



House of Representatives

General Assembly

File No. 260

February Session, 2012

Substitute House Bill No. 5484

House of Representatives, April 4, 2012

The Committee on Insurance and Real Estate reported through REP. MEGNA of the 97th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

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:

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 Section 38a-85 of the general statutes is repealed and the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

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

10 (1) Subsection (b) of this section;

11 (2) Subsection (c) of this section;

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

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

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

15 (6) Subsection (g) of this section.

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

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22 insurer, if the assuming insurers' accreditation has been revoked by the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

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

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

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

76 (e) (1) Credit shall be allowed when the reinsurance is ceded to an
77 assuming insurer [which] that maintains a trust [fund] that complies
78 with the requirements of subdivisions (2) and (3) of this subsection in a

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

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

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

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

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

105 (B) (i) The trust shall be subject to examination by the commissioner
106 and shall remain in effect for as long as the assuming insurer has
107 outstanding obligations due under the reinsurance agreements subject
108 to the trust.

109 (ii) Not later than March first, annually, the trustee of the trust shall

110 (I) report to the commissioner, in writing, the balance and a list of the
111 investments of the trust at the end of the preceding calendar year, and
112 (II) certify to the commissioner the date of termination of the trust, if so
113 planned, or that the trust will not expire prior to the following
114 December thirty-first.

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

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

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

141 (i) (I) For reinsurance ceded under a reinsurance agreement with an
142 inception date prior to January 1, 1993, and not amended or renewed

143 after said date, the trust shall consist of a trustee account with funds
144 in an amount not less than such underwriters' several insurance and
145 reinsurance liabilities attributable to business written in the United
146 States; or

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

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

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

164 (iv) Not later than ninety days after its financial statements are due
165 to be filed with the group's domiciliary insurance regulatory official,
166 the group shall [make available] provide to the commissioner an
167 annual certification by the group's domiciliary insurance regulatory
168 official of the solvency of each underwriter who is a member of the
169 group or, if such certification is not provided by the group's
170 domiciliary [regulator and its] insurance regulatory official, financial
171 statements prepared by independent public accountants of each such
172 underwriter.

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

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

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

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

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

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

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

213 (4) Each assuming insurance company shall, on or before the first
214 day of March, submit to the commissioner, and electronically to the
215 National Association of Insurance Commissioners, a true and complete
216 report, signed and sworn to by its president or a vice president, and
217 secretary or an assistant secretary, of its financial condition of the trust
218 on the thirty-first day of December next preceding, prepared in
219 accordance with the National Association of Insurance Commissioners
220 annual statement instructions handbook and following those
221 accounting procedures and practices prescribed by the National
222 Association of Insurance Commissioners accounting practices and
223 procedures manual, subject to any deviations in form and detail as
224 may be prescribed by the commissioner. An electronically filed report
225 in accordance with section 38a-53a that is timely submitted to the
226 National Association of Insurance Commissioners does not exempt an
227 assuming insurance company from timely filing a true and complete
228 paper copy with the commissioner.]

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

237 (2) If the security is not sufficient with respect to obligations
238 incurred by a certified reinsurer, the commissioner shall reduce the
239 credit allowed by an amount proportionate to the deficiency and may

240 impose further reductions in the credit allowed if the commissioner
241 finds there is a material risk that such obligations will not be paid in
242 full when due.

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

248 ~~[(g)]~~ (h) If the assuming insurer is not licensed, ~~[or]~~ accredited or
249 certified to transact insurance or reinsurance in this state, the credit
250 permitted by ~~[subsections]~~ subsection (d) ~~[and]~~ or (e) of this section
251 shall not be allowed unless the assuming insurer agrees (1) that in the
252 event of the failure of the assuming insurer to perform its obligations
253 under the terms of the reinsurance agreement, the assuming insurer, at
254 the request of the ceding insurer, shall (A) submit to the jurisdiction of
255 any court of competent jurisdiction in any state of the United States,
256 (B) comply with all requirements necessary to give such court
257 jurisdiction, and (C) abide by the final decision of such court or any
258 appellate court in the event of an appeal, and (2) to designate the
259 commissioner or a designated attorney as its true and lawful attorney
260 upon whom may be served any lawful process in any action, suit or
261 proceeding instituted by or on behalf of the ceding company. This
262 provision is not intended to conflict with or override the obligation of
263 the parties to a reinsurance agreement to arbitrate their disputes, if
264 such an obligation is created in the agreement.

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

270 (1) Notwithstanding any provision of the trust instrument, if the
271 trust contains an amount less than the amount required under
272 subdivision (3) of subsection (e) of this section or if the grantor of the

273 trust has been declared insolvent or placed in receivership,
274 rehabilitation, liquidation or a similar proceeding under the laws of its
275 state or country of domicile, the trustee shall comply with an order of
276 the insurance regulatory official with principal regulatory oversight of
277 the trust or with an order of a court of competent jurisdiction that
278 directs the trustee to transfer all trust assets to the insurance regulatory
279 official with principal regulatory oversight of the trust;

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

285 (3) The trustee shall distribute any trust assets or part thereof that
286 are returned by the insurance regulatory official with principal
287 regulatory oversight of the trust, based on such regulatory official's
288 determination that such assets or part thereof are not necessary to
289 satisfy the claims of domestic and foreign ceding insurers of the
290 grantor of the trust, in accordance with the trust instrument; and

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

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

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

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

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

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

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

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

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

326 (4) A reinsurer whose certification has been suspended, revoked or
327 voluntarily surrendered or is inactive shall be treated as a certified
328 reinsurer required to secure one hundred per cent of its obligations,
329 except that this requirement shall not apply to a reinsurer whose
330 certification has been suspended or is inactive if the commissioner
331 continues to assign a high rating to such reinsurer pursuant to section
332 2 of this act.

333 (5) Any person aggrieved by the action of the commissioner in
334 revoking or suspending an accreditation or a certification may appeal

335 therefrom in accordance with the provisions of section 38a-19.

336 (k) (1) A domestic ceding insurer shall manage its reinsurance
337 recoverables in proportion to its own book of business. Such insurer
338 shall notify the commissioner not later than thirty days after (A)
339 reinsurance recoverables from any single assuming insurer or group of
340 affiliated assuming insurers exceed fifty per cent of the domestic
341 ceding insurer's last reported surplus to policyholders, or (B) the
342 domestic ceding insurer determines that reinsurance recoverables from
343 any single assuming insurer or group of affiliated assuming insurers
344 are likely to exceed such limit. Any such notice shall demonstrate that
345 the exposure is safely managed by the domestic ceding insurer.

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

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

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

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

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

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

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

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

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

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

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

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

395 (1) Such group shall comply with the minimum capital and

396 minimum surplus requirements under subsection (a) of this section
397 through the capital and surplus equivalents, less current liabilities, of
398 the group and its members. Such equivalents shall include a joint
399 central fund in an amount determined by the commissioner to provide
400 adequate financial protection for unsatisfied obligations of the group
401 or any of its members;

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

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

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

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

425 (2) If the commissioner qualifies a jurisdiction that is not included in
426 the National Association of Insurance Commissioners' list, the
427 commissioner shall publish documented justification for such

428 qualification. The commissioner shall adopt regulations, in accordance
429 with the provisions of chapter 54 of the general statutes, to establish
430 criteria to justify a qualification.

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

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

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

458 (2) (A) If a certified reinsurer chooses to secure its obligations
459 incurred under reinsurance agreements issued or renewed as a
460 certified reinsurer in the form of a multibeneficiary trust, such

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

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

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

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

481 A credit for an asset or a reduction in liability shall be allowed for
482 the reinsurance ceded by a domestic insurer to an assuming insurer
483 not meeting the requirements of section 38a-85, [shall be allowed] as
484 amended by this act, in an amount not exceeding the liabilities carried
485 by the ceding insurer. [and such] Such credit or reduction shall be in
486 the amount of funds held by or on behalf of the ceding insurer,
487 including funds held in trust for the ceding insurer, under a
488 reinsurance contract with such assuming insurer as security for the
489 payment of obligations thereunder, if such security is held in the
490 United States subject to withdrawal solely by, and under the exclusive
491 control of, the ceding insurer; or, in the case of a trust, held in a
492 qualified United States financial institution, as defined in [subsection
493 (b) of] section 38a-87, as amended by this act. [This] Such security may

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

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

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

526 (1) Foreign and alien insurance companies authorized to do

527 business in this state in any proceeding arising from or related to any
528 transaction having a connection with this state.

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

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

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

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

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

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

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

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

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

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

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

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

556 (14) Persons alleged to have violated any provision of section 38a-
557 130.

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

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

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

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

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

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

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

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

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

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

614 (B) An insurer licensed in this state to transact surety insurance or
615 reinsurance [,] but not financial guaranty insurance pursuant to
616 sections 38a-92 to 38a-92n, inclusive, [or] accredited as a reinsurer in

617 this state as provided in subdivision (1) of subsection (c) of section 38a-
618 85, as amended by this act, or certified as a reinsurer in this state as
619 provided in section 2 of this act, if the insurer or reinsurer meets all of
620 the following criteria: (i) Has and maintains combined capital and
621 surplus of at least fifty million dollars; (ii) establishes and maintains
622 the reserves required in section 38a-92c, except that if the reinsurance
623 agreement is nonproportional, the contribution to the contingency
624 reserve shall be equal to fifty per cent of the quarterly written
625 insurance premium; (iii) complies with the provisions of subsection (b)
626 of section 38a-92i, except that its maximum aggregate assumed total
627 net liability shall be one-half that permitted for a financial guaranty
628 insurance corporation. For the purpose of determining compliance, the
629 reinsurer, unless at the time of cession and thereafter it is rated in one
630 of the two top generic rating classifications by a securities rating
631 agency acceptable to the commissioner, shall be limited to using ten
632 per cent of its capital and surplus in making this calculation; (iv)
633 complies with the provisions of section 38a-92j; and (v) assumes,
634 together with all other reinsurers subject to this subparagraph, less
635 than fifty per cent of the ceding insurer's total liability after deducting
636 any reinsurance ceded to any insurers pursuant to subparagraph (A) of
637 this subdivision;

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

649 (D) An insurer not licensed in this state and transacting only
650 financial guaranty insurance as is or would be permitted by sections

651 38a-92 to 38a-92n, inclusive, and such other lines of insurance as is or
652 would be permitted under section 38a-41, and that otherwise complies
653 with the provisions of subparagraphs (B)(i) and (B)(ii) of this
654 subdivision, in an amount not exceeding the liabilities carried by the
655 ceding financial guaranty insurance corporation for amounts withheld
656 under a reinsurance agreement for such reinsurer, including funds
657 held in trust for the ceding insurer, or amounts deposited by such
658 reinsurer as security for the payment of obligations under the
659 agreement if such funds or deposits are held subject to withdrawal by
660 and under the control of the ceding insurer, or in the case of a trust,
661 held in a qualified United States financial institution, as defined in
662 [subsection (b) of] section 38a-87, as amended by this act; or

663 (E) An insurer not licensed in this state and not transacting only
664 financial guaranty insurance as is or would be permitted by sections
665 38a-92 to 38a-92n, inclusive, and such other lines of insurance as is or
666 would be permitted under section 38a-41, and that otherwise complies
667 with the provisions of subparagraphs (B)(i), (B)(iii) and (B)(v) of this
668 subdivision, in an amount not exceeding the liabilities carried by the
669 ceding financial guaranty insurance corporation for amounts withheld
670 under a reinsurance agreement for such reinsurer, including funds
671 held in trust for the ceding insurer, or amounts deposited by such
672 reinsurer as security for the payment of obligations under the
673 agreement if such funds or deposits are held subject to withdrawal by
674 and under the control of the ceding insurer, or in the case of a trust,
675 held in a qualified United States financial institution, as defined in
676 [subsection (b) of] section 38a-87, as amended by this act.

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

685 retention pursuant to such reinsurance agreement.

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

688 [(a) For purposes of subdivision (3) of section 38a-86, a "qualified
689 United States financial institution" means an institution that (1) is
690 organized or, in the case of a United States office of a foreign banking
691 organization, licensed, under the laws of the United States or any state
692 thereof, (2) is regulated, supervised and examined by federal or state
693 authorities having regulatory authority over banks and trust
694 companies, and (3) has been determined by either the commissioner,
695 or the Securities Valuation Office of the National Association of
696 Insurance Commissioners, to meet such standards of financial
697 condition and standing as are considered necessary and appropriate to
698 regulate the quality of financial institutions whose letters of credit will
699 be acceptable to the commissioner.]

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

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2012</i>	38a-85
Sec. 2	<i>October 1, 2012</i>	New section
Sec. 3	<i>October 1, 2012</i>	38a-86
Sec. 4	<i>October 1, 2012</i>	38a-25
Sec. 5	<i>October 1, 2012</i>	38a-92m
Sec. 6	<i>October 1, 2012</i>	38a-87

INS *Joint Favorable Subst.*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact: None

Municipal Impact: None

Explanation

The bill makes certain changes concerning private insurance and reinsurance financing and accounting rules. There is no state or municipal fiscal impact.

The Out Years

State Impact: None

Municipal Impact: None

OLR Bill Analysis

sHB 5484

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

SUMMARY:

The law specifies an accounting procedure for insurers transferring all or part of their insurance or reinsurance risk written to another insurer or reinsurer. Under this statutory accounting procedure, the ceding insurer is permitted to treat amounts due from reinsurers as assets or reductions from liability based on the reinsurer's status.

This bill modifies and expands the options under which a U.S. ceding insurer is allowed to take credit for reinsurance on their financial statements. For example, it allows credit to be taken when the reinsurance is ceded to a reinsurer that (1) is certified or accredited by the insurance commissioner and (2) secures its reinsurance obligations in accordance with the bill and regulations to be adopted by the commissioner. The bill allows the commissioner to suspend or revoke a reinsurer's certification or accreditation, after notice and hearing, if he determines the reinsurer no longer meets the applicable requirements.

Under the bill, the commissioner evaluates a reinsurer that applies for certification and assigns a rating based on the evaluation. The commissioner's assigned rating determines the amount of collateral the certified reinsurer must maintain to secure obligations it assumes from U.S. ceding insurers. If a certified reinsurer secures its obligations at a level consistent with its rating, the ceding insurer will qualify for full financial credit for the reinsurance.

EFFECTIVE DATE: October 1, 2012

§ 1 – CREDIT FOR REINSURANCE

The bill details the scenarios under which credit for reinsurance is allowed a ceding insurer as either an asset or a deduction from liability. Under current law, credit is allowed only when the reinsurer meets one of the following requirements:

1. it is licensed as an insurer or reinsurer or accredited in Connecticut;
2. it is domiciled and licensed in a state with reinsurance standards similar to Connecticut's or, if a U.S. branch of a reinsurer chartered outside the United States (i.e., an "alien" reinsurer), conducts business through a state with reinsurance standards similar to Connecticut's, and meets certain capital surplus and other requirements;
3. it maintains a trust in a qualified U.S. financial institution for the payment of claims of U.S. policyholders and ceding insurers; or
4. the insurance is on a risk located in a jurisdiction where reinsurance is required by law or regulation.

The bill also allows credit for reinsurance when the reinsurer is certified by the commissioner under §2 of the bill and maintains specified security.

By law, if the reinsurer does not meet any of these criteria, the ceding insurer can still reduce its liability if the reinsurer holds security in an amount adequate to cover claims that could arise pursuant to the reinsurance contract. The bill provides that the ceding insurer can also claim a credit if it agrees to specified conditions in the trust instrument.

Accredited Reinsurers

By law, a credit for reinsurance is allowed when the reinsurer is accredited in Connecticut. Under current law, an accredited reinsurer is one that:

1. files evidence of its submission to this state's jurisdiction;

2. allows the state to examine its books and records;
3. is licensed to transact insurance or reinsurance business in at least one state, or if a U.S. branch of an alien reinsurer, conducts business and is licensed in at least one state;
4. files a copy of its annual statement and most recent audited financial statement with the Insurance Department; and
5. maintains a surplus of (a) at least \$20 million if the commissioner has not denied its accreditation application within 90 days of receipt or (b) less than \$20 million if the commissioner has approved its accreditation application.

The bill retains the first four criteria. In place of the fifth criterion, it adds a requirement that the insurer demonstrate to the commissioner's satisfaction that it has adequate financial capacity to meet its reinsurance obligations and is otherwise qualified to assume reinsurance from a domestic insurer.

The bill specifies that a reinsurer is deemed to meet the accreditation requirements if it maintains a surplus of at least \$20 million and the commissioner has not denied its accreditation application within 90 days of receipt.

Trust Requirements

By law, a credit for reinsurance is allowed when the reinsurer maintains a trust in a qualified U.S. financial institution. The reinsurer must annually report to the commissioner information to enable him to determine the sufficiency of the trust.

The bill requires the reinsurer also to allow the commissioner to examine, at the reinsurer's expense, its books and records.

The bill requires the trust to be approved by the insurance regulatory official (1) of the trust's home state or (2) of another state that has accepted principal regulatory oversight of the trust. It also requires the trust forms and amendments to be filed with the insurance

regulatory officials of each state in which ceding insurer trust beneficiaries are domiciled.

Single Reinsurer. By law, in the case of a single reinsurer, the trust must consist of an account covering its U.S. liabilities and a surplus of at least \$20 million. The bill instead requires the trust to cover at least the reinsurer's U.S. reinsurance liabilities and a surplus of at least \$20 million; but the commissioner may, in certain circumstances, reduce the surplus amount for a trust over which he has principal regulatory oversight.

The commissioner may authorize a reduction in the surplus if the reinsurer, for at least three years, has permanently discontinued underwriting new business secured by the trust. The commissioner must conduct a risk assessment to determine that the reduced surplus level is adequate. The assessment (1) may involve an actuarial review and (2) must consider all material risk factors. The minimum required surplus cannot be less than 30% of the reinsurer's U.S. reinsurance liabilities.

Group of Reinsurers. Under current law, in the case of a group of reinsurers, including incorporated and individual unincorporated underwriters, the trust must consist of an account covering its U.S. liabilities and a surplus of at least \$100 million. The bill retains this requirement for reinsurance ceded before January 1, 1993. For reinsurance ceded on or after January 1, 1993, the bill instead requires the trust to cover at least the reinsurer's U.S. reinsurance liabilities and a surplus of at least \$100 million.

Under current law, the group must annually certify each member's solvency to the commissioner through the regulator of their place of domicile and their independent public accountants. The bill requires the group to provide the commissioner information within 90 days after the group's financial statements are due to its domiciliary regulator. The information must be (1) a solvency certification from the group's domiciliary regulator or (2) financial statements prepared by each member's independent public accountants.

Group of Incorporated Underwriters. The bill requires, in the case of a group of incorporated underwriters under common administration, the trust must consist of an account covering its U.S. reinsurance liabilities and a (1) policyholders' surplus of at least \$10 billion and (2) joint trusteed surplus, of which \$100 million must be held jointly for the benefit of U.S. ceding insurers of any member of the group as additional security for these liabilities. The group must be accredited and have continuously transacted insurance outside the United States for at least the three years before applying for accreditation.

The bill requires the group to provide the commissioner information within 90 days after the group's financial statements are due to its domiciliary regulator. The information must be (1) a solvency certification from the group's domiciliary regulator or (2) financial statements prepared by each member's independent public accountants.

Certified Reinsurers

The bill allows a ceding insurer to take credit for reinsurance when the reinsurer is certified by the commissioner (see § 2) and maintains security in the form and amounts as specified for trusts.

Under the bill, if the security is not sufficient to cover the certified reinsurer's obligations, the commissioner (1) must reduce the credit allowed proportionately to the deficiency and (2) may further reduce the credit allowed if he finds there is a material risk that obligations will not be paid in full when due.

Additional Trust Requirements for Certain Reinsurers

The bill allows credit for reinsurers who are not licensed or accredited in Connecticut or conducting business through a state with reinsurance standards similar to Connecticut's if they satisfy additional trust requirements.

If the trust contains less than the amount required or if the trust grantor is insolvent or in receivership or similar proceeding in its

domiciliary jurisdiction, the trustee must comply with the principal regulator's or court's order requiring the trustee to transfer the trust assets to the regulator. The regulator must distribute the assets in accordance with the domicile's liquidation laws. If the regulator returns any assets to the trustee after liquidation, the trustee must distribute them in accordance with the trust instrument.

The bill requires the trust grantor to waive any right under law that is inconsistent with these provisions.

Accreditation or Certification Suspension or Revocation

Current law allows the commissioner to revoke a reinsurer's accreditation after notice and a hearing. The bill instead authorizes the commissioner to suspend or revoke a reinsurer's accreditation or certification, after notice and hearing, if he determines the reinsurer no longer meets the applicable requirements.

If a certified reinsurer's domiciliary jurisdiction stops being a qualified jurisdiction (see § 2), the commissioner may suspend the reinsurer's certification indefinitely, instead of revoking it.

The bill authorizes the commissioner to suspend or revoke a reinsurer's accreditation or certification without notice and a hearing if the:

1. reinsurer waives its right to a hearing;
2. reinsurer's home state took regulatory action against the reinsurer;
3. reinsurer voluntarily surrenders or terminates its eligibility to transact business in its home state or primary certifying jurisdiction; or
4. commissioner determines that immediate action is needed to protect the public and a court has not blocked the action.

No credit for reinsurance is allowed if the reinsurer's accreditation

or certification is suspended or revoked, except to the extent that the reinsurer's obligations are secured in accordance with the bill.

A reinsurer whose certification has been suspended, revoked, or voluntarily surrendered or is inactive must be treated as a certified reinsurer required to secure 100% of its obligations. But this does not apply to a reinsurer whose certification has been suspended or is inactive if the commissioner continues to assign a high rating to the reinsurer under § 2.

Anyone aggrieved by the commissioner's action to suspend or revoke an accreditation or certification may appeal the order to the commissioner within 30 days after receiving the order. By law, the commissioner must hold a hearing on an appeal within 30 days after receiving the request and make a decision within 45 days after the hearing.

Ceding Insurer Must Manage Reinsurance Program

The bill requires a ceding insurer to safely manage its reinsurance program.

Specifically, the ceding insurer must manage its reinsurance recoverables in proportion to its own book of business. It must notify the commissioner within 30 days after (1) reinsurance recoverables from any one reinsurer or group of reinsurers exceeds 50% of the ceding insurer's last reported surplus to policyholders or (2) it determines the recoverables are likely to exceed that limit.

The ceding insurer also must manage its reinsurance program to ensure diversification. It must notify the commissioner within 30 days after it (1) has ceded to any one reinsurer or group of reinsurers more than 20% of its gross written premiums in the prior calendar year or (2) determines that the reinsurance ceded is likely to exceed that limit.

A notification to the commissioner must demonstrate that the ceding insurer is safely managing its exposure.

§ 2 – CERTIFICATION

Certification Eligibility

Under the bill, to be eligible for certification, a reinsurer must:

1. be domiciled and licensed to transact insurance or reinsurance in a qualified jurisdiction (see below);
2. maintain minimum capital and surplus in amounts the commissioner prescribes in regulations;
3. maintain financial strength ratings from at least two rating agencies the commissioner deems acceptable in regulations; and
4. comply with any other requirements the commissioner determines necessary for certification.

To be eligible for certification, a reinsurer must also agree to:

1. submit to Connecticut's jurisdiction and appoint the commissioner as its agent for service of process;
2. provide security for 100% of its U.S. reinsurance liabilities if it resists enforcement of a final court judgment;
3. if it secures its obligations in a multibeneficiary trust, upon the termination of any trust account within the trust, fund any deficiency out of the remaining trust surplus; and
4. meet applicable filing requirements the commissioner prescribes.

If an applicant has been certified as a reinsurer in a jurisdiction accredited by the National Association of Insurance Commissioners (NAIC), the commissioner may (1) certify the applicant as a certified reinsurer in Connecticut and (2) accept the rating assigned to the reinsurer by that jurisdiction.

If the applicant is a group of reinsurers, including incorporated and individual unincorporated underwriters, it must also comply with the following requirements:

1. The group must comply with the minimum capital and surplus requirements through the capital and surplus equivalents, less current liabilities, of the group and its members. The equivalents must include a joint central fund in an amount the commissioner determines to provide adequate financial protection for any unsatisfied obligations.
2. The incorporated members of the group (a) cannot be engaged in any business other than underwriting as group member and (b) must be subject to the same level of regulatory and solvency control as the unincorporated members.
3. The group must provide the commissioner information within 90 days after the group's financial statements are due to its domiciliary regulator. The information must be (a) a solvency certification from the group's domiciliary regulator or (b) financial statements prepared by each member's independent public accountants.

Qualified Jurisdictions

The bill requires the commissioner to publish a list of qualified jurisdictions from which a reinsurer is eligible for certification in Connecticut. In developing the list, the commissioner must consider the NAIC's list of qualified jurisdictions. Any state that is NAIC-accredited must be a qualified jurisdiction.

If the commissioner qualifies a jurisdiction that is not on the NAIC list, he must publish a justification. The bill requires the commissioner to adopt regulations to establish criteria for justifying a qualification.

The bill requires the commissioner, when deciding if the home country of an alien reinsurer is a qualified jurisdiction, to (1) evaluate the appropriateness and effectiveness of that country's reinsurance regulatory system; (2) consider the rights, benefits, and extent of reciprocity that country provides to U.S. reinsurers, including whether the country shares information and cooperates with the commissioner regarding certified reinsurers; and (3) consider any other factors he

deems relevant.

The bill prohibits the commissioner from qualifying a country that does not adequately and promptly enforce final U.S. judgments of arbitration awards.

Rating System

The bill requires the commissioner, after considering the financial strength ratings assigned by acceptable rating agencies, to assign a rating to each certified reinsurer. He must publish a list of certified reinsurers and their assigned ratings.

The bill requires the commissioner to adopt regulations to identify the acceptable rating agencies, establish the rating system methodology, and set the level of security required for each rating.

Under the bill, a certified reinsurer must secure its U.S. reinsurance obligations at a level consistent with its assigned rating.

If the certified reinsurer secures obligations incurred under reinsurance agreements issued or renewed as a certified reinsurer in the form of a multibeneficiary trust, it must maintain separate trust accounts for (1) such obligations incurred and (2) obligations subject to the trust requirements contained in § 1 (see above). The bill specifies that the minimum trustee surplus requirements of § 1 do not apply to a multibeneficiary trust. Rather, such a trust must maintain a surplus of at least \$10 million.

If a certified reinsurer stops reinsuring new business in Connecticut, it may ask the commissioner to move its certification to an inactive status, allowing it to still qualify for reduced security for its in-force business. An inactive certified reinsurer must still comply with the bill's applicable certification requirements. The commissioner must assign a new rating to the inactive certified reinsurer to account for any relevant reasons why the reinsurer is not reinsuring new business.

§ 3 – CREDIT FOR ASSET OR REDUCTION IN LIABILITY

Current law permits one final method for a ceding insurer to reduce liability through reinsurance. It allows the ceding insurer to take a reduction up to the amount of the liability carried by the ceding insurer when the reinsurer does not meet any of the other requirements specified in the law but meets certain security requirements. The bill expands this to allow the ceding insurer to take either a credit for an asset or a reduction in liability and broadens the eligible securities to include securities listed by the NAIC Securities Valuation Office that are exempt from filing.

Thus, under the bill, the credit or reduction must equal the amount of funds held by or on behalf of the ceding insurer as security for the payment of the reinsurance obligations. It must be (1) held in the United States, subject to withdrawal solely by, and under the exclusive control of, the ceding insurer or (2) held in trust in a qualified U.S. financial institution. The security may be in (1) cash; (2) securities listed by the NAIC Securities Valuation Office, including those deemed exempt from filing, and qualifying as admitted assets; (3) a clean, irrevocable, and unconditional letter of credit issued by a qualified institution that is effective by December 31 of the year in which the filing is made and in the ceding insurer's possession before the filing date of its annual statement; or (4) any other form of security acceptable to the commissioner. Letters of credit meeting standards of acceptability on the date of issuance will continue to be accepted as security until their expiration, extension, renewal, modification, or amendment despite the issuing institution's failure to meet such standards.

§§ 4 - 6 – TECHNICAL AND CONFORMING CHANGES

These sections make technical and conforming changes.

BACKGROUND

Reinsurance

Reinsurance is a transaction between two or more insurance companies to apportion risk so that a large loss does not fall on any one company. The insurer transferring part of the risk to another

insurer is called the ceding or domestic insurer. The insurer accepting the risk is called the assuming insurer or reinsurer.

COMMITTEE ACTION

Insurance and Real Estate Committee

Joint Favorable Substitute

Yea 20 Nay 0 (03/20/2012)