



Substitute House Bill No. 5484

Public Act No. 12-139

AN ACT CONCERNING CREDIT ALLOWED A DOMESTIC CEDING INSURER FOR REINSURANCE.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

Section 1. Section 38a-85 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2012*):

(a) Credit for reinsurance shall be allowed a domestic ceding insurer as either an asset or a deduction from liability on account of reinsurance ceded only when the reinsurer meets the requirements of: [subsection (b), (c), (d), (e) or (f) of this section. If credit is allowed on the basis of meeting the requirements of subsection (d) or (e) of this section, the requirements of subsection (g) of this section shall also be met.]

(1) Subsection (b) of this section;

(2) Subsection (c) of this section;

(3) Subsections (d) and (h) of this section;

(4) Subsections (e), (h) and (i) of this section;

(5) Subsections (f) and (i) of this section; or

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(6) Subsection (g) of this section.

(b) Credit shall be allowed when the reinsurance is ceded to an assuming insurer [which] that is licensed to transact insurance or reinsurance in this state.

(c) (1) Credit shall be allowed when the reinsurance is ceded to an assuming insurer [which] that is accredited by the commissioner as a reinsurer in this state. [No credit shall be allowed a domestic ceding insurer, if the assuming insurers' accreditation has been revoked by the commissioner after notice and hearing. An accredited reinsurer is one that] To be eligible for accreditation, an insurer shall (A) [files] file with the commissioner evidence of its submission to this state's jurisdiction, (B) [submits] submit to this state's authority to examine its books and records, (C) [is] be licensed to transact insurance or reinsurance in at least one state, or in the case of a United States branch of an alien assuming insurer is entered through and licensed to transact insurance or reinsurance in at least one state, [and] (D) [files] file annually with the commissioner a copy of its annual statement filed with the insurance department of its state of domicile and a copy of its most recent audited financial statement, and [either (i) maintains a surplus as regards policyholders in an amount which is not less than twenty million dollars and whose accreditation has not been denied by the commissioner within ninety days of its submission, or (ii) maintains a surplus as regards policyholders in an amount less than twenty million dollars and whose accreditation has been approved by the commissioner] (E) demonstrate to the satisfaction of the commissioner that it has adequate financial capacity to meet its reinsurance obligations and is otherwise qualified to assume reinsurance from a domestic insurer. An assuming insurer shall be deemed to meet the requirements of this subparagraph if it maintains a surplus with regard to policyholders of not less than twenty million dollars at the time of accreditation and its accreditation has not been denied by the

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commissioner within ninety days after the date the insurer submitted its application.

(2) Each accredited reinsurer doing business in this state shall, annually, on or before the first day of March, submit to the commissioner, by electronically filing with the National Association of Insurance Commissioners, a true and complete report, signed and sworn to by its president or a vice president, and secretary or an assistant secretary, of its financial condition on the thirty-first day of December next preceding, prepared in accordance with the National Association of Insurance Commissioners annual statement instructions handbook and following those accounting procedures and practices prescribed by the National Association of Insurance Commissioners accounting practices and procedures manual, subject to any deviations in form and detail as may be prescribed by the commissioner. An electronically filed report in accordance with section 38a-53a that is timely submitted to the National Association of Insurance Commissioners [is] shall be deemed to have been submitted to the commissioner in accordance with this subdivision.

(d) Credit shall be allowed when the reinsurance is ceded to an assuming insurer [which] that is domiciled and licensed in, or in the case of a United States branch of an alien assuming insurer is entered through, a state [which] that employs standards regarding credit for reinsurance substantially similar to those applicable in this state and the assuming insurer or United States branch of an alien assuming insurer (1) maintains a surplus [as regards] with regard to policyholders in an amount not less than twenty million dollars, and (2) submits to the authority of this state to examine its books and records. The requirement of subdivision (1) of this subsection [does] shall not apply to reinsurance ceded and assumed pursuant to pooling arrangements among insurers in the same holding company system.

(e) (1) Credit shall be allowed when the reinsurance is ceded to an

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assuming insurer [which] that maintains a trust [fund] that complies with the requirements of subdivisions (2) and (3) of this subsection in a qualified United States financial institution, as defined in [subsection (b) of] section 38a-87, as amended by this act, for the payment of the valid claims of its United States policyholders and ceding insurers, and their assigns and successors in interest. The assuming insurer shall (A) report annually to the commissioner information substantially the same as that required to be reported [on] in the National Association of Insurance Commissioners' Annual Statement form by licensed insurers, to enable the commissioner to determine the sufficiency of the trust fund, and (B) submit to, and pay the expenses of, examination of its books and records by the commissioner.

(2) (A) No credit for reinsurance shall be allowed under subdivision (1) of this subsection unless:

(i) The form of the trust and any amendments to the trust have been approved by (I) the insurance regulatory official of the state of domicile of the trust, or (II) the insurance regulatory official of another state who has, pursuant to the terms of the trust instrument, accepted principal regulatory oversight of the trust;

(ii) The form of the trust and any amendments to the trust have been filed with the insurance regulatory officials of each state in which ceding insurer beneficiaries of the trust are domiciled; and

(iii) The trust instrument (I) provides that a contested claim shall be valid and enforceable upon the entry of a final order of a court of competent jurisdiction in the United States, and (II) vests legal title to its assets in its trustees for the benefit of the assuming insurer's domestic and foreign policyholders and ceding insurers, and their assigns and successors in interest.

(B) (i) The trust shall be subject to examination by the commissioner

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and shall remain in effect for as long as the assuming insurer has outstanding obligations due under the reinsurance agreements subject to the trust.

(ii) Not later than March first, annually, the trustee of the trust shall (I) report to the commissioner, in writing, the balance and a list of the investments of the trust at the end of the preceding calendar year, and (II) certify to the commissioner the date of termination of the trust, if so planned, or that the trust will not expire prior to the following December thirty-first.

(3) (A) (i) In the case of a single assuming insurer, the trust shall consist of a trustee account [representing] with funds in an amount not less than the assuming insurer's liabilities attributable to [business written in the United States] reinsurance ceded by domestic and foreign ceding insurers and, [in addition] unless otherwise provided in subparagraph (A)(ii) of this subdivision, the assuming insurer shall maintain a trustee surplus of not less than twenty million dollars.

(ii) For a trust over which the commissioner has principal regulatory oversight, at any time after the assuming insurer has permanently discontinued for at least three full years underwriting new business secured by the trust, the commissioner may authorize a reduction in the required trustee surplus. Such reduction shall be made only after the commissioner finds, based on a risk assessment, that the reduced surplus level is adequate to protect domestic and foreign policyholders and ceding insurers and claimants in light of reasonably foreseeable adverse loss development. The risk assessment may involve an actuarial review, including an independent analysis of reserves and cash flows, and shall consider all material risk factors, including, when applicable, the lines of business involved, the stability of the incurred loss estimates and the effect of the surplus requirements on the assuming insurer's liquidity or solvency. The minimum required surplus shall not be reduced to an amount less than thirty per cent of

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the assuming insurer's liabilities attributable to reinsurance ceded by domestic and foreign ceding insurers covered by the trust.

(B) In the case of an assuming insurer that is a group including incorporated and individual unincorporated underwriters: [.]

(i) (I) For reinsurance ceded under a reinsurance agreement with an inception date prior to January 1, 1993, and not amended or renewed after said date, the trust shall consist of a trustee account with funds in an amount not less than such underwriters' several insurance and reinsurance liabilities attributable to business written in the United States; or

(II) For reinsurance ceded under a reinsurance agreement with an inception date on or after January 1, 1993, the trust shall consist of a trustee account [representing the group's] with funds in an amount not less than such underwriters' several liabilities attributable to business [written in the United States and, in] ceded by domestic and foreign ceding insurers to any underwriter who is a member of the group; and

(ii) In addition to a trust specified in subparagraph (B)(i)(I) or (B)(i)(II) of this subdivision, the group shall maintain, for all years of account, a trustee surplus of which one hundred million dollars shall be held jointly for the benefit of [United States] domestic and foreign ceding insurers of any member of the group; [the] and

(iii) The incorporated members of the group shall not be engaged in any business other than underwriting as a member of the group and shall be subject to the same level of solvency regulation and solvency control by the group's domiciliary [regulator] insurance regulatory official as are the unincorporated members; and

(iv) Not later than ninety days after its financial statements are due to be filed with the group's domiciliary insurance regulatory official,

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the group shall [make available] provide to the commissioner an annual certification by the group's domiciliary insurance regulatory official of the solvency of each underwriter who is a member of the group or, if such certification is not provided by the group's domiciliary [regulator and its] insurance regulatory official, financial statements prepared by independent public accountants of each such underwriter.

(C) In the case of a group of incorporated underwriters under common administration:

(i) The group shall be accredited and have continuously transacted an insurance business outside the United States for at least three years immediately prior to applying for accreditation;

(ii) The trust shall consist of a trusteed account with funds in an amount not less than such underwriters' several liabilities attributable to business ceded by domestic and foreign ceding insurers pursuant to a reinsurance contract issued in the name of the group to any underwriter who is a member of the group;

(iii) In addition to such trust, the group shall maintain (I) an aggregate policyholders' surplus of not less than ten billion dollars, and (II) a joint trusteed surplus of which one hundred million dollars shall be held jointly for the benefit of domestic and foreign ceding insurers of any member of the group as additional security for these liabilities; and

(iv) Not later than ninety days after its financial statements are due to be filed with the group's domiciliary insurance regulatory official, the group shall make available to the commissioner an annual certification by the group's domiciliary insurance regulatory official of the solvency of each underwriter who is a member of the group and financial statements prepared by independent public accountants of

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each such underwriter.

[(2) Such trust shall be established in a form approved by the commissioner. The trust instrument shall provide that contested claims shall be valid and enforceable upon the final order of any court of competent jurisdiction in the United States. The trust shall vest legal title to its assets in the trustees of the trust for its United States policyholders and ceding insurers, their assigns and successors in interest. The trust and the assuming insurer shall be subject to examination as determined by the commissioner. The trust described herein must remain in effect for as long as the assuming insurer shall have outstanding obligations due under the reinsurance agreements subject to the trust.

(3) No later than the first day of March of each year the trustees of the trust shall report to the commissioner in writing setting forth the balance of the trust and listing the trust's investments at the end of the preceding year and shall certify the date of termination of the trust, if so planned, or certify that the trust shall not expire prior to the next following December thirty-first.

(4) Each assuming insurance company shall, on or before the first day of March, submit to the commissioner, and electronically to the National Association of Insurance Commissioners, a true and complete report, signed and sworn to by its president or a vice president, and secretary or an assistant secretary, of its financial condition of the trust on the thirty-first day of December next preceding, prepared in accordance with the National Association of Insurance Commissioners annual statement instructions handbook and following those accounting procedures and practices prescribed by the National Association of Insurance Commissioners accounting practices and procedures manual, subject to any deviations in form and detail as may be prescribed by the commissioner. An electronically filed report in accordance with section 38a-53a that is timely submitted to the

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National Association of Insurance Commissioners does not exempt an assuming insurance company from timely filing a true and complete paper copy with the commissioner.]

(f) (1) Credit shall be allowed when the reinsurance is ceded to an assuming insurer that is certified in accordance with section 2 of this act by the commissioner as a reinsurer in this state and such certified reinsurer maintains security in a form and amounts set forth in subdivision (3) of subsection (e) of this section or, for a multibeneficiary trust set forth in subdivision (2) of subsection (e) of section 2 of this act, in accordance with the provisions of subdivision (2) of subsection (e) of section 2 of this act.

(2) If the security is not sufficient with respect to obligations incurred by a certified reinsurer, the commissioner shall reduce the credit allowed by an amount proportionate to the deficiency and may impose further reductions in the credit allowed if the commissioner finds there is a material risk that such obligations will not be paid in full when due.

[(f)] (g) Credit shall be allowed when the reinsurance is ceded to an assuming insurer not meeting the requirements of subsection (b), (c), (d), [or] (e) or (f) of this section but only with respect to the insurance of risks located in jurisdictions where such reinsurance is required by applicable law or regulation of that jurisdiction.

[(g)] (h) If the assuming insurer is not licensed, [or] accredited or certified to transact insurance or reinsurance in this state, the credit permitted by [subsections] subsection (d) [and] or (e) of this section shall not be allowed unless the assuming insurer agrees (1) that in the event of the failure of the assuming insurer to perform its obligations under the terms of the reinsurance agreement, the assuming insurer, at the request of the ceding insurer, shall (A) submit to the jurisdiction of any court of competent jurisdiction in any state of the United States,

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(B) comply with all requirements necessary to give such court jurisdiction, and (C) abide by the final decision of such court or any appellate court in the event of an appeal, and (2) to designate the commissioner or a designated attorney as its true and lawful attorney upon whom may be served any lawful process in any action, suit or proceeding instituted by or on behalf of the ceding company. This provision is not intended to conflict with or override the obligation of the parties to a reinsurance agreement to arbitrate their disputes, if such an obligation is created in the agreement.

(i) If the assuming insurer does not meet the requirements of subsection (b), (c) or (d) of this section, the credit permitted by subsection (e) or (f) of this section shall not be allowed unless the assuming insurer agrees to the following conditions in the trust instrument:

(1) Notwithstanding any provision of the trust instrument, if the trust contains an amount less than the amount required under subdivision (3) of subsection (e) of this section or if the grantor of the trust has been declared insolvent or placed in receivership, rehabilitation, liquidation or a similar proceeding under the laws of its state or country of domicile, the trustee shall comply with an order of the insurance regulatory official with principal regulatory oversight of the trust or with an order of a court of competent jurisdiction that directs the trustee to transfer all trust assets to the insurance regulatory official with principal regulatory oversight of the trust;

(2) The trust assets shall be distributed by and claims filed with and valued by the insurance regulatory official with principal regulatory oversight of the trust in accordance with the laws of the trust's state of domicile that are applicable to the liquidation of domestic insurance companies;

(3) The trustee shall distribute any trust assets or part thereof that

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are returned by the insurance regulatory official with principal regulatory oversight of the trust, based on such regulatory official's determination that such assets or part thereof are not necessary to satisfy the claims of domestic and foreign ceding insurers of the grantor of the trust, in accordance with the trust instrument; and

(4) The grantor of the trust waives any right otherwise available to the grantor under law that is inconsistent with subdivisions (1) to (3), inclusive, of this subsection.

(j) (1) (A) The commissioner may suspend or revoke a reinsurer's accreditation or certification if, after notice and hearing, the commissioner finds such reinsurer no longer meets the requirements for accreditation or certification.

(B) If a certified reinsurer's domiciliary jurisdiction ceases to be a qualified jurisdiction, as set forth in section 2 of this act, the commissioner may suspend the reinsurer's certification indefinitely, in lieu of revocation.

(2) The commissioner may suspend or revoke a reinsurer's accreditation or certification without notice and a hearing if:

(A) The reinsurer waives its right to a hearing;

(B) The commissioner's action is based on (i) regulatory action taken by a regulatory official of the reinsurer's state of domicile, or (ii) the voluntary surrender or termination of the reinsurer's eligibility to transact the business of insurance or reinsurance in its state of domicile or its primary certifying jurisdiction as described in subdivision (2) of subsection (a) of section 2 of this act; or

(C) The commissioner finds that immediate action is required to protect the public and a court of competent jurisdiction has not stayed the commissioner's action.

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(3) (A) While a reinsurer's accreditation or certification is suspended, no credit shall be allowed under this section for a reinsurance contract issued or renewed by the reinsurer on or after the effective date of such suspension, except to the extent that such reinsurer's obligations under such contract are secured in accordance with the provisions of section 38a-86, as amended by this act.

(B) If a reinsurer's accreditation or certification is revoked, no credit shall be allowed under this section on and after the effective date of such revocation, except to the extent that such reinsurer's obligations under such contract are secured in accordance with the provisions of subsection (e) of section 2 of this act or section 38a-86, as amended by this act.

(4) A reinsurer whose certification has been suspended, revoked or voluntarily surrendered or is inactive shall be treated as a certified reinsurer required to secure one hundred per cent of its obligations, except that this requirement shall not apply to a reinsurer whose certification has been suspended or is inactive if the commissioner continues to assign a high rating to such reinsurer pursuant to section 2 of this act.

(5) Any person aggrieved by the action of the commissioner in revoking or suspending an accreditation or a certification may appeal therefrom in accordance with the provisions of section 38a-19.

(k) (1) A domestic ceding insurer shall manage its reinsurance recoverables in proportion to its own book of business. Such insurer shall notify the commissioner not later than thirty days after (A) reinsurance recoverables from any single assuming insurer or group of affiliated assuming insurers exceed fifty per cent of the domestic ceding insurer's last reported surplus to policyholders, or (B) the domestic ceding insurer determines that reinsurance recoverables from any single assuming insurer or group of affiliated assuming insurers

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are likely to exceed such limit. Any such notice shall demonstrate that the exposure is safely managed by the domestic ceding insurer.

(2) A ceding insurer shall manage its reinsurance program to ensure diversification. A domestic ceding insurer shall notify the commissioner not later than thirty days after (A) it has ceded to any single assuming insurer or group of affiliated assuming insurers more than twenty per cent of the domestic ceding insurer's gross written premiums in the prior calendar year, or (B) the domestic ceding insurer determines that the reinsurance ceded to any single assuming insurer or group of affiliated assuming insurers is likely to exceed such limit. Any such notice shall demonstrate that the exposure is safely managed by the domestic ceding insurer.

Sec. 2. (NEW) (*Effective October 1, 2012*) (a) (1) To be eligible for certification by the commissioner as a reinsurer in this state for the purposes of section 38a-85 of the general statutes, as amended by this act, an assuming insurer shall:

(A) Be domiciled and licensed to transact insurance or reinsurance in a qualified jurisdiction, as set forth in subsection (c) of this section;

(B) Maintain minimum capital and minimum surplus requirements or their equivalent in an amount prescribed by the commissioner pursuant to regulations adopted in accordance with the provisions of chapter 54 of the general statutes;

(C) Maintain financial strength ratings from two or more rating agencies that are deemed acceptable by the commissioner pursuant to regulations adopted in accordance with the provisions of chapter 54 of the general statutes;

(D) Agree to submit to the jurisdiction of this state and appoint the commissioner as its agent for service of process in this state;

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(E) Agree to provide security for one hundred per cent of such insurer's liabilities attributable to reinsurance ceded by domestic and foreign ceding insurers if the assuming insurer resists enforcement of a final judgment entered by a court in this or another state;

(F) Agree in the trust instrument, if the assuming insurer chooses to secure its obligations incurred under reinsurance agreements issued or renewed as a certified reinsurer in the form of a multibeneficiary trust, as set forth in subdivision (2) of subsection (e) of this section, that such assuming insurer shall, upon termination of any trust account of such trust, fund any deficiency of any other trust account of such trust out of the remaining surplus of the trust;

(G) Agree to meet applicable filing requirements as prescribed by the commissioner; and

(H) Comply with any other requirements deemed necessary for certification by the commissioner.

(2) If an applicant for certification has been certified as a reinsurer in a jurisdiction accredited by the National Association of Insurance Commissioners, the commissioner may certify such applicant as a certified reinsurer in this state and may accept the rating assigned to such certified reinsurer by such jurisdiction.

(b) In the case of an assuming insurer that is a group including incorporated and individual unincorporated underwriters, in addition to the requirements of subsection (a) of this section:

(1) Such group shall comply with the minimum capital and minimum surplus requirements under subsection (a) of this section through the capital and surplus equivalents, less current liabilities, of the group and its members. Such equivalents shall include a joint central fund in an amount determined by the commissioner to provide adequate financial protection for unsatisfied obligations of the group

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or any of its members;

(2) The incorporated members of the group shall not be engaged in any business other than underwriting as a member of the group and shall be subject to the same level of regulation and solvency control by the group's domiciliary insurance regulatory official as the unincorporated members; and

(3) Not later than ninety days after its financial statements are due to be filed with the group's domiciliary insurance regulatory official, the group shall provide to the commissioner an annual certification by the group's domiciliary insurance regulatory official of the solvency of each underwriter who is a member of the group or, if such certification is not provided by the group's domiciliary insurance regulatory official, financial statements prepared by independent public accountants of each such underwriter.

(c) The commissioner shall publish a list of qualified jurisdictions from which an assuming insurer, domiciled and licensed to transact insurance or reinsurance in such jurisdiction, shall be eligible for certification as a reinsurer in this state.

(1) In determining such list, the commissioner shall consider the list of qualified jurisdictions published by the National Association of Insurance Commissioners. Any state that meets the requirements for accreditation under the National Association of Insurance Commissioners' financial standards and accreditation program shall be recognized as a qualified jurisdiction.

(2) If the commissioner qualifies a jurisdiction that is not included in the National Association of Insurance Commissioners' list, the commissioner shall publish documented justification for such qualification. The commissioner shall adopt regulations, in accordance with the provisions of chapter 54 of the general statutes, to establish

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criteria to justify a qualification.

(3) To determine if the domiciliary jurisdiction of an alien assuming insurer is eligible to be recognized as a qualified jurisdiction, the commissioner shall (A) evaluate initially and on an ongoing basis the appropriateness and effectiveness of such domiciliary jurisdiction's reinsurance regulatory system, and (B) consider (i) the rights, benefits and extent of reciprocity afforded by such domiciliary jurisdiction to domestic and foreign reinsurers, including whether such domiciliary jurisdiction has agreed to share information and cooperate with the commissioner with respect to all certified reinsurers domiciled in such jurisdiction, and (ii) any other factors deemed relevant by the commissioner. The commissioner shall not recognize a domiciliary jurisdiction of an alien assuming insurer as a qualified jurisdiction if the commissioner determines that such domiciliary jurisdiction does not adequately and promptly enforce final United States judgments or United States arbitration awards.

(d) After giving due consideration to the financial strength ratings assigned by rating agencies deemed acceptable to the commissioner, the commissioner shall assign a rating to each certified reinsurer and shall publish a list of certified reinsurers and their ratings. The commissioner shall adopt regulations, in accordance with chapter 54 of the general statutes, to establish the acceptable rating agencies, the methodology of the commissioner's rating system and the levels of security required for each such rating.

(e) (1) A certified reinsurer shall secure obligations assumed from domestic and foreign ceding insurers at a level consistent with its rating, in accordance with regulations adopted pursuant to subsection (d) of this section.

(2) (A) If a certified reinsurer chooses to secure its obligations incurred under reinsurance agreements issued or renewed as a

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certified reinsurer in the form of a multibeneficiary trust, such reinsurer shall maintain separate trust accounts for (i) such obligations incurred, with reduced security as permitted under this subdivision or comparable laws of other states, and (ii) its obligations subject to subsection (e) of section 38a-85 of the general statutes, as amended by this act.

(B) The minimum trustee surplus requirements set forth in subsection (e) of section 38a-85 of the general statutes, as amended by this act, shall not apply to a multibeneficiary trust established pursuant to this subdivision. Such multibeneficiary trust shall maintain a trustee surplus of not less than ten million dollars.

(f) If a certified reinsurer ceases to assume new business in this state, such reinsurer may file a request with the commissioner to maintain its certification in inactive status to continue to qualify for a reduction in security for its in-force business. An inactive certified reinsurer shall continue to comply with all applicable requirements of this section. The commissioner shall assign a new rating to such inactive certified reinsurer that takes into account the reasons, if relevant, why the reinsurer is not assuming new business.

Sec. 3. Section 38a-86 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2012*):

A credit for an asset or a reduction in liability shall be allowed for the reinsurance ceded by a domestic insurer to an assuming insurer not meeting the requirements of section 38a-85, [shall be allowed] as amended by this act, in an amount not exceeding the liabilities carried by the ceding insurer. [and such] Such credit or reduction shall be in the amount of funds held by or on behalf of the ceding insurer, including funds held in trust for the ceding insurer, under a reinsurance contract with such assuming insurer as security for the payment of obligations thereunder, if such security is held in the

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United States subject to withdrawal solely by, and under the exclusive control of, the ceding insurer; or, in the case of a trust, held in a qualified United States financial institution, as defined in [subsection (b) of] section 38a-87, as amended by this act. [This] Such security may be in the form of (1) cash, (2) securities listed by the Securities Valuation Office of the National Association of Insurance Commissioners, including those deemed exempt from filing by the Purposes and Procedures Manual of said office, and qualifying as admitted assets, (3) clean, irrevocable, unconditional letters of credit, issued or confirmed by a qualified [United States financial] institution, [as defined in subsection (a) of section 38a-87,] that is effective not later than December thirty-first [in respect] of the year for which filing is being made, and in the possession of or in trust for the ceding [company] insurer on or before the filing date of its annual statement, [;] provided letters of credit meeting applicable standards of issuer acceptability as of the dates of their issuance or confirmation shall, notwithstanding the issuing or confirming institution's subsequent failure to meet applicable standards of issuer acceptability, continue to be acceptable as security until their expiration, extension, renewal, modification or amendment, whichever first occurs. As used in this subdivision, "qualified institution" means an institution that (A) is organized or, in the case of a United States office of a foreign banking organization, licensed, under the laws of the United States or any state thereof, (B) is regulated, supervised and examined by federal or state authorities having regulatory authority over banks and trust companies, and (C) has been determined by the commissioner or the Securities Valuation Office of the National Association of Insurance Commissioners to meet such standards of financial condition and standing as are considered necessary and appropriate to regulate the quality of financial institutions whose letters of credit will be acceptable to the commissioner, or (4) any other form of security acceptable to the commissioner.

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Sec. 4. Section 38a-25 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2012*):

(a) The Insurance Commissioner is the agent for receipt of service of legal process on the following:

(1) Foreign and alien insurance companies authorized to do business in this state in any proceeding arising from or related to any transaction having a connection with this state.

(2) Fraternal benefit societies authorized to do business in this state.

(3) Insurance-support organizations as defined in section 38a-976, transacting business outside this state which affects a resident of this state.

(4) Risk retention groups, as defined in section 38a-250.

(5) Purchasing groups designating the Insurance Commissioner as agent for receipt of service of process pursuant to section 38a-261.

(6) Eligible surplus lines insurers authorized by the commissioner to accept surplus lines insurance.

(7) Except as provided by section 38a-273, unauthorized insurers or other persons assisting unauthorized insurers who directly or indirectly do any of the acts of insurance business as set forth in subsection (a) of section 38a-271.

(8) The Connecticut Insurance Guaranty Association and the Connecticut Life and Health Insurance Guaranty Association.

(9) Insurance companies designating the Insurance Commissioner as agent for receipt of service of process pursuant to subsection [(g)] (h) of section 38a-85, as amended by this act.

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(10) Nonresident insurance producers and nonresident surplus lines brokers licensed by the Insurance Commissioner.

(11) Life settlement providers and life settlement brokers licensed by the commissioner.

(12) Nonresident reinsurance intermediaries designating the commissioner as agent for receipt of service of process pursuant to section 38a-760b.

(13) Workers' compensation self-insurance groups, as defined in section 38a-1001.

(14) Persons alleged to have violated any provision of section 38a-130.

(15) (A) Captive insurers, as defined in section 38a-91k, and (B) captive insurance companies, as defined in section 38a-91aa, if a registered agent cannot be found with reasonable diligence at the registered office of a captive insurance company.

(b) Each foreign and alien insurer by applying for and receiving a license to do insurance business in this state, each fraternal benefit society by applying for and receiving a certificate to solicit members and do business, each surplus lines insurer declared to be an eligible surplus lines insurer by the commissioner, each insurance-support organization transacting business outside this state [which] that affects a resident of this state, and each unauthorized insurer by doing an act of insurance business prohibited by section 38a-272, [is] shall be considered to have irrevocably appointed the Insurance Commissioner as agent for receipt of service of process in accordance with subsection (a) of this section. Such appointment shall continue in force so long as any certificate of membership, policy or liability remains outstanding in this state.

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(c) The commissioner [is also] shall be the agent for the executors, administrators or personal representatives, receivers, trustees or other successors in interest of the persons specified under subsection (a) of this section.

(d) Any legal process that is served on the commissioner pursuant to this section shall be of the same legal force and validity as if served on the principal.

(e) The right to effect service of process as provided under this section [does] shall not limit the right to serve legal process in any other manner provided by law.

Sec. 5. Section 38a-92m of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2012*):

(a) For financial guaranty insurance that takes effect on or after October 1, 1993, an insurer licensed under sections 38a-92 to 38a-92n, inclusive, to transact financial guaranty insurance shall receive credit for reinsurance as an asset or as a reduction from liability only if:

(1) The reinsurance is subject to an agreement which provides for its stated term and with respect to any such reinsured financial guaranty insurance in force, the reinsurance agreement may only be terminated or amended if one or more of the following applies: (A) At the option of the reinsurer or the ceding insurer if the liability of the reinsurer with respect to policies in force as of the date of termination shall continue until the expiration or cancellation of each such policy; (B) at the option or with the consent of the ceding insurer, if the reinsurance agreement provides for a cutoff of the reinsurer's liability with respect to the reinsurance in force as of the date of termination; or (C) at the discretion of the commissioner acting as rehabilitator, liquidator or receiver of the ceding insurer or reinsurer; and

(2) The reinsurance is ceded to one or more of the following:

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(A) An insurer licensed under sections 38a-92 to 38a-92n, inclusive, to transact financial guaranty insurance, provided if the insurer is an affiliate of the ceding insurance, (i) the value of the ceding insurer's ownership interest may not exceed the greater of (I) thirty-five per cent of the ceding insurer's capital and surplus or (II) fifty per cent of the excess of the ceding insurer's admitted assets over its liabilities and capital and (ii) the insurer providing the reinsurance is rated at the time of cession and thereafter in one of the two top generic rating classifications by a securities rating agency acceptable to the commissioner;

(B) An insurer licensed in this state to transact surety insurance or reinsurance [] but not financial guaranty insurance pursuant to sections 38a-92 to 38a-92n, inclusive, [or] accredited as a reinsurer in this state as provided in subdivision (1) of subsection (c) of section 38a-85, as amended by this act, or certified as a reinsurer in this state as provided in section 2 of this act, if the insurer or reinsurer meets all of the following criteria: (i) Has and maintains combined capital and surplus of at least fifty million dollars; (ii) establishes and maintains the reserves required in section 38a-92c, except that if the reinsurance agreement is nonproportional, the contribution to the contingency reserve shall be equal to fifty per cent of the quarterly written insurance premium; (iii) complies with the provisions of subsection (b) of section 38a-92i, except that its maximum aggregate assumed total net liability shall be one-half that permitted for a financial guaranty insurance corporation. For the purpose of determining compliance, the reinsurer, unless at the time of cession and thereafter it is rated in one of the two top generic rating classifications by a securities rating agency acceptable to the commissioner, shall be limited to using ten per cent of its capital and surplus in making this calculation; (iv) complies with the provisions of section 38a-92j; and (v) assumes, together with all other reinsurers subject to this subparagraph, less than fifty per cent of the ceding insurer's total liability after deducting

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any reinsurance ceded to any insurers pursuant to subparagraph (A) of this subdivision;

(C) An insurer not licensed in this state but [which] that is licensed in, or in the case of a United States branch of an alien insurer, is entered through, a state [which] that employs standards regarding credit for reinsurance applicable to financial guaranty insurance corporations [which] that are substantially similar to those in this state and the assuming insurer or United States branch of the alien insurer: (i) Otherwise complies with the provisions of [subparagraph] subparagraphs (B)(i) and (B)(ii) of this subdivision; (ii) submits to the authority of this state to examine its books and records; and (iii) meets the requirements of subsection [(g)] (h) of section 38a-85, as amended by this act;

(D) An insurer not licensed in this state and transacting only financial guaranty insurance as is or would be permitted by sections 38a-92 to 38a-92n, inclusive, and such other lines of insurance as is or would be permitted under section 38a-41, and that otherwise complies with the provisions of subparagraphs (B)(i) and (B)(ii) of this subdivision, in an amount not exceeding the liabilities carried by the ceding financial guaranty insurance corporation for amounts withheld under a reinsurance agreement for such reinsurer, including funds held in trust for the ceding insurer, or amounts deposited by such reinsurer as security for the payment of obligations under the agreement if such funds or deposits are held subject to withdrawal by and under the control of the ceding insurer, or in the case of a trust, held in a qualified United States financial institution, as defined in [subsection (b) of] section 38a-87, as amended by this act; or

(E) An insurer not licensed in this state and not transacting only financial guaranty insurance as is or would be permitted by sections 38a-92 to 38a-92n, inclusive, and such other lines of insurance as is or would be permitted under section 38a-41, and that otherwise complies

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with the provisions of subparagraphs (B)(i), (B)(iii) and (B)(v) of this subdivision, in an amount not exceeding the liabilities carried by the ceding financial guaranty insurance corporation for amounts withheld under a reinsurance agreement for such reinsurer, including funds held in trust for the ceding insurer, or amounts deposited by such reinsurer as security for the payment of obligations under the agreement if such funds or deposits are held subject to withdrawal by and under the control of the ceding insurer, or in the case of a trust, held in a qualified United States financial institution, as defined in [subsection (b) of] section 38a-87, as amended by this act.

(b) In determining whether the financial guaranty insurance corporation meets the limitations imposed by section 38a-92j, in addition to credit for other types of qualifying reinsurance, the financial guaranty insurance corporation's aggregate risk may be reduced to the extent of the limit for aggregate reinsurance but in no event in an amount greater than the amount of the aggregate risk that will become due during the unexpired term of such reinsurance agreement in excess of the financial guaranty insurance corporation's retention pursuant to such reinsurance agreement.

Sec. 6. Section 38a-87 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2012*):

[(a) For purposes of subdivision (3) of section 38a-86, a "qualified United States financial institution" means an institution that (1) is organized or, in the case of a United States office of a foreign banking organization, licensed, under the laws of the United States or any state thereof, (2) is regulated, supervised and examined by federal or state authorities having regulatory authority over banks and trust companies, and (3) has been determined by either the commissioner, or the Securities Valuation Office of the National Association of Insurance Commissioners, to meet such standards of financial condition and standing as are considered necessary and appropriate to

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regulate the quality of financial institutions whose letters of credit will be acceptable to the commissioner.]

[(b)] For purposes of those provisions of sections 38a-85 to 38a-89, inclusive, as amended by this act, specifying those institutions that are eligible to act as a fiduciary of a trust, "qualified United States financial institution" means an institution that (1) is organized [,] or, in the case of a United States branch or agency office of a foreign banking organization, licensed, under the laws of the United States or any state thereof and has been granted authority to operate with fiduciary powers and (2) is regulated, supervised and examined by federal or state authorities having regulatory authority over banks and trust companies.