VIRGINIA PROPERTY AND CASUALTY INSURANCE GUARANTY ASSOCIATION

CITATION & EFFECTIVE DATE

Va. Code §38.2-1600 et seq. (1970 Va. Acts ch. 766, §38.1-757 et seq.); 6/25/70.

MODEL OR SIMILAR ACT

Yes

COVERED CLAIMS

COVERED LINES OF BUSINESS

All kinds of direct insurance, except life, annuity, health, disability; mortgage guaranty, financial guaranty, or other forms of insurance offering protection against investment risks; fidelity, surety or other bonding obligations; credit insurance, credit property insurance, and credit involuntary unemployment insurance; insurance of warranties or service contracts; title; insurance of vessels or craft used primarily in trade or business, their cargoes, and marine builders' risk and marine protection and indemnity; any transaction(s) between a person and an insurer or affiliates of either which involves the transfer of investment or credit risk unaccompanied by the transfer of insurance risk; any class of insurance written by cooperative nonprofit life benefit companies, mutual assessment life, accident and sickness insurers, burial societies, fraternal benefit societies, captive insurers, risk retention groups, and home protection companies.

UNEARNED PREMIUM

is covered, except for return premiums under any retrospective rating plan. Coverage is limited to $300,000 with a $50 deductible.

COVERED CLAIM

is an unpaid claim under a covered policy issued by an insolvent insurer submitted by a claimant (claimant defined as any insured making a first party claim or any person making a liability claim provided that no person who is an affiliate of the insolvent insurer may be a claimant) or arises out of and is within the coverage and is subject to the applicable limits of a policy that would not be excluded from the coverage of this chapter under the provisions of § 38.2-1601 if it were a policy of direct insurance and that has been assumed as a direct obligation by an insurer who has been declared to be an insolvent insurer, where such obligation is assumed through a merger or acquisition, or pursuant to an acquisition of assets and assumption of liabilities, an assumption under the provisions of subsection B or C of § 38.2-136 or a substantially similar law of another jurisdiction, or any other novation agreement; and the claimant or insured is a resident of the Commonwealth at the time of the insured loss, provided that for entities other than an individual, the residence of a claimant or insured is the state in which its principal place of business is located at the time of the insured loss; or the property from which the claim arises is permanently located in the Commonwealth. Association is obligated to the extent of covered claims existing prior to the determination of insolvency, and arising within 91 days thereafter. Covered claim shall not include any claim filed with the association after the final date set by the court for the filing of claims against the receiver of the insolvent insurer.

ASSESSMENTS

SEPARATE ACCOUNTS

* + 1. Workers' Compensation
    2. Automobile
    3. All Others

Safety fund established for purposes of borrowing if guaranty association exceeds capacity in an assessment account.

MAXIMUM ANNUAL %

2% per account.

Catastrophic borrowing provision

RECOUPMENT PROVISION

Premium tax offset allowed to the extent of .05% per year of direct gross premium income per account involved for certificates issued prior to January 1, 1998. Unamortized amounts on such certificates may be amortized as set out above or at 10% per year of umamortized balance. PTO for certificates issued on or after 1/1/98 allowed at 10% per year of amount of contribution for ten years after contribution year.

BASE YEAR

Year preceding year of assessment

LIMITS ON CLAIMS

DEDUCTIBLE OR MINIMUM PER CLAIM

$50 for unearned premium claims, no deductible for other covered claims.

MAXIMUM PER CLAIM

$300,000, with no limit for workers' compensation claims.

NET WORTH PROVISION

Association shall have the right to recover from the following persons the amount of any covered liability claim paid on behalf of such persons: (a) any insured whose net worth on December 31 of the year next preceding the date the insurer becomes an insolvent insurer exceeds $50,000,000; and (b) any person who is an affiliate of the insolvent insurer.

OTHER

NONCOVERED CLAIMS

Any amount due any reinsurer, insurer, insurance pool, or underwriting association as subrogation recoveries, reinsurance recoveries, contribution, indemnification or otherwise; any amount due under any policy originally issued by a surplus lines carrier or risk retention group; any obligation assumed by an insolvent insurer after the commencement of any delinquency proceeding, as defined in Chapter 15 (§ 38.2-1500 et seq.) of this title, involving the insolvent insurer or the original insurer, unless it would have been a “covered claim” absent such assumption or any obligation assumed by an insolvent insurer in a transaction in which the original insurer remains separately liable.

Covered claim shall not include any amount awarded as punitive damages.

CLAIMS COVERED BY OTHER INSURANCE AND OTHER GUARANTY ASSOCIATIONS

Any person having a claim against an insurer under any provision in an insurance policy other than a policy of an insolvent insurer, which is also a covered claim, shall be required to first seek recovery under the policy covered by the insurer which is not insolvent. Any amount payable on a covered claim shall be reduced by the amount of any recovery under the insurance policy. Any person having a claim or legal right of recovery under any governmental insurance or guaranty program which is also a covered claim, shall be required to exhaust first his right under such program. Any amount payable on a covered claim shall be reduced by the amount of any recovery under such program. Any person having a claim which may be covered by more than one guaranty association shall seek recovery first from the association of the place of residence of the insured, except that if it is a first party claim for damage to property with a permanent location, he shall seek recovery first from the association of the location of the property, and if it is a workers' compensation claim, recovery shall first be sought from the association of the residence of the claimant. Any recovery made from this association shall be reduced by the amount of the recovery from any other association.

TERMINATION PROVISION

Yes

MISCELLANEOUS

Insolvent insurer defined as licensed insurer against whom an order of liquidation with a finding of insolvency has been entered by a court of competent jurisdiction in the insurer’s state of domicile or in the Commonwealth.

Association is a nonprofit, unincorporated legal entity.

Notice of claims to the receiver of the insolvent insurer shall be deemed to be notice to the association.

Expenses of the association in handling claims shall be accorded the same priority as the liquidator's expenses.

No cause of action shall arise against any member insurer, the association or its agents or employees, the board of directors, or the Commission or its representatives for any action taken pursuant to this chapter.

All proceedings against an insolvent insurer or any party to be defended by an insolvent insurer shall be stayed for up to six months from the date insolvency is determined or such additional time as may be determined by a court.