



SPONSOR: Rep. B. Short & Sen. Bushweller  
Reps. Q. Johnson, Keeley; Sen. Cloutier

HOUSE OF REPRESENTATIVES  
149th GENERAL ASSEMBLY

HOUSE BILL NO. 318

AN ACT TO AMEND TITLE 18 OF THE DELAWARE CODE RELATING TO THE DELAWARE INSURANCE  
GUARANTY ASSOCIATION ACT.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

1 Section 1. Amend § 4203, Title 18 of the Delaware Code by making deletions as shown by strikethrough and  
2 insertions as shown by underline as follows:

3 § 4203 Scope.

4 This chapter shall apply to all kinds of direct insurance but ~~shall not be applicable to~~ does not apply to any of the  
5 following:

6 (1) Life, annuity, health and disability insurance;

7 (2) Mortgage guaranty, financial guaranty and other forms of financial guarantees;

8 (3) Fidelity and surety bonds, or other bonding obligations;

9 (4) Credit insurance, vendors single interest insurance, or collateral protection insurance or any similar  
10 insurance protecting the interests of a creditor arising out of a creditor-debtor transaction;

11 (5) Insurance of warranties or service contracts, including insurance that provides for the repair, replacement,  
12 or service of goods or property, or indemnification for repair, replacement, or service, for the operational or structural  
13 failure of the goods or property due to a defect in materials, workmanship, or normal wear and tear, or provides  
14 reimbursement for the liability incurred by the issuer of agreements or service contracts that provide such benefits;

15 (6) Title insurance;

16 (7) Ocean marine insurance;

17 (8) Any transaction or combinations of transactions between a person (including affiliates of such person) and  
18 an insurer (including affiliates of such insurer) which involves the transfer of an investment or credit risk  
19 unaccompanied by the transfer of insurance risk;

20 (9) Any insurance provided by or guaranteed by government.

21 Section 2. Amend § 4205, Title 18 of the Delaware Code by making deletions as shown by strikethrough and  
22 insertions as shown by underline as follows and by redesignating accordingly:

23 § 4205 Definitions.

24 As used in this chapter:

25 (1) "Affiliate" means a person who directly or indirectly, through 1 or more intermediaries, controls, is  
26 controlled by or is under common control with an insolvent insurer on December 31 of the year next preceding the date  
27 the insurer becomes an insolvent insurer.

28 (2) "Association" means the Delaware Insurance Guaranty Association created under § 4206 of this title.

29 (3) "Claimant" means any insured making a first-party claim or any person instituting a liability claim;  
30 provided that no person who is an affiliate of an insolvent insurer may be a claimant.

31 (4) "Commissioner" means the Commissioner of Insurance of this State.

32 (5) "Control" means the possession, direct or indirect, of the power to direct or cause the direction of the  
33 management and policies of a person, whether through the ownership of voting securities, by contract other than a  
34 commercial contract for goods or nonmanagement services or otherwise, unless the power is the result of an official  
35 position with or corporate office held by the person. Control shall be presumed to exist if any person, directly or  
36 indirectly, owns, controls, holds the power to vote or holds proxies representing 10 percent or more of the voting  
37 securities of any other person. This presumption may be rebutted by showing the control does not in fact exist.

38 (6)a. "Covered claim" means an unpaid claim, including one for unearned premiums, submitted by a  
39 claimant, which arises out of and is within the coverage, and subject to the applicable limits, of an insurance policy to  
40 which this chapter applies, issued by an insurer, if such insurer becomes an insolvent insurer after July 5, 1991, and:

41 1. The claim is a first-party claim for damage to property with a permanent location; or

42 2. The claimant or insured is a resident of this State at the time of the insured event. For entities  
43 other than individuals, for purposes of this chapter, the state of residence of a claimant or insured shall be the  
44 state in which that entity has a principal place of business most closely related to the claim.

45 b. "Covered claim" shall in no event include:

46 1. Any amount awarded as punitive, bad faith or exemplary damages regardless of the language of  
47 the insurance policy invoked;

48 2. Any amount sought as a return of premium under any retrospective rating plan;

49 3. Any amount due any re-insurer, insurer, ~~insurance pool or insurance pool~~, underwriting  
50 ~~association~~ association, health maintenance organization, hospital plan corporation, professional health  
51 service corporation, or self-insurer as reinsurance recoveries, contribution, indemnification, subrogation  
52 ~~moneys moneys~~, or otherwise. No such claim for any amount due any reinsurer, insurer, ~~insurance pool or~~

53 insurance pool, underwriting association—association, health maintenance organization, hospital plan  
54 corporation, professional health service corporation, or self-insurer may be asserted against a person insured  
55 under a policy issued by an insolvent insurer other than to the extent such claim exceeds the association  
56 obligation limits set forth in § 4208 of this title;

57 4. Any first-party claim by an insured whose net worth exceeds \$10,000,000 on December 31 of the  
58 year next preceding the date the insurer becomes an insolvent insurer; provided, that an insured's net worth on  
59 such date shall be deemed to include the aggregate net worth of the insured and all of its subsidiaries affiliates  
60 as calculated on a consolidated basis; or

61 5. Any first-party claim by an insured which is an affiliate of the insolvent insurer.

62 (7) "Insolvent insurer" means an insurer licensed to transact insurance in this State, either at the time the  
63 policy was issued or when the insured event occurred, and against whom an order of liquidation with a finding of  
64 insolvency has been entered after July 5, 1991, by a court of competent jurisdiction in the state of domicile or in this  
65 State under Chapter 59 of this title and which order of liquidation has not been stayed or been the subject of a writ of  
66 supersedeas or other comparable order.

67 (8) "Member insurer" means any person who:

68 a. Writes any kind of insurance to which this chapter applies under § 4203 of this title, including the  
69 exchange of reciprocal or inter-insurance contracts; and

70 b. Is licensed to transact insurance in this State.

71 (9) "Net direct written premiums" means direct gross premiums written in this State on insurance policies to  
72 which this chapter applies, less return premiums thereon and dividends paid or credited to policyholders on such direct  
73 business. "Net direct written premiums" does not include premiums on contracts between insurers or reinsurers.

74 (10) "Ocean marine insurance" includes any form of insurance, regardless of the name, label, or marketing  
75 designation of the insurance policy, which insures against maritime perils or risks and other related perils or risks,  
76 which are usually insured against by traditional marine insurance, such as hull and machinery, marine builders risk, and  
77 marine protection and indemnity. Such perils and risk insured against include without limitation loss, damage, expense,  
78 or legal liability of the insured for loss, damage, or expense arising out of or incident to ownership, operation,  
79 chartering, maintenance, use, repair, or construction of any vessel, craft, or instrumentality in use in ocean or inland  
80 waterways for commercial purposes, including liability of the insured for personal injury, illness, death, or for loss or  
81 damage to the property of the insured or another person.

82           (10)(11) "Person" means any individual, corporation, partnership, association, governmental entity or  
83 voluntary organization.

84           Section 3. Amend § 4208, Title 18 of the Delaware Code by making deletions as shown by strikethrough and  
85 insertions as shown by underline as follows:

86           § 4208 Powers and duties of the Association.

87           (a) The Association shall:

88           (1) Be obligated to pay valid covered claims existing prior to the order of liquidation of the insolvency and  
89 arising within 30 days after the order of liquidation or before the policy expiration date if less than 30 days after the  
90 order of liquidation, or before the insured replaces the policy or causes its cancellation, if it is done within 30 days of  
91 that order of liquidation. Such obligation shall be satisfied by paying to the claimant an amount as follows: (i) the full  
92 amount of a covered claim for benefits under a workers' compensation insurance policy; (ii) an amount not exceeding  
93 \$10,000 per policy for a covered claim for the return of an unearned premium; (iii) an amount not exceeding ~~\$300,000~~  
94 500,000 per claimant for all other covered claims provided that, for the purposes of this limitation, all claims of any  
95 kind arising from or relating to bodily injury or death to any person will constitute a single claim, regardless of the  
96 number of claims made, or the number of claimants. ~~In no event shall the~~ The Association ~~be~~ is not obligated to pay a  
97 claimant an amount in excess of the obligation of the insolvent insurer under the policy or coverage from which the  
98 claim arises. Notwithstanding any other provisions of this chapter, a covered claim ~~shall not~~ does not include any claim  
99 filed with the Association after the ~~later~~ earlier of: (i) 24 months after the date of the order of liquidation or (ii) final  
100 date set by the court for the filing of claims against the liquidator or receiver of an insolvent insurer; provided,  
101 however, that a "covered claim" shall include any covered claim of which notice was given to the Association on or  
102 prior to June 30, 1991. Notwithstanding any other provisions of this chapter, except in the case of a claim for benefits  
103 under workers' compensation coverage, any obligation of the association to any and all persons shall cease when  
104 \$10,000,000 shall have been paid in the aggregate by the association and any 1 or more associations similar to the  
105 Association of any other state or states or any property/casualty security fund which obtains contributions from insurers  
106 on a pre-insolvency basis, to or on behalf of any insured and its affiliates on covered claims or allowed claims arising  
107 under the policy or policies of any one insolvent insurer. For purposes of this section, the term "affiliate" shall mean a  
108 person who directly, or indirectly, through one or more intermediaries, controls, is controlled by or is under common  
109 control with another person. If the association determines that there may be more than one claimant having a covered  
110 claim or allowed claim against the Association or any association similar to the Association or any property/casualty  
111 insurance security fund in other states, under the policy or policies of any one insolvent insurer, the Association may

112 establish a plan to allocate amounts payable by the Association in such manner as the Association in its discretion  
113 deems equitable.

114 (2) Be deemed the insurer only to the extent of its obligation on the covered claims and, to such extent,  
115 subject to the limitations provided in this chapter, shall have all rights, duties and obligations of the insolvent insurer as  
116 if the insurer had not become insolvent.

117 (3) Be relieved of any obligation to defend an insured on a covered claim upon any of the following:

118 a. The Association's payment, by settlement releasing the insured or on a judgment, of an amount equal to  
119 the lesser of the Association's covered claim obligation limit or the applicable policy limit.

120 b. The Association's tender of an amount equal to the lesser of the Association's covered claim obligation  
121 limit or the applicable policy limit.

122 ~~(3)~~(4) For the purpose of providing the funds necessary to carry out the powers and duties of the Association,  
123 the Board of Directors shall assess the member insurers, separately for each class, at such times and in such amounts as  
124 the Board finds necessary. Assessments shall be due not less than 30 days after written notice to the member insurers.

125 a. There shall be 3 classes of assessments as follows:

126 1. Class A assessments shall be made for the purpose of meeting administrative costs and other  
127 expenses and examinations conducted under the authority of § 4213 of this title.

128 2. Class B assessments shall be made annually to partially subsidize the oversight activities of the  
129 Commissioner, thereby minimizing the need for class C assessments.

130 3. Class C assessments shall be made to the extent necessary to carry out the powers and duties of  
131 the Association under this chapter with regard to an insolvent member insurer.

132 b. The assessments shall be determined as follows:

133 1. The class A assessments will be equal in amount as to each member and may be assessed not  
134 more often than once each year. Such assessment shall not exceed \$150 annually.

135 2. The class B assessments shall be made annually. The Commissioner shall determine the amount  
136 and shall so notify the Association on or before July 31 of each calendar year in which the assessment is to be  
137 made. Class B assessments will also be equal in amount as to each member. The said assessments shall be  
138 paid to the Insurance Commissioner's regulatory revolving fund. Not later than October 31 of each said  
139 calendar year, the Commissioner shall issue a report to the Association detailing the expenditure of those  
140 funds. Amounts not expended will remain in the revolving fund to be used in the succeeding year.

141                   3. Class C assessments of each member insurer shall be in the proportion that the net direct written  
142                   premiums of the member insurer for the preceding calendar year bears to the net direct written premiums of  
143                   all member insurers for the preceding calendar year. If the maximum assessment, together with the other  
144                   assets of the Association, does not provide in any 1 year an amount sufficient to make all necessary payments,  
145                   the funds available shall be prorated and the unpaid portion shall be paid as soon thereafter as funds become  
146                   available. The Association may exempt or defer, in whole or in part, the assessment of any member insurer if  
147                   the assessment would cause the member insurer's financial statement to reflect amounts of capital or surplus  
148                   less than the minimum amounts required for a certificate of authority by any jurisdiction in which a member  
149                   insurer is authorized to transact insurance.

150                   c. The amounts assessed for class B assessments shall in no event exceed 1/10 of 1 percent of the  
151                   members' premiums for the year on which the assessment is based. The amounts assessed for class B and class C  
152                   assessments combined shall not result in members being assessed a total B and C assessment amount which  
153                   exceeds 2 percent of the members' premiums written in the applicable year.

154                   (4) Investigate claims brought against the Association and adjust, compromise, settle and pay covered claims  
155                   to the extent of the Association's obligation and deny all other claims and may review settlements, releases and  
156                   judgments to which the insolvent insurer or its insureds were parties to determine the extent to which such settlements,  
157                   releases and judgments may be properly contested.

158                   (5) Notify such persons as the Commissioner directs under § 4210(b)(1) of this title.

159                   (6) Handle claims through its employees or through 1 or more insurers or other persons designated as  
160                   servicing facilities. Designation of a servicing facility is subject to the approval of the Commissioner, but such  
161                   designation may be declined by a member insurer.

162                   (7) Reimburse each servicing facility for obligations of the Association paid by the facility and expenses  
163                   incurred by the facility while handling claims on behalf of the Association and pay the other expenses of the  
164                   Association authorized by this chapter.

165                   (8) Issue to each insurer paying an assessment under this chapter a certificate of contribution, in a form  
166                   prescribed by the Commissioner, for the amount so paid. All outstanding certificates shall be of equal dignity and  
167                   priority without reference to amounts or dates of issue. A certificate of contribution may be shown by the insurer in its  
168                   financial statement as an asset in such form and for such amount, if any, and period of time as the Commissioner may  
169                   approve.

170                   (9) [Repealed.]

171 (10) Exercise all powers and do all things authorized by this chapter with respect to a division of a bank or  
172 trust company established pursuant to § 767(a) of Title 5 and determined to be insolvent pursuant to § 4205(7) of this  
173 title with the same effect as if such department or division was a stock insurer.

174 (b) The Association may:

175 (1) Employ or retain such persons as are necessary to handle claims and perform other duties of the  
176 Association.

177 (2) Borrow funds necessary to effect the purposes of this chapter in accord with the plan of operation.

178 (3) Sue or be sued and such power to sue includes the power and right to intervene as a party before any court  
179 in this State that has jurisdiction over an insolvent insurer as defined by this chapter. All actions against the Association  
180 must be brought in this State. This State shall have exclusive jurisdiction over all actions against the Association.

181 (4) Negotiate and become a party to such contracts as are necessary to carry out the purpose of this chapter.

182 ~~(5) Perform such other acts as are necessary or proper to effectuate the purpose of this chapter.~~

183 ~~(6)(5)~~ Refund to the member insurers in proportion to the contribution of each member insurer to the  
184 Association that amount by which the assets of the Association exceed the liabilities if at the end of any calendar year  
185 the Board of Directors finds that the assets of the Association exceed the liabilities for the coming year of the  
186 Association as estimated by the Board of Directors.

187 (6) Establish procedures for requesting financial information from insureds on a confidential basis for the  
188 purpose of determining net worth, subject to such information being shared with any other association similar to the  
189 Association and the liquidator or receiver of an insolvent insurer on the same confidential basis. If the insured refuses  
190 to provide the requested financial information and an auditor's certification of the same where requested and available,  
191 the Association may deem the net worth of the insured to be in excess of the amounts specified in paragraph (6)(b)(4)  
192 of § 4205 of this title or paragraph (a)(2)a. of § 4211 of this title at the relevant time under the respective section under  
193 this title.

194 (7) Bring an action against any third-party administrator, agent, attorney, or other representative of the  
195 insolvent insurer to obtain custody and control of all files, records, and electronic data information related to an  
196 insolvent company that are appropriate or necessary for the Association, or a similar association in other states, to carry  
197 out its duties under this Act. In such a suit, the Association shall have the absolute right through emergency equitable  
198 relief to obtain custody and control of all such information in the custody or control of such third-party administrator,  
199 agent, attorney, or other representative of the insolvent insurer, regardless of where such information may be physically  
200 located. In bringing such an action, the Association is not subject to any defense, lien (possessory or otherwise), or

201 other legal or equitable ground whatsoever for refusal to surrender such information that might be asserted against the  
202 liquidator or receiver of the insolvent insurer. To the extent that litigation is required for the Association to obtain  
203 custody of the information requested and it results in the relinquishment of information to the Association after refusal  
204 to provide the same in response to a written demand, the court shall award the Association its costs, expenses, and  
205 reasonable attorney fees incurred in bringing the action. This section does not affect the rights and remedies that the  
206 custodian of such information may have against the insolvent insurers, so long as such rights and remedies do not  
207 conflict with the rights of the Association to custody and control of the files, records, and electronic data information  
208 under this title.

209 (8) Subject to approval by the Commissioner, provide claims-handling services to any “run-off insurer” only  
210 if the Association’s expenses related to the provision of the claims-handling services are fully reimbursed. There shall  
211 be no liability on the part of, and no cause of action of any nature shall arise against any member insurer, the  
212 Association, or its agents or employees, the board of directors, or any person serving as a representative of any director  
213 for any action taken or any failure to act by them in the performance of the services under this paragraph. For purposes  
214 of this paragraph, “run off insurer” means a property and casualty insurer that has any of the following:

215 a. Total Adjusted Capital under Risk Based Capital requirements in an amount less than the Authorized  
216 Control Level RBC as defined in § 5801 of this title as of the date specified in § 5802 of this title for filing of the  
217 annual RBC report and has indicated that it will cease writing new insurance policies, either as part of its  
218 corrective action plan or pursuant to being placed under regulatory control.

219 b. Total Adjusted Capital under Risk Based Capital requirements in an amount less than the Mandatory  
220 Control Level RBC as defined in § 5801 of this title as of the date specified in § 5802 of this title for the filing of  
221 the annual RBC report and that has not been placed into liquidation under § 5906 of this title.

222 (9) Perform such other acts as are necessary or proper to effectuate the purpose of this chapter.

223 Section 4. Amend § 4212, Title 18 of the Delaware Code by making deletions as shown by strikethrough and  
224 insertions as shown by underline as follows and by redesignating accordingly:

225 § 4212 Nonduplication of recovery.

226 ~~(a) Any person having a claim covered under any provision in an insurance policy other than a policy of an~~  
227 ~~insolvent insurer which is also a covered claim shall be required to first exhaust the rights under such policy. Any amount~~  
228 ~~payable on a covered claim under this chapter shall be reduced by the amount of any recovery under such insurance policy.~~

229 ~~(b) Any person having a claim which may be recovered under more than 1 insurance guaranty association or its~~  
230 ~~equivalent shall seek recovery first from the association of the place of residence of the insured, except that if it is a first~~



231 party claim for damage to property with a permanent location, such person shall seek recovery first from the association of  
232 the location of the property, and, if it is a workers' compensation claim, such person shall seek recovery first from the  
233 association of the residence of the claimant. Any recovery under this chapter shall be reduced by the amount of recovery  
234 from any other insurance guaranty association or its equivalent.

235 (e) Any person having a claim or legal right of recovery under any governmental insurance or guaranty program  
236 which is also a covered claim shall be required to exhaust the rights under such program prior to recovery under this  
237 chapter. Any amount payable on a covered claim under this chapter shall be reduced by the amount of any recovery under  
238 such program.

239 § 4212 Exhaustion of Other Coverage.

240 (a) Any person having a claim under an insurance policy shall first exhaust all coverage provided by any such  
241 policy, whether or not it is a policy issued by a member insurer, if the claim under such policy arises from the same facts,  
242 injury, or loss that gave rise to the covered claim against the Association. Any amount payable on a covered claim under  
243 this title shall be reduced by the full applicable limits stated in such insurance policy and the Association shall receive a full  
244 credit for such stated limits, or, where there are no applicable stated limits, the claim shall be reduced by the total recovery.  
245 Notwithstanding the foregoing, no person shall be required to exhaust any right under the policy of an insolvent insurer.

246 (1) A claim under an insurance policy providing liability coverage to a person who may be jointly and  
247 severally liable or a joint tortfeasor with the person covered under the policy of the insolvent insurer that gives rise to  
248 the covered claim shall be considered to be a claim arising from the same facts, injury or loss that gave rise to the  
249 covered claim against the Association.

250 (2) For the purposes of this section, a claim against a health maintenance organization, a hospital plan  
251 corporation, or a professional health service corporation and any amount payable by or on behalf of a self-insurer will  
252 be considered under this section as a claim requiring exhaustion of other coverage if the claim arises from the same  
253 facts, injury, or loss that gave rise to the covered claim against the Association.

254 (3) To the extent that the Association's obligation is reduced by the application of this section, the liability of  
255 the person insured by the insolvent insurer's policy for the claim shall be reduced in the same amount.

256 (b) Any person having a claim which may be recovered under more than one insurance guaranty association or its  
257 equivalent shall seek recovery first from the association of the place of residence of the insured, except that, if it is a first-  
258 party claim for damage to property with a permanent location, recovery must be sought first from the association of the  
259 location of the property; and if it is a workers' compensation claim, recovery must be sought first from the association of the

260 residence of the claimant. Any recovery under this chapter shall be reduced by the amount of recovery from any other  
261 insurance guaranty association or its equivalent.

262 Section 5. Amend § 4213, Title 18 of the Delaware Code by making deletions as shown by strikethrough and  
263 insertions as shown by underline as follows:

264 § 4213 Prevention of insolvencies.

265 To aid in the detection and prevention of insurer insolvencies:

266 (1) The Board of Directors may, upon majority ~~vote~~: vote, make recommendations to the Commissioner for  
267 the detection and prevention of insurer insolvencies.

268 ~~a. Make recommendations to the Commissioner for the detection and prevention of insurer insolvencies;~~  
269 ~~and~~

270 ~~b. Respond to requests by the Commissioner to discuss and make recommendations regarding the status~~  
271 ~~of any member insurer whose financial condition may be hazardous to policyholders or the public. Such~~  
272 ~~recommendations shall not be considered public documents.~~

273 (2) The Board of Directors may, at the conclusion of any domestic insurer insolvency in which the  
274 Association was obligated to pay covered claims, prepare a report on the history and causes of such insolvency, based  
275 upon the information available to the Association and submit such report to the Commissioner.

276 (3) It shall be the duty of the Commissioner to report to the board of directors when the Commissioner has  
277 reasonable cause to believe that any member insurer examined or being examined at the request of the board of  
278 directors may be insolvent or in a financial condition hazardous to the policyholders or the public.

279 (4) The board of directors may, upon majority vote, make reports and recommendations to the Commissioner  
280 upon any matter germane to the solvency, liquidation, rehabilitation or conservation of any member insurer. Such  
281 reports and recommendations shall not be considered public documents.

282 (5) The board of directors may, upon majority vote, make recommendations to the Commissioner for the  
283 detection and prevention of insurer insolvencies.

284 (6) The board of directors shall, at the conclusion of any insurer insolvency in which the Association was  
285 obligated to pay covered claims, prepare a report on the history and causes of such insolvency, based on the  
286 information available to the Association, and submit such report to the Commissioner.

287 Section 6. Amend § 4218, Title 18 of the Delaware Code by making deletions as shown by strikethrough and  
288 insertions as shown by underline as follows:

289 § 4218 Stay of proceedings; reopening of default judgments.

290 (a) All proceedings in which the insolvent insurer is a party or is obligated to defend a party in any court in this  
291 State shall be stayed for 120 days from the date the insolvency is determined, and for such time thereafter as may be  
292 determined by the court, to permit a proper defense by the Association of all pending causes of actions. As to any covered  
293 claims arising from a judgment under any decision, verdict or finding based on the default of the insolvent insurer or its  
294 failure to defend an insured, the Association, either on its own behalf or on behalf of such insured, may apply to have such  
295 judgment, order, decision, verdict or finding set aside by the same court or administrator that made such judgment, order,  
296 decision, verdict or finding and shall be permitted to defend against such claim on the merits.

297 (b) The liquidator, receiver, or statutory successor of an insolvent insurer covered by this title shall permit access  
298 by the board or its authorized representative to such of the insolvent insurer's records which are necessary for the board in  
299 carrying out its functions under this Act with regard to covered claims. The liquidator, receiver, or statutory successor shall  
300 provide the board of directors or its representative with copies of such records upon request by the board and at the expense  
301 of the board.

#### SYNOPSIS

This Act updates the Delaware Insurance Guaranty Association (DIGA) Act to more closely align it with the National Association of Insurance Commissioners (NAIC) and National Conference of Insurance Guaranty Funds (NCIGF) Model Acts.

DIGA is a non-profit association, established under Chapter 42, Title 18 of the Delaware Code as a safety net to protect residents of this state when a covered property and casualty claim arises from an insolvency of a member insurance company. DIGA is fully funded by assessments levied on member insurance companies and remaining assets from insolvent insurance companies.

Section 1 clarifies the types of insurance that do not fall under this chapter.

Section 2 clarifies the definition of what is excluded from the definition of a “covered claim” and adds “ocean maritime insurance” to this chapter.

Section 3 provides for an increase in the maximum amount of covered claims from \$300,000 to \$500,000 (workers compensation coverage remains unlimited) and specifies when the Association would be relieved of any obligation to defend an insured on a covered claim. Section 3 permits procedures to be established for DIGA to retrieve net worth information from an insured, with consequences if the information is not provided in a timely basis. Section 3 also provides DIGA with the ability to bring an action against any third-party administrator or other party who refuses to release information related to an insolvent company interfering with DIGA’s ability to carry out its duties. Section 3 also provides DIGA with the authority, subject to approval by the Commissioner, to provide claims-handling services to any “run-off insurer” provided the Association expenses related thereto are fully reimbursed.

Section 4 renames § 4212 (formerly non-duplication of recovery) and clarifies that all other insurance coverage (excluding Medicare) is primary to DIGA coverage.

Section 5 removes unnecessary language regarding the Board of Director’s functions in relation to making recommendations on the status of member insurers.

Section 6 provides the Board of Directors the right to request financial and other information from the liquidator, receiver, or statutory successor of an insolvent insurer covered by this chapter.