
By: Delegate Cummings

Introduced and read first time: February 27, 1996
Assigned to: Rules and Executive Nominations
Re-referred to: Economic Matters, March 4, 1996

Committee Report: Favorable with amendments
House action: Adopted
Read second time: March 29, 1996

CHAPTER ____

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,

2

1 Article - Insurance
2 Section 9-301(d)
3 Annotated Code of Maryland
4 (1995 Volume)
5 (As enacted by Chapter _____ (H. B. 11) of the Acts of the General Assembly of
6 1996)

7 BY adding to

8 Article - Insurance
9 Section 9-310.1
10 Annotated Code of Maryland
11 (1995 Volume)
12 (As enacted by Chapter _____ (H. B. 11) of the Acts of the General Assembly of
13 1996)

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

16 **Article 48A - Insurance Code**

17 505.

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

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

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

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

30 (ii) Were unpaid by the insolvent insurer;

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

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

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

3

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

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

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

11 (III) 1. "COVERED CLAIM" DOES NOT INCLUDE A FIRST PARTY
12 CLAIM BY AN INSURED WHOSE NET WORTH EXCEEDS ~~\$25,000,000~~ \$50,000,000 ON
13 DECEMBER 31 OF THE YEAR BEFORE THE YEAR IN WHICH THE INSURER BECOMES
14 AN INSOLVENT INSURER.

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

18 513.

19 (A) ANY OBLIGATION OF THE CORPORATION TO DEFEND AN INSURED SHALL
20 CEASE ON PAYMENT BY THE CORPORATION, BY SETTLEMENT RELEASING THE
21 INSURED OR ON A JUDGMENT, OF AN AMOUNT EQUAL TO THE LESSER OF THE
22 CORPORATION'S COVERED CLAIM OBLIGATION LIMIT OR THE APPLICABLE POLICY
23 LIMIT.

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

27 (2) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SUBTITLE,
28 EXCEPT FOR A CLAIM FOR BENEFITS UNDER WORKERS' COMPENSATION
29 COVERAGE, ANY OBLIGATION OF THE CORPORATION TO ANY ~~PERSON~~ AND ALL
30 PERSONS SHALL CEASE WHEN \$10,000,000 HAS BEEN PAID IN THE AGGREGATE:

31 (I) BY THE CORPORATION AND ONE OR MORE INSURANCE
32 GUARANTY CORPORATIONS OR ASSOCIATIONS SIMILAR TO THE CORPORATION IN
33 OTHER STATES OR PROPERTY CASUALTY INSURANCE SECURITY FUNDS THAT
34 OBTAIN CONTRIBUTIONS FROM INSURERS ON A PRE-INSOLVENCY BASIS IN OTHER
35 STATES;

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

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

39 (3) IF THE CORPORATION DETERMINES THAT THERE MAY BE MORE
40 THAN ONE CLAIMANT WITH A COVERED CLAIM OR ALLOWED CLAIM AGAINST THE
41 CORPORATION OR ANY INSURANCE GUARANTY CORPORATIONS OR ASSOCIATIONS

4
1 SIMILAR TO THE CORPORATION IN OTHER STATES OR ANY PROPERTY CASUALTY
2 INSURANCE SECURITY FUNDS IN OTHER STATES, ARISING UNDER ONE OR MORE
3 POLICIES OF ONE INSOLVENT INSURER, THE CORPORATION MAY ESTABLISH A PLAN
4 TO ALLOCATE AMOUNTS PAYABLE BY THE CORPORATION IN THE MANNER THAT
5 THE CORPORATION IN ITS DISCRETION CONSIDERS EQUITABLE.

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

8 **Article - Insurance**

9 9-301.

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

12 (i) that:

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

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

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

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

25 (iii) that:

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

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

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

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

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

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

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

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

11 9-310.1.

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

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