AN ACT CONCERNING THE CONNECTICUT LIFE AND HEALTH INSURANCE GUARANTY ASSOCIATION

SUMMARY: This act makes several changes in the laws governing the Connecticut Life and Health Insurance Guaranty Association (CLHIGA), which pays the valid claims of policyholders and certain other claimants when a member insurer defaults, generally up to a statutory maximum of $500,000 per individual and $5 million per plan sponsor for certain unallocated insurance contracts. These claims are paid through assessments on member insurers. The act:

1. requires health care centers (i.e., HMOs) to participate in CLHIGA, which (a) broadens the scope of members who are assessed for an impairment or insolvency and (b) requires CLHIGA to cover HMO members and enrollees for impairment or insolvency;
2. equalizes the assessments for long-term care (LTC) insurer insolvencies between (a) accident and health insurers and (b) life and annuity insurers;
3. excludes from coverage Medicaid benefits and certain financial contracts and structured settlements;
4. increases the potential size of the association’s board of directors;
5. extends CLHIGA protection to government entities; and
6. makes several other related changes.

The act also makes numerous minor, technical, and conforming changes.

EFFECTIVE DATE: July 1, 2018, with certain coverage and assessment provisions applicable to impairments and insolvencies occurring on or after that date.

§ 2 — NEW COVERAGE EXCLUSIONS

The act excludes from CLHIGA coverage:

1. individuals who acquired rights to receive payment through structured settlement factoring transactions (e.g., an exchange of annuity rights for a lump sum payment), regardless of the transaction’s effective date;
2. structured settlement annuity benefits transferred in a factoring transaction, regardless of the transaction’s effective date;
3. any portion of policies or contracts for which federal or state law preempts guaranty association assessments; and

§§ 3 & 4 — HEALTH CARE CENTERS

By law, CLHIGA generally covers policies and contracts that are issued by its
members and meet certain other conditions. The act (1) requires HMOs to be member insurers as a condition of conducting health care center business in the state and (2) expands CLHIGA coverage to HMO members and enrollees. Under the act, health insurance covered under CLHIGA includes an HMO subscriber contract or certificate. It also makes conforming changes throughout the statutes.

§ 5 — BOARD OF DIRECTORS

The act increases the (1) minimum number of board members from 5 to 7 and (2) maximum number of board members from 9 to 11. In practice, there are 9 member insurers on the CLHIGA board, excluding the insurance commissioner who serves as non-voting ex-officio member under the board’s operating plans.

§ 6 — ALTERNATE POLICIES FOR INSOLVENT INSURER GROUP POLICIES

Reissuing Policies and Providing Alternate Coverage

By law, an insolvent insurer’s policies terminate no more than 45 days for group policies or one year for nongroup policies after the insurer is ordered liquidated. By law, CLHIGA must (1) guarantee, assume, or reinsure an insolvent insurer’s policies and contracts or otherwise assure payment of its obligations or (2) issue an alternative policy or otherwise provide the benefits and coverages that would have been payable under the policies or contracts while maintaining the same premium.

The act allows CLHIGA to fulfill the first requirement by reissuing the insolvent insurer’s policies. It also eliminates, if an insurer issues alternate policies, the requirement that the alternative coverage be offered at the same premium.

The act also allows CLHIGA to reissue an impaired insurer’s policies.

Setting Rates for Alternative Coverage

For certain group policies and contracts issued by the insolvent insurer that gave an insured the right to convert to individual coverage or continue a policy or annuity until a specific time during which the insurer was prohibited from making unilateral changes, the act allows CLHIGA to offer alternative coverage at actuarially justified rates (presumably instead of the premium rate previously charged to the insured by the insolvent insurer).

Under the act, alternative policies adopted by the association need the insurance commissioner’s approval instead of approval from the receivership court and the insurance commissioner of the insurer’s domiciled state, as under prior law.

The act makes a similar change to reissued policies. If CLHIGA reissues terminated coverage at a new premium rate, the new rate must be (1) actuarially justified in relation to the amount of insurance or coverage provided and (2) approved by the insurance commissioner, instead of the receivership court and the insurance commissioner of the insured’s domiciled state.
The act also allows the association, unless otherwise prohibited by law and for any coverage it provides, to file for an actuarially justified rate increase as long as the increase is in accordance with the policy’s or contract’s terms and conditions.

§ 6 — RIGHTS UNDER REINSURANCE

By law, CLHIGA may succeed to any insolvent or impaired member insurer’s rights and obligations that accrue on or after the date CLHIGA becomes responsible for its obligations. Under the act, the association has no rights or obligations under a reinsurance contract if it does not elect to assume such contract’s obligations within a year. If the association transfers its obligations to an assuming reinsurer, it must notify the affected reinsurer at least 30 days before the transfer.

By law, CLHIGA’s obligations to an impaired or insolvent insurer cease after a reinsurance agreement is ceded to an assuming insurer. The act eliminates a provision that exempts CLHIGA from existing reinsurance requirements if it expressly determines, in writing, that it will not transfer its obligations to an assuming insurer. Under prior law, this provision superseded any state law or reinsurance agreement that requires a payment on reinsurance proceeds due to losses or events occurring after CLHIGA assumes an insolvent insurer’s obligation. Under the act, the provision instead supersedes any such law or agreement requiring payment after a liquidation order.

The act also specifies that provisions relating to CLHIGA powers and obligations do not (1) limit or affect the association’s rights as a creditor of an estate or (2) apply to property and casualty risks.

§ 7 — EQUALIZED ASSESSMENTS FOR LONG TERM CARE (LTC) INSURANCE

By law, CLHIGA may assess its members for (1) administrative costs and general expenses (“Class A” assessments) and (2) costs necessary to carry out the association’s duties to guarantee an impaired or insolvent insurer’s obligations (“Class B” assessments). By law, Class B assessments are allocated among the association’s two accounts: the health insurance account (which the act renames the “health account”) and the life insurance account. Member assessments are generally proportional to the premiums they receive in the relevant lines of insurance.

The act requires Class B assessments related to LTC insurance to be allocated (1) separately from other Class B assessments and (2) evenly between (a) accident and health member insurers and (b) life and annuity member insurers. The act requires the allocation to be according to a methodology included in the plan of operation which the association, by law, must prepare and submit to the insurance commissioner for approval.

OTHER CHANGES

*Interest on Returned Assessments (§ 7)*
By law, member insurers may protest an assessment, and if successful, receive a refund on any erroneously paid amounts. The act requires CLHIGA to pay interest on returned assessments at the rate it was earned to any insurer that successfully appealed, instead of any member that protests, as under prior law.

Recovery of Assessments (§ 8)

Under the act, a stockholder distribution of an impaired insurer is prohibited until all of CLHIGA’s valid claims have been recovered with interest, instead of until CLHIGA recoups the total assessment amount, as under prior law. The act also extends this prohibition to insolvent insurers.

The act also applies, to insolvent rather than impaired insurers, provisions on (1) distributing ownership rights during liquidation, rehabilitation, or conservation proceedings and (2) the maximum amount of distributions recoverable by an appointed receiver.

Interest Rate Limitations and LTC Riders (§ 2)

The law limits CLHIGA coverage in certain circumstances, including when a portion of a policy or contract included an interest rate that exceeds statutory limits. The act excludes any health insurance or LTC insurance policies from this coverage limitation.

The act also requires CLHIGA, when determining coverage, to consider an LTC rider on a life insurance policy or annuity contract as the same type of benefits provided by the underlying policy (e.g., a LTC rider on a life insurance policy would be considered, for coverage purposes, a life insurance benefit).

Health Care Providers (§ 2)

The act also specifies that health care providers rendering services under a health insurance policy or contract covered by CLHIGA are eligible for coverage (e.g., reimbursement for services rendered).