing decisions and that provide information for consumers to file a complaint alleging a violation of the marketing ban. Insurers are required to deliver the summary document to its policy or contract owner at time the policy or contract is delivered, and insurers shall retain evidence of compliance with this requirement.

The Insurance Department asks that the Insurance and Real Estate Committee act favorably on Raised Bill No. 6509.