

2025 -- S 0600 SUBSTITUTE A

=====
LC001777/SUB A
=====

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2025

A N A C T

RELATING TO INSURANCE -- VOLUNTARY RESTRUCTURING OF SOLVENT
INSURERS

Introduced By: Senators Sosnowski, Murray, and Britto

Date Introduced: March 06, 2025

Referred To: Senate Commerce

(Dept. of Business Regulation)

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 27-14.5-1 of the General Laws in Chapter 27-14.5 entitled
2 "Voluntary Restructuring of Solvent Insurers" is hereby amended to read as follows:

3 **27-14.5-1. Definitions.**

4 As used in this chapter:

5 (1) "Applicant" means a commercial run-off insurer applying under § 27-14.5-4.

6 (2) "Assessment deficit" means the amount that the assessment for the previous year under
7 § 27-14.5-5 is less than, and "assessment surplus" is the amount that the assessment for the previous
8 year exceeds:

9 (i) The run-off insurer's proportionate share of regulatory expenditure for the previous
10 year, if the run-off insurer was domiciled in Rhode Island on March 15 of the previous year; or

11 (ii) The redomestication expenditure for the previous year attributable to the run-off
12 insurer, if the run-off insurer was not domiciled in Rhode Island on March 15 of the previous year.

13 (3) "Assumption policyholder" means a policyholder whose policy is reinsured under an
14 assumption reinsurance agreement between the applicant and a reinsurer.

15 (4) "Assumption reinsurance agreement" has the meaning given in § 27-53.1-3(b), subject
16 to the following:

17 (i) The agreement may be conditioned upon the court's entry of an implementation order.

18 (ii) If any policy subject to the agreement is protected through a guarantee association, then

1 the assuming insurer must have been and be licensed, and must have been and be a member of the
2 guarantee association, in all states known to the applicant in which either: (A) Any property covered
3 under the policy has a permanent situs; or (B) The policyholder resided while the policy was in
4 force.

5 (5) “Class of creditors” means:

6 (i) All voting policyholders, including those without known claims;

7 (ii) Voting creditors, other than policyholders; or

8 (iii) Any separate class of creditors as the court may in its discretion determine should
9 approve the commutation plan.

10 (6) “Commercial run-off insurer” means:

11 (i) A run-off insurer domiciled in Rhode Island, or the protected cell of the insurer, whose
12 business, excluding all business subject to an assumption reinsurance agreement, includes only the
13 reinsuring of any line(s) of business other than life and/or the insuring of any line(s) of business
14 other than life, ~~workers’ compensation~~, and personal lines insurance; or

15 (ii) A Rhode Island domestic insurance company, or the protected cell of that insurer,
16 meeting the requirements of subsection (i) whose liabilities consist of commercial liabilities
17 transferred to said company with the approval of the commissioner and pursuant to the regulations
18 issued by the department under this chapter. The amount of the commercial liabilities transferred
19 must be less than or equal to the amount of assets transferred to the newly formed or re-activated
20 company.

21 (7) “Commissioner” means the director of the department [or designee](#).

22 (8) “Commutation plan” means a plan for extinguishing the outstanding liabilities of a
23 commercial run-off insurer.

24 (9) “Creditor” means:

25 (i) Any person who has a claim against the applicant; or

26 (ii) A policyholder other than an assumption policyholder.

27 (10) “Department” means the department of business regulation.

28 (11) “Guarantee association” means a guarantee association or foreign guarantee
29 association, as those terms are defined in § 27-14.3-3(10), that is potentially obligated with respect
30 to the applicant’s policies.

31 (12) “Implementation order” means an order under § 27-14.5-4(c).

32 (13) “Insurer” has the meaning given in § 27-14.3-3(12).

33 (14) “Person” means an individual, corporation, partnership, association, joint stock
34 company, trust, unincorporated organization, or any similar entity or any combination of the

1 foregoing acting in concert.

2 (15) “Personal lines insurance” means insurance issued for personal, family, or household
3 purposes.

4 (16) “Policy” means a contract of insurance or a contract of reinsurance.

5 (17) “Policyholder” means an insured or a reinsured of the insurer.

6 (18) “Proportionate share” means, for a particular run-off insurer as of December 31 of the
7 previous year, the ratio of:

8 (i) The gross assets of that run-off insurer; to

9 (ii) The gross assets of all run-off insurers, other than those that were not domiciled in
10 Rhode Island on March 15 of that calendar year.

11 (19) “Redomestication expenditure” means, for any calendar year:

12 (i) The amount that the department’s expenditures attributable to the regulation of run-off
13 insurers increases as a result of any run-off insurer redomiciling to Rhode Island on or after March
14 15 of that year; less

15 (ii) Filing fees, examination costs, and any other fees in relation to insurance regulation in
16 this state paid to this state by run-off insurers that redomiciled to Rhode Island on or after March
17 15 of that year, but excluding any premium taxes.

18 (20) “Regulatory expenditure” means, for any calendar year:

19 (i) The amount of the department’s expenditures attributable to the regulation of run-off
20 insurers domiciled in Rhode Island on March 15 of that year; less

21 (ii) Filing fees, examination costs, and any other fees in relation to insurance regulation in
22 this state paid to this state by run-off insurers domiciled in Rhode Island on March 15 of that year,
23 but excluding any premium taxes.

24 (21) “Run-off insurer” means an insurer that:

25 (i) Is domiciled in Rhode Island;

26 (ii) Has liabilities under policies for property and casualty lines of business;

27 (iii) Has ceased underwriting new business; and

28 (iv) Is only renewing ongoing business to the extent required by law or by contract.

29 (22) “Voluntary restructuring” means the act of reorganizing the legal ownership,
30 operational, governance, or other structures of a solvent insurer, for the purpose of enhancing
31 organization and maximizing efficiencies, and shall include the transfer of assets and liabilities to
32 or from an insurer, or the protected cell of an insurer pursuant to an insurance business transfer
33 plan. A voluntary restructuring under this chapter may be approved by the commissioner only if,
34 in the commissioner’s opinion, it would have no material adverse impact on the insurer’s

1 policyholders, reinsureds, or claimants of policies subject to the restructuring.

2 SECTION 2. Sections 27-34-3, 27-34-5, 27-34-8 and 27-34-11.5 of the General Laws in
3 Chapter 27-34 entitled "Rhode Island Property and Casualty Insurance Guaranty Association" are
4 hereby amended to read as follows:

5 **27-34-3. Scope.**

6 This chapter shall apply to all kinds of direct insurance, but shall not be applicable to the
7 following:

8 (1) Life, annuity, health, or disability insurance;

9 (2) Mortgage guaranty, financial guaranty, or other forms of insurance offering protection
10 against investment risks. For purposes of this section, "financial guaranty insurance" includes any
11 insurance under which loss is payable upon proof of occurrence of any of the following events to
12 the damage of an insured claimant or obligee:

13 (i) Failure of any obligor or obligors on any debt instrument or other monetary obligation,
14 including common or preferred stock, to pay when due the principal, interest, dividend, or purchase
15 price of such instrument or obligation, whether failure is the result of a financial default or
16 insolvency and whether or not the obligation is incurred directly or as a guarantor by, or on behalf
17 of, another obligor which has also defaulted;

18 (ii) Changes in the level of interest rates whether short-term or long-term, or in the
19 difference between interest rates existing in various markets;

20 (iii) Changes in the rate of exchange of currency, or from the inconvertibility of one
21 currency into another for any reason;

22 (iv) Changes in the value of specific assets or commodities, or price levels in general;

23 (3) Fidelity or surety bonds, or any other bonding obligations;

24 (4) Credit insurance, vendors' single interest insurance, or collateral protection insurance
25 or any similar insurance protecting the interests of a creditor arising out of a creditor-debtor
26 transaction. For purposes of this section, "credit insurance" means insurance on accounts
27 receivable;

28 (5) ~~Insurance~~ [Other than coverages that may be set forth in a cybersecurity insurance](#)
29 [policy, insurance](#) of warranties or service contracts including insurance that provides for the repair,
30 replacement, or service of goods or property, indemnification for repair, replacement, or service
31 for the operational or structural failure of the goods or property due to a defect in materials,
32 workmanship, or normal wear and tear, or provides reimbursement for the liability incurred by the
33 issuer of agreements or service contracts that provide such benefits;

34 (6) Title insurance;

1 (7) Ocean marine insurance, except that portion of the marine protection and indemnity
2 insurance covering liability of the insured for personal injury, illness, or death to employees and
3 insurance covering pleasure craft;

4 (8) Any transaction or combination of transactions between a person, including affiliates
5 of the person, and an insurer, including affiliates of such insurer, which involves the transfer of
6 investment or credit risk unaccompanied by transfer of insurance risk;

7 (9) Any insurance provided by or guaranteed by government; or

8 (10) Any transaction or combination of transactions between a protected cell and the
9 general account or another protected cell of a protected cell company organized under the Protected
10 Cell Companies Act, chapter 64 of this title, as those terms are defined in this chapter.

11 **27-34-5. Definitions.**

12 As used in this chapter:

13 (1) "Account" means any one of the three (3) accounts created by § 27-34-6.

14 (2) "Affiliate" means a person, who directly or indirectly, through one or more
15 intermediaries, controls, is controlled by, or is under common control with another on December
16 31 of the year immediately preceding the date the insurer becomes an insolvent insurer.

17 (3) "Association" means the Rhode Island insurance guaranty association created under §
18 27-34-6.

19 (4) "Association similar to the association" means any guaranty association, security fund,
20 or other insolvency mechanism that affords protection similar to that of the association. The term
21 shall also include any property and casualty insolvency mechanism that obtains assessments or
22 other contributions from insurers on a pre-insolvency basis.

23 (5) "Assumed claims transaction" means the following:

24 (i) Policy obligations that have been assumed by the insolvent insurer, prior to the entry of
25 a final order of liquidation, through a merger between the insolvent insurer and another entity
26 obligated under the policies, and for which assumption consideration has been paid to the applicable
27 guaranty associations, if the merged entity is a non-member insurer;

28 (ii) Policy obligations that have been assumed by the insolvent insurer, prior to the entry
29 of a final order of liquidation, pursuant to a plan, approved by the domestic commissioner of the
30 assuming insurer, which:

31 (A) Transfers the direct policy obligations and future policy renewals from one insurer to
32 another insurer; and

33 (B) For which assumption consideration has been paid to the applicable guaranty
34 associations, if the assumption is from a non-member insurer.

1 (C) For purposes of this section, the term non-member insurer also includes a self-insurer,
2 non-admitted insurer, and risk retention group; or

3 (iii) An assumption reinsurance transaction in which all of the following has occurred:

4 (A) The insolvent insurer assumed, prior to the entry of a final order of liquidation, the
5 claim or policy obligations of another insurer or entity obligated under the claims or policies;

6 (B) The assumption of the claim or policy obligations has been approved, if such approval
7 is required, by the appropriate regulatory authorities; and

8 (C) As a result of the assumption, the claim or policy obligations became the direct
9 obligations of the insolvent insurer through a novation of the claims or policies.

10 (6) "Assumption consideration" shall mean the consideration received by a guaranty
11 association to extend coverage to the policies assumed by a member insurer from a non-member
12 insurer in any assumed claims transaction including liabilities that may have arisen prior to the date
13 of the transaction. The assumption consideration shall be in an amount equal to the amount that
14 would have been paid by the assuming insurer during the three (3) calendar years prior to the
15 effective date of the transaction to the applicable guaranty associations if the business had been
16 written directly by the assuming insurer.

17 (i) In the event that the amount of the premiums for the three-year (3) period cannot be
18 determined, the assumption consideration will be determined by multiplying one hundred thirty
19 percent (130%) against the sum of the unpaid losses, loss adjustment expenses, and incurred but
20 not reported losses, as of the effective date of the assumed claims transaction, and then multiplying
21 such sum times the applicable guaranty association assessment percentage for the calendar year of
22 the transaction.

23 (ii) The funds paid to a guaranty association shall be allocated in the same manner as any
24 assessments made during the three-year (3) period. The guaranty association receiving the
25 assumption consideration shall not be required to recalculate or adjust any assessments levied
26 during the prior three (3) calendar years as a result of receiving the assumption consideration.
27 Assumption consideration paid by an insurer may be recouped in the same manner as other
28 assessments made by a guaranty association.

29 (7) "Claimant" means any person instituting a covered claim; provided that no person who
30 is an affiliate of the insolvent insurer may be a claimant.

31 (8) "Commissioner" means the director of the department of business regulation or ~~his or~~
32 ~~her~~ [the commissioner's](#) designee.

33 (9) "Control" means the possession, direct or indirect, of the power to direct or cause the
34 direction of the management and policies of a person, whether through the ownership of voting

1 securities, by contract other than a commercial contract for goods or nonmanagement services, or
2 otherwise, unless the power is the result of an official position with, or corporate office held by, the
3 person. Control shall be presumed to exist if any person, directly or indirectly, owns, controls, holds
4 with the power to vote, or holds proxies representing, ten percent (10%) or more of the voting
5 securities of any other person. This presumption may be rebutted by a showing that control does
6 not exist in fact.

7 (10) “Covered claim” means:

8 (i) An unpaid claim, including one for unearned premiums, submitted by a claimant, which
9 arises out of and is within the coverage and subject to the applicable limits of an insurance policy
10 to which this chapter applies, if the policy was issued by an insurer that becomes an insolvent
11 insurer after the effective date of this chapter ~~and the policy was either issued by the insurer or~~
12 ~~assumed by the insurer in an assumed claims transaction~~, and:

13 (A) The claimant or insured is a resident of this state at the time of the insured event;
14 provided, that for entities other than an individual, the residence of a claimant, insured, or
15 policyholder is the state in which its principal place of business is located at the time of the insured
16 event; or

17 (B) The claim is a first-party claim for damage to property with a permanent location in
18 this state.

19 (ii) Covered claim includes claim obligations that arose through the issuance of an
20 insurance policy by a member insurer, which are later allocated, transferred, merged into, novated,
21 assumed by, or otherwise made the sole responsibility of a member or non-member insurer if:

22 (A) The original member insurer has no remaining obligations on the policy after the
23 transfer;

24 (B) A final order of liquidation with a finding of insolvency has been entered against the
25 insurer that assumed the member’s coverage obligations by a court of competent jurisdiction in the
26 insurer’s state of domicile;

27 (C) The claim would have been a covered claim, as defined in this section, if the claim had
28 remained the responsibility of the original member insurer and the order of liquidation had been
29 entered against the original member insurer, with the same claim submission date and liquidation
30 date; and

31 (D) In cases where the member’s coverage obligations were assumed by a non-member
32 insurer, the transaction received prior regulatory or judicial approval.

33 (iii) Covered claim includes claim obligations that were originally covered by a non-
34 member insurer including, but not limited to, a self-insurer, non-admitted insurer or risk retention

1 group, but subsequently became the sole direct obligation of a member insurer before the entry of
2 a final order of liquidation with a finding of insolvency against the member insurer by a court of
3 competent jurisdiction in its state of domicile, if the claim obligations were assumed by the member
4 insurer in a transaction of one of the following types:

5 (A) A merger in which the surviving company was a member insurer immediately after the
6 merger;

7 (B) An assumption reinsurance transaction that received any required approvals from the
8 appropriate regulatory authorities; or

9 (C) A transaction entered into pursuant to a plan approved by the member insurer's
10 domiciliary regulator.

11 (iv) Except as provided elsewhere in this section, "covered claim" shall not include:

12 (A) Any amount awarded as punitive or exemplary damages;

13 (B) Any amount sought as a return of premium under any retrospective rating plan;

14 (C) Any amount due any reinsurer, insurer, insurance pool, or underwriting association,
15 health maintenance organization, hospital plan corporation, professional health service corporation,
16 or self-insurer as subrogation recoveries, reinsurance recoveries, contribution, indemnification or
17 otherwise. No claim for any amount due any reinsurer, insurer, insurance pool, underwriting
18 association, health maintenance organization, hospital plan corporation, professional health service
19 corporation, or self-insurer may be asserted against a person insured under a policy issued by an
20 insolvent insurer other than to the extent the claim exceeds the association obligation limitations
21 set forth in § 27-34-8;

22 (D) Any claims excluded pursuant to § 27-34-11.5 due to the high net worth of an insured;

23 (E) Any first party claims by an insured that is an affiliate of the insolvent insurer;

24 (F) Any fee or other amount relating to goods or services sought by or on behalf of any
25 attorney or other provider of goods or services retained by the insolvent insurer or an insured prior
26 to the date it was determined to be insolvent;

27 (G) Any fee or other amount sought by or on behalf of any attorney or other provider of
28 goods or services retained by any insured or claimant in connection with the assertion or
29 prosecution of any claim, covered or otherwise, against the association;

30 (H) Any claims for interest; or

31 (I) Any claim filed with the association or a liquidator for protection afforded under the
32 insured's policy for incurred-but-not-reported losses.

33 (11) "Cybersecurity insurance" means for purposes of this section includes first and third-
34 party coverage, in a policy or endorsement, written on a direct, admitted basis for losses and loss

1 [mitigation arising out of or relating to data privacy breaches, unauthorized information network](#)
2 [security intrusions, computer viruses, ransomware, cyber extortion, identity theft, and similar](#)
3 [exposures.](#)

4 ~~(11)~~(12) “Insolvent insurer” means an insurer licensed to transact insurance in this state
5 either at the time the policy was issued; ~~when the obligation with respect to the covered claim was~~
6 ~~assumed under an assumed claims transaction;~~ or when the insured event occurred, and against
7 whom a final order of liquidation has been entered after the effective date of this chapter with a
8 finding of insolvency by a court of competent jurisdiction in the insurer’s state of domicile.

9 ~~(12)~~(13) “Insured” means any named insured, any additional insured, any vendor, lessor,
10 or any other party identified as an insured under the policy.

11 ~~(13)~~(14) “Line of credit” means an irrevocable stand-by commitment whereby the
12 association or member insurer and a qualified financial institution or group of qualified financial
13 institutions enter into a formal and binding contract in which the qualified financial institution or
14 group of qualified financial institutions agree to lend a certain amount of money within a stated
15 period of time.

16 ~~(14)~~(15)(i) “Member insurer” means any person who:

17 (A) Writes any kind of insurance to which this chapter applies, under § 27-34-3, including
18 the exchange of reciprocal or interinsurance contracts;

19 (B) Is licensed to transact insurance in this state; and

20 (C) Is not otherwise excepted from membership by statute or regulation.

21 (ii) An insurer shall cease to be a member insurer effective on the day following the
22 termination or expiration of its license to transact the kinds of insurance to which this chapter
23 applies, however, the insurer shall remain liable as a member insurer for any and all obligations,
24 including obligations for assessments levied prior to the termination or expiration of the insurer’s
25 license and assessments levied after the termination or expiration, which relate to any insurer that
26 became an insolvent insurer prior to the termination or expiration of the insurer’s license.

27 ~~(15)~~(16) “Net direct written premiums” means direct gross premiums written in this state
28 on insurance policies to which this chapter applies, including policy and membership fees, less the
29 following amounts: (i) Return premiums; (ii) Premiums on policies not taken; and (iii) Dividends
30 paid or credited to policyholders on that direct business. “Net direct written premiums” does not
31 include premiums on contracts between insurers or reinsurers.

32 ~~(16)~~(17) “Novation” means that the assumed claim or policy obligations became the direct
33 obligations of the insolvent insurer through consent of the policyholder and that thereafter the
34 ceding insurer or entity initially obligated under the claims or policies is released by the

1 policyholder from performing its claim or policy obligations. Consent may be express or implied
2 based upon the circumstances, notice provided, and conduct of the parties.

3 ~~(17)~~(18) “Ocean marine insurance” means any form of insurance, regardless of the name,
4 label, or marketing designation of the insurance policy, that insures against maritime perils or risks
5 and other related perils or risks, which are usually insured against by traditional marine insurance,
6 such as hull and machinery, marine builders risk, and marine protection and indemnity. Perils and
7 risk insured against include without limitation: loss, damage, expense, or legal liability of the
8 insured for loss, damage, or expense arising out of or incident to ownership, operation, chartering,
9 maintenance, use, repair, or construction of any vessel, craft, or instrumentality in use in ocean or
10 inland waterways for commercial purposes, including liability of the insured for personal injury,
11 injury, illness, or death or for loss or damage to the property of the insured or another person.

12 ~~(18)~~(19) “Person” means any individual, aggregation of individuals, corporation,
13 partnership, or other entity.

14 ~~(19)~~(20) “Qualified financial institution” shall have the same meaning as the term in § 27-
15 1.1-3.

16 ~~(20)~~(21) “Receiver” means liquidator, rehabilitator, conservator, or ancillary receiver, as
17 the context requires.

18 ~~(21)~~(22) “Self-insurer” means a person that covers its liability through a qualified
19 individual or group self-insurance program or any other formal program created for the specific
20 purpose of covering liabilities typically covered by insurance.

21 ~~(22)~~(23) “Self-insured retention” means:

22 (i) Any fund or other arrangement to pay claims other than by an insurance company; or

23 (ii) Any arrangement under which an insurance company has no obligation to pay claims
24 on behalf of an insured if it is not reimbursed by the insured.

25 **27-34-8. Powers and duties of the association.**

26 (a) The association shall:

27 (1)(i) Be obligated to pay covered claims existing prior to the order of liquidation; arising
28 within sixty (60) days after the order of liquidation or before the policy expiration date if less than
29 sixty (60) days after the order of liquidation or before the insured replaces the policy or causes its
30 cancellation if the insured does so within sixty (60) days of the order of liquidation. The obligations
31 shall be satisfied by paying to the claimant an amount as follows:

32 (A) The full amount of a covered claim for benefits under a workers’ compensation
33 insurance coverage;

34 (B) An amount not exceeding ten thousand dollars (\$10,000), per policy for a covered

1 claim for the return of unearned premium;

2 (C) An amount not exceeding one million dollars (\$1,000,000) for all first-party property
3 loss claims arising from a single occurrence under a policy covering commercial or residential
4 property for all other covered claims for insolvencies occurring after January 1, 2026. An amount
5 not exceeding five hundred thousand dollars (\$500,000), per claimant for all other covered claims
6 for insolvencies occurring on or after January 1, 2008, and an amount not exceeding three hundred
7 thousand dollars (\$300,000) per claimant for all other covered claims for insolvencies occurring
8 prior to January 1, 2008.

9 (D) In no event shall the association be obligated to pay an amount in excess of five
10 hundred thousand dollars (\$500,000) for all first and third-party claims under a policy or
11 endorsement providing, or that is found to provide, cybersecurity insurance coverage and arising
12 out of or related to a single insured event, regardless of the number of claims made or the number
13 of claimants.

14 (ii) In no event shall the association be obligated to pay a claimant an amount in excess of
15 the obligation of the insolvent insurer under the policy or coverage from which the claim arises.
16 Notwithstanding any other provision of this chapter, a covered claim shall not include a claim filed
17 with the guaranty association after the final date set by the court for the filing of claims against the
18 liquidator or receiver of an insolvent insurer. For the purpose of filing a claim under this subsection,
19 notice of claims to the liquidator of the insolvent insurer shall be deemed notice to the association
20 or its agent and a list of claims shall be periodically submitted to the association or association
21 similar to the association in another state by the liquidator.

22 (iii) Any obligation of the association to defend an insured shall cease upon the
23 association's payment or tender of an amount equal to the lesser of the association's covered claim
24 obligation limit or the applicable policy limit;

25 (2) Be deemed the insurer to the extent of its obligation on the covered claims and to that
26 extent, subject to the limitation provided in this chapter, shall have all rights, duties, and obligations
27 of the insolvent insurer as if the insurer had not become insolvent, including, but not limited to, the
28 right to pursue and retain salvage and subrogation recoverable on covered claim obligations to the
29 extent paid by the association. The association shall not be deemed the insolvent insurer for the
30 purpose of conferring jurisdiction;

31 (3) Allocate claims paid and expenses incurred among the three (3) accounts separately,
32 and assess member insurers separately for each account amounts necessary to pay the obligations
33 of the association under subdivision (a)(1) subsequent to an insolvency, the expenses of handling
34 covered claims subsequent to an insolvency, and other expenses authorized by this chapter. The

1 assessments of each member insurer shall be in the proportion that the net direct written premiums
2 of the member insurer for the calendar year preceding the assessment on the kinds of insurance in
3 the account bears to the net direct written premiums of all member insurers for the calendar year
4 preceding the assessment on the kinds of insurance in the account. Each member insurer shall be
5 notified of the assessment not later than thirty (30) days before it is due.

6 A member insurer may not be assessed in any one year on any account an amount greater
7 than two percent (2%) of that member insurer's net direct written premiums for the calendar year
8 preceding the assessment on the kinds of insurance in the account. If the maximum assessment,
9 together with the other assets of the association in any account, does not provide in any one year in
10 any account an amount sufficient to make all necessary payments from that account, each member
11 insurer shall be assessed the additional amount that must be obtained to make all necessary
12 payments of the underfunded account from the other two accounts, subject to the same limitation
13 of two percent (2%) of that member insurer's net direct written premiums for the calendar year
14 preceding the assessment on the kinds of insurance in the account. The additional assessments shall
15 be considered loans by and between the separate accounts. Amounts borrowed under this
16 subsection shall be paid back to the separate accounts from which they were borrowed, out of
17 assets, including, but not limited to, existing and future assessments in the account receiving the
18 loan. An interest charge shall be levied on all amounts borrowed under this subsection based on the
19 average prime rate of interest for each year the money remains unpaid. If the amounts borrowed
20 remain unpaid on the seventh yearly anniversary as a result of the inability of the borrowing account
21 to make repayment, then the amount borrowed and interest which is not repaid, starting with the
22 principal and interest of the first year, shall be considered uncollectible. The funds available shall
23 be prorated and the unpaid portion shall be paid as soon after this as funds become available. The
24 association may exempt or defer, in whole or in part, the assessment of any member insurer if the
25 assessment would cause the member insurer's financial statement to reflect amounts of capital or
26 surplus less than the minimum amounts required for a certificate of authority by any jurisdiction in
27 which the member insurer is authorized to transact insurance. However, during the period of
28 deferment, no dividends shall be paid to shareholders or policyholders. Deferred assessments shall
29 be paid when the payment will not reduce capital or surplus below required minimums. Payments
30 shall be refunded to those companies receiving larger assessments by virtue of the deferment, or,
31 at the election of any company, credited against future assessments;

32 (4) Investigate claims brought against the association and adjust, compromise, settle, and
33 pay covered claims to the extent of the association's obligation and deny all other claims. The
34 association shall pay claims in any order that it may deem reasonable, including the payment of

1 claims as they are received from the claimants or in groups or categories of claims. The association
2 shall have the right to appoint and to direct legal counsel retained under liability insurance policies
3 for the defense of covered claims [and to appoint and direct other service providers for covered](#)
4 [services](#);

5 (5) Notify claimants in this state as deemed necessary by the commissioner and upon the
6 commissioner's request, to the extent records are available to the association;

7 (6)(i) Have the right to review and contest as set forth in this subsection settlements,
8 releases, compromises, waivers, and judgments to which the insolvent insurer or its insureds were
9 parties prior to the entry of the order of liquidation. In an action to enforce settlements, releases,
10 and judgments to which the insolvent insurer or its insureds were parties prior to the entry of the
11 order of liquidation, the association shall have the right to assert the following defenses, in addition
12 to the defenses available to the insurer:

13 (A) The association is not bound by a settlement, release, compromise, or waiver executed
14 by an insured or the insurer, or any judgment entered against an insured or the insurer by consent
15 or through a failure to exhaust all appeals, if the settlement, release, compromise, waiver, or
16 judgment was:

17 (I) Executed or entered into within one hundred twenty (120) days prior to the entry of an
18 order of liquidation, and the insured or the insurer did not use reasonable care in entering into the
19 settlement, release, compromise, waiver, or judgment, or did not pursue all reasonable appeals of
20 an adverse judgment; or

21 (II) Executed by or taken against an insured or the insurer based on default, fraud, collusion,
22 or the insurer's failure to defend.

23 (B) If a court of competent jurisdiction finds that the association is not bound by a
24 settlement, release, compromise, waiver, or judgment for the reasons described in subparagraph
25 (i)(A), the settlement, release, compromise, waiver, or judgment shall be set aside, and the
26 association shall be permitted to defend any covered claim on the merits. The settlement, release,
27 compromise, waiver, or judgment may not be considered as evidence of liability or damages in
28 connection with any claim brought against the association or any other party under this chapter.

29 (C) The association shall have the right to assert any statutory defenses or rights of offset
30 against any settlement, release, compromise, or waiver executed by an insured or the insurer, or
31 any judgment taken against the insured or the insurer.

32 (ii) As to any covered claims arising from a judgment under any decision, verdict, or
33 finding based on the default of the insolvent insurer or its failure to defend, the association, either
34 on its own behalf or on behalf of an insured, may apply to have the judgment, order, decision,

1 verdict, or finding set aside by the same court or administrator that entered the judgment, order,
2 decision, verdict, or finding and shall be permitted to defend the claim on the merits;

3 (7) Handle claims through its employees or through one or more insurers or other persons
4 designated as servicing facilities. Designation of a servicing facility is subject to the approval of
5 the commissioner, but the designation may be declined by a member insurer;

6 (8) Reimburse each servicing facility for obligations of the association paid by the facility
7 and for expenses incurred by the facility while handling claims on behalf of the association and
8 shall pay the other expenses of the association authorized by this chapter;

9 (9)(i) The association shall obtain a line of credit for the benefit of each account, in an
10 amount not to exceed the applicable maximum to ensure the immediate availability of funds for
11 purposes of future claims and expenses attributable to an insurer insolvency in that account. The
12 line of credit shall be obtained from qualified financial institutions. The line of credit shall provide
13 for a thirty-day (30) notice of termination or nonrenewal to the commissioner and the association
14 and shall provide funding to the association within three (3) business days of receipt of written
15 notice from the commissioner of an insolvent insurer in that account. Each member insurer upon
16 receipt of notice from the association shall make immediate payment for its proportionate share of
17 the amount borrowed based on the premium for the preceding calendar year. The maximum line of
18 credit or preinsolvency assessment for each account shall be subject to prior review and approval
19 by the commissioner at the time of origination.

20 (ii) If the association cannot obtain a line of credit, the association may obtain an
21 irrevocable line of credit agreement from each member insurer in an amount not to exceed the
22 member insurer's maximum assessment pursuant to subdivision (a)(3) to ensure the immediate
23 availability of funds for the purposes of future claims and expenses attributable to an insurer
24 insolvency.

25 Any amount drawn under any line of credit shall be considered a payment toward the
26 member insurer's assessment provided for in subdivision (a)(3).

27 The member insurer shall provide funding to the association under the line of credit within
28 three (3) business days of receipt of a written request from the association for a draw-down under
29 the line of credit.

30 The line of credit agreement shall be subject to prior review and approval by the
31 commissioner at the time of origination and any subsequent renewal. It shall include any
32 commercially reasonable provisions the association or the commissioner may deem advisable,
33 including a provision that the line of credit is irrevocable or for a stated period of time and provides
34 for thirty-day (30) notice to the association and the commissioner that the line is being terminated

1 or not renewed.

2 (iii) If a line of credit is not given as provided for in this section, the member insurer shall
3 be responsible for the payment of an assessment of up to the member's proportionate share of the
4 applicable maximum as set forth in this subsection which shall be paid into a pre-insolvency
5 assessment fund in each account;

6 (10) Submit, not later than ninety (90) days after the end of the association's fiscal year, a
7 financial report for the preceding fiscal year in a form approved by the commissioner.

8 (b) The association may:

9 (1) Employ or retain persons as are necessary to handle claims and perform other duties of
10 the association;

11 (2) Borrow funds necessary to effect the purposes of this chapter in accordance with the
12 plan of operation;

13 (3) Sue or be sued;

14 (4) Negotiate and become a party to any contracts necessary to carry out the purpose of
15 this chapter;

16 (5) Perform any other acts necessary or proper to effectuate the purpose of this chapter;
17 and

18 (6) Refund to the member insurers in proportion to the contribution of each member insurer
19 to that account that amount by which the assets of the account exceed the liabilities, if, at the end
20 of any calendar year, the board of directors finds that the assets of the association in any account
21 exceed the liabilities of that account as estimated by the board of directors for the coming year.

22 (c) Suits involving the association:

23 (1) Except for actions by the receiver, all actions relating to or arising out of this chapter
24 against the association shall be brought in the courts in this state. The courts shall have exclusive
25 jurisdiction over all actions relating to or arising out of this chapter against the association.

26 (2) The exclusive venue in any action by or against the association is in the Providence
27 county superior court. The association may, at its option, waive this venue as to specific actions.

28 **27-34-11.5. Net worth exclusion.**

29 (a) For purposes of this section, "high net worth insured" shall mean any insured, excluding
30 state and local governments, whose net worth exceeds fifty million dollars (\$50,000,000) on
31 December 31 of the year prior to the year in which the insurer becomes an insolvent insurer;
32 provided that an insured's net worth on that date shall be deemed to include the aggregate net worth
33 of the insured and all of its subsidiaries and affiliates as calculated on a consolidated basis.

34 (b)(1) The association shall not be obligated to pay any first-party claims by a high net

1 worth insured.

2 (2) The association shall have the right to recover from the high net worth insured all
3 amounts paid by the association to or on behalf of such insured, whether for indemnity, defense, or
4 otherwise.

5 (3) The association may also, at its sole discretion and without assumption of any ongoing
6 duty to do so, pay any cybersecurity insurance obligations covered by a policy or endorsement of
7 an insolvent company on behalf of a high net worth insured as defined in subsection (a) of this
8 section. In that case, the association shall recover from the high net worth insured under this section
9 all amounts paid on its behalf, all allocated claim adjusted expenses related to such claims, the
10 association's attorneys' fees, and all court costs in any action necessary to collect the full amount
11 to the association's reimbursement under this section.

12 (c) The association shall not be obligated to pay any claim that would otherwise be a
13 covered claim that is an obligation to or on behalf of a person who has a net worth greater than that
14 allowed by the insurance guaranty association law of the state of residence of the claimant at the
15 time specified by that state's applicable law, and which association has denied coverage to that
16 claimant on that basis.

17 (d) The association shall establish reasonable procedures subject to the approval of the
18 commissioner for requesting financial information from insureds on a confidential basis for
19 purposes of applying this section, provided that the financial information may be shared with any
20 other association similar to the association and the liquidator for the insolvent insurer on the same
21 confidential basis. Any request to an insured seeking financial information must advise the insured
22 of the consequences of failing to provide the financial information. If an insured refuses to provide
23 the requested financial information where it is requested and available, the association may, until
24 such time as the information is provided, provisionally deem the insured to be a high net worth
25 insured for the purpose of denying a claim under subsection (b).

26 (e) In any lawsuit contesting the applicability of this section where the insured has refused
27 to provide financial information under the procedure established pursuant to subsection (d), the
28 insured shall bear the burden of proof concerning its net worth at the relevant time. If the insured
29 fails to prove that its net worth at the relevant time was less than the applicable amount, the court
30 shall award the association its full costs, expenses, and reasonable attorney's fees in contesting the
31 claim.

32 SECTION 3. This act shall take effect on January 1, 2026.

=====
LC001777/SUB A
=====

EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

A N A C T

RELATING TO INSURANCE -- VOLUNTARY RESTRUCTURING OF SOLVENT
INSURERS

- 1 This act would make numerous technical corrections related to insurance, provides a
- 2 definition for "cybersecurity insurance".
- 3 This act would take effect on January 1, 2026.

=====
LC001777/SUB A
=====