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**By: Delegate Cummings**

Introduced and read first time: February 27, 1996

Assigned to: Rules and Executive Nominations

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A BILL ENTITLED

1 AN ACT concerning

**2 Property and Casualty Insurance Guaranty Corporation - Obligations**

3 FOR the purpose of excluding from the definition of "covered claim" certain claims by  
4 certain insureds with a certain net worth; providing that any obligation of the  
5 Property and Casualty Insurance Guaranty Corporation to defend an insured ceases  
6 on payment of a certain amount; providing that any obligation of the Corporation  
7 ceases when a certain amount has been paid by the Corporation and certain other  
8 entities in a certain manner on certain claims arising under policies of one insolvent  
9 insurer; authorizing the Corporation to allocate certain amounts payable in a  
10 certain manner; providing for the future codification of certain provisions of this  
11 Act; and generally relating to obligations of the Property and Casualty Insurance  
12 Guaranty Corporation.

13 BY repealing and reenacting, with amendments,  
14 Article 48A - Insurance Code  
15 Section 505(c)  
16 Annotated Code of Maryland  
17 (1994 Replacement Volume and 1995 Supplement)

18 BY adding to  
19 Article 48A - Insurance Code  
20 Section 513  
21 Annotated Code of Maryland  
22 (1994 Replacement Volume and 1995 Supplement)

23 BY repealing and reenacting, with amendments,  
24 Article - Insurance  
25 Section 9-301(d)  
26 Annotated Code of Maryland  
27 (1995 Volume)  
28 (As enacted by Chapter \_\_\_\_\_ (H. B. 11) of the Acts of the General Assembly of  
29 1996)

30 BY adding to  
31 Article - Insurance

2

1 Section 9-310.1  
2 Annotated Code of Maryland  
3 (1995 Volume)  
4 (As enacted by Chapter \_\_\_\_\_ (H. B. 11) of the Acts of the General Assembly of  
5 1996)

6 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
7 MARYLAND, That the Laws of Maryland read as follows:

8 **Article 48A - Insurance Code**

9 505.

10 (c) (1) "Covered claims" means obligations, including unearned premiums, of  
11 an insolvent insurer which:

12 (i) 1. A. For insurance other than insurance covering the  
13 members of a purchasing group, arise out of the insurance policy contracts of the  
14 insolvent insurer issued to residents of this State or which are payable to residents of this  
15 State on behalf of insureds of the insolvent insurer; or

16 B. For insurance covering the members of a purchasing group,  
17 arise out of insurance covering the members of a purchasing group to the extent that the  
18 insurance is obtained by the purchasing group, the insurance is written by an authorized  
19 insurer, and the claim is made by a person residing or located in this State; or

20 2. Arise out of surety bonds issued by the insolvent insurer for  
21 the protection of third parties, who are residents of this State;

22 (ii) Were unpaid by the insolvent insurer;

23 (iii) Are presented as a claim to the receiver in this State or the  
24 Corporation on or before the last date fixed for the filing of claims in the domiciliary  
25 delinquency proceedings;

26 (iv) 1. Except for surety bond claims, were incurred or existed prior  
27 to, on, or within 30 days after the determination of insolvency; or

28 2. For surety bond claims arising under surety bonds issued by a  
29 domestic insurer were incurred or existed prior to, on, or within 18 months after the  
30 determination of insolvency, whether or not the surety bonds are issued for no stated  
31 period or for a stated period; and

32 (v) Arise out of policy contracts or surety bonds of the insolvent  
33 insurer issued for the kinds of insurance to which this subtitle applies.

34 (2) (i) "Covered claim" does not include any amount due any reinsurer,  
35 insurer, insurance pool, or underwriting association, as subrogation recoveries or  
36 otherwise. No insurer shall assert a claim of subrogation against an insured of an  
37 insolvent insurance company but may assert any claim it may have against the receiver of  
38 the insolvent insurance company.

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1 (ii) "Covered claim" does not include any amount due arising out of  
2 insurance covering the members of a purchasing group if the insurance obtained by the  
3 purchasing group is written by an unauthorized insurer.

4 (III) 1. "COVERED CLAIM" DOES NOT INCLUDE A FIRST PARTY  
5 CLAIM BY AN INSURED WHOSE NET WORTH EXCEEDS \$25,000,000 ON DECEMBER 31 OF  
6 THE YEAR BEFORE THE YEAR IN WHICH THE INSURER BECOMES AN INSOLVENT  
7 INSURER.

8 2. FOR PURPOSES OF THIS PARAGRAPH , THE NET WORTH  
9 OF AN INSURED IS DEEMED TO INCLUDE THE AGGREGATE NET WORTH OF THE  
10 INSURED AND ALL OF ITS SUBSIDIARIES CALCULATED ON A CONSOLIDATED BASIS.

11 513.

12 (A) ANY OBLIGATION OF THE CORPORATION TO DEFEND AN INSURED SHALL  
13 CEASE ON PAYMENT BY THE CORPORATION, BY SETTLEMENT RELEASING THE  
14 INSURED OR ON A JUDGMENT, OF AN AMOUNT EQUAL TO THE LESSER OF THE  
15 CORPORATION'S COVERED CLAIM OBLIGATION LIMIT OR THE APPLICABLE POLICY  
16 LIMIT.

17 (B) (1) IN THIS SUBSECTION, "AFFILIATE" MEANS A PERSON WHO DIRECTLY  
18 OR INDIRECTLY, THROUGH ONE OR MORE INTERMEDIARIES, CONTROLS, IS  
19 CONTROLLED BY, OR IS UNDER COMMON CONTROL WITH ANOTHER PERSON.

20 (2) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SUBTITLE,  
21 EXCEPT FOR A CLAIM FOR BENEFITS UNDER WORKERS' COMPENSATION  
22 COVERAGE, ANY OBLIGATION OF THE CORPORATION TO ANY PERSON SHALL CEASE  
23 WHEN \$10,000,000 HAS BEEN PAID IN THE AGGREGATE:

24 (I) BY THE CORPORATION AND ONE OR MORE INSURANCE  
25 GUARANTY CORPORATIONS OR ASSOCIATIONS SIMILAR TO THE CORPORATION IN  
26 OTHER STATES OR PROPERTY CASUALTY INSURANCE SECURITY FUNDS THAT  
27 OBTAIN CONTRIBUTIONS FROM INSURERS ON A PRE-INSOLVENCY BASIS IN OTHER  
28 STATES;

29 (II) TO OR ON BEHALF OF AN INSURED AND ITS AFFILIATES; AND

30 (III) ON COVERED CLAIMS OR ON CLAIMS ALLOWED ARISING  
31 UNDER ONE OR MORE POLICIES OF ONE INSOLVENT INSURER.

32 (3) IF THE CORPORATION DETERMINES THAT THERE MAY BE MORE  
33 THAN ONE CLAIMANT WITH A COVERED CLAIM OR ALLOWED CLAIM AGAINST THE  
34 CORPORATION OR ANY INSURANCE GUARANTY CORPORATIONS OR ASSOCIATIONS  
35 SIMILAR TO THE CORPORATION IN OTHER STATES OR ANY PROPERTY CASUALTY  
36 INSURANCE SECURITY FUNDS IN OTHER STATES, ARISING UNDER ONE OR MORE  
37 POLICIES OF ONE INSOLVENT INSURER, THE CORPORATION MAY ESTABLISH A PLAN  
38 TO ALLOCATE AMOUNTS PAYABLE BY THE CORPORATION IN THE MANNER THAT  
39 THE CORPORATION IN ITS DISCRETION CONSIDERS EQUITABLE.

40 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland  
41 read as follows:

4

1 **Article - Insurance**

2 9-301.

3 (d) (1) "Covered claim" means an insolvent insurer's unpaid obligation,  
4 including an unearned premium:

5 (i) that:

6 1. A. for insurance other than insurance that covers members  
7 of a purchasing group, arises out of a policy of the insolvent insurer issued to a resident  
8 or payable to a resident on behalf of an insured of the insolvent insurer; or

9 B. for insurance that covers members of a purchasing group,  
10 arises out of insurance that covers the members of the purchasing group to the extent that  
11 the insurance is obtained by the purchasing group, the insurance is written by an  
12 authorized insurer, and the claim is made by a person residing or located in the State; or

13 2. arises out of a surety bond issued by the insolvent insurer for  
14 the protection of a third party that is a resident;

15 (ii) that is presented on or before the last date fixed for the filing of  
16 claims in the domiciliary delinquency proceeding as a claim to the corporation or to the  
17 receiver in the State;

18 (iii) that:

19 1. except for a surety bond claim, was incurred or existed  
20 before, on, or within 30 days after the determination of insolvency; or

21 2. for a surety bond claim that arises out of a surety bond issued  
22 by a domestic insurer, was incurred or existed before, on, or within 18 months after the  
23 determination of insolvency, whether or not the surety bond is issued for no stated period  
24 or for a stated period; and

25 (iv) that arises out of a policy or surety bond of the insolvent insurer  
26 issued for a kind of insurance to which this subtitle applies.

27 (2) "covered claim" does not include:

28 (i) an amount due a reinsurer, insurer, insurance pool, or  
29 underwriting association, as a subrogation recovery or otherwise; or

30 (ii) an amount due that arises out of insurance covering the members  
31 of a purchasing group if the insurance obtained by the purchasing group is written by an  
32 unauthorized insurer.

33 (3) (I) "COVERED CLAIM" DOES NOT INCLUDE A FIRST PARTY CLAIM  
34 BY AN INSURED WHOSE NET WORTH EXCEEDS \$25,000,000 ON DECEMBER 31 OF THE  
35 YEAR BEFORE THE YEAR IN WHICH THE INSURER BECOMES AN INSOLVENT  
36 INSURER.

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1 (II) FOR PURPOSES OF THIS PARAGRAPH, THE NET WORTH OF AN  
2 INSURED IS DEEMED TO INCLUDE THE AGGREGATE NET WORTH OF THE INSURED  
3 AND ALL OF ITS SUBSIDIARIES CALCULATED ON A CONSOLIDATED BASIS.

4 9-310.1.

5 (A) ANY OBLIGATION OF THE CORPORATION TO DEFEND AN INSURED SHALL  
6 CEASE ON PAYMENT BY THE CORPORATION, BY SETTLEMENT RELEASING THE  
7 INSURED OR ON A JUDGMENT, OF AN AMOUNT EQUAL TO THE LESSER OF THE  
8 CORPORATION'S COVERED CLAIM OBLIGATION LIMIT OR THE APPLICABLE POLICY  
9 LIMIT.

10 (B) (1) IN THIS SUBSECTION, "AFFILIATE" MEANS A PERSON WHO DIRECTLY  
11 OR INDIRECTLY, THROUGH ONE OR MORE INTERMEDIARIES, CONTROLS, IS  
12 CONTROLLED BY, OR IS UNDER COMMON CONTROL WITH ANOTHER PERSON.

13 (2) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SUBTITLE,  
14 EXCEPT FOR A CLAIM FOR BENEFITS UNDER WORKERS' COMPENSATION  
15 COVERAGE, ANY OBLIGATION OF THE CORPORATION TO ANY PERSON SHALL CEASE  
16 WHEN \$10,000,000 HAS BEEN PAID IN THE AGGREGATE:

17 (I) BY THE CORPORATION AND ONE OR MORE INSURANCE  
18 GUARANTY CORPORATIONS OR ASSOCIATIONS SIMILAR TO THE CORPORATION IN  
19 OTHER STATES OR PROPERTY CASUALTY INSURANCE SECURITY FUNDS THAT  
20 OBTAIN CONTRIBUTIONS FROM INSURERS ON A PRE-INSOLVENCY BASIS IN OTHER  
21 STATES;

22 (II) TO OR ON BEHALF OF AN INSURED AND ITS AFFILIATES; AND

23 (III) ON COVERED CLAIMS OR ON CLAIMS ALLOWED ARISING  
24 UNDER ONE OR MORE POLICIES OF ONE INSOLVENT INSURER.

25 (3) IF THE CORPORATION DETERMINES THAT THERE MAY BE MORE  
26 THAN ONE CLAIMANT WITH A COVERED CLAIM OR ALLOWED CLAIM AGAINST THE  
27 CORPORATION OR ANY INSURANCE GUARANTY CORPORATIONS OR ASSOCIATIONS  
28 SIMILAR TO THE CORPORATION IN OTHER STATES OR ANY PROPERTY CASUALTY  
29 INSURANCE SECURITY FUNDS IN OTHER STATES, ARISING UNDER ONE OR MORE  
30 POLICIES OF ONE INSOLVENT INSURER, THE CORPORATION MAY ESTABLISH A PLAN  
31 TO ALLOCATE AMOUNTS PAYABLE BY THE CORPORATION IN THE MANNER THAT  
32 THE CORPORATION IN ITS DISCRETION CONSIDERS EQUITABLE.

33 SECTION 3. AND BE IT FURTHER ENACTED, That Section 1 of this Act shall  
34 take effect October 1, 1996.

35 SECTION 4. AND BE IT FURTHER ENACTED, That Section 2 of this Act shall  
36 take effect October 1, 1997.