



General Assembly

February Session, 2012

Raised Bill No. 5484

LCO No. 2026

02026_____INS

Referred to Committee on Insurance and Real Estate

Introduced by:
(INS)

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 Section 38a-85 of the general statutes is repealed and the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22 insurer, if the assuming insurers' accreditation has been revoked by the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 million dollars,
185 and (II) a joint trustee surplus of which one hundred billion dollars
186 shall be held jointly for the benefit of domestic and foreign ceding
187 insurers of any member of the group; and

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

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

204 have outstanding obligations due under the reinsurance agreements
205 subject to the trust.

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

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

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

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

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

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

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

268 instrument:

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

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

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

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

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

297 (B) If a certified reinsurer's domiciliary jurisdiction ceases to be a

298 qualified jurisdiction, as set forth in section 2 of this act, the
299 commissioner may suspend the reinsurer's certification indefinitely, in
300 lieu of revocation.

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

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

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

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

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

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

325 (4) A reinsurer whose certification has been suspended, revoked or
326 voluntarily surrendered or is inactive shall be treated as a certified
327 reinsurer required to secure one hundred per cent of its obligations,

328 except that this requirement shall not apply to a reinsurer whose
329 certification has been suspended or is inactive if the commissioner
330 continues to assign a high rating to such reinsurer pursuant to section
331 2 of this act.

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

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

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

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

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

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

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

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

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

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

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

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

386 (2) If an applicant for certification has been certified as a reinsurer in
387 a jurisdiction accredited by the National Association of Insurance

388 Commissioners, the commissioner may certify such applicant as a
389 certified reinsurer in this state and may accept the rating assigned to
390 such certified reinsurer by such jurisdiction.

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

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

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

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

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

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

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

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

445 (d) After giving due consideration to the financial strength ratings
446 assigned by rating agencies deemed acceptable to the commissioner,
447 the commissioner shall assign a rating to each certified reinsurer and
448 shall publish a list of certified reinsurers and their ratings. The
449 commissioner shall adopt regulations, in accordance with chapter 54 of

450 the general statutes, to establish the acceptable rating agencies, the
451 methodology of the commissioner's rating system and the levels of
452 security required for each such rating.

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

457 (2) (A) If a certified reinsurer chooses to secure its obligations
458 incurred under reinsurance agreements issued or renewed as a
459 certified reinsurer in the form of a multibeneficiary trust, such
460 reinsurer shall maintain separate trust accounts for (i) such obligations
461 incurred, with reduced security as permitted under this subdivision or
462 comparable laws of other states, and (ii) its obligations subject to
463 subsection (e) of section 38a-85 of the general statutes, as amended by
464 this act.

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

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

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

480 A credit for an asset or a reduction in liability shall be allowed for
481 the reinsurance ceded by a domestic insurer to an assuming insurer
482 not meeting the requirements of section 38a-85, [shall be allowed] as
483 amended by this act, in an amount not exceeding the liabilities carried
484 by the ceding insurer. [and such] Such credit or reduction shall be in
485 the amount of funds held by or on behalf of the ceding insurer,
486 including funds held in trust for the ceding insurer, under a
487 reinsurance contract with such assuming insurer as security for the
488 payment of obligations thereunder, if such security is held in the
489 United States subject to withdrawal solely by, and under the exclusive
490 control of, the ceding insurer; or, in the case of a trust, held in a
491 qualified United States financial institution, as defined in [subsection
492 (b) of] section 38a-87, as amended by this act. [This] Such security may
493 be in the form of (1) cash, (2) securities listed by the Securities
494 Valuation Office of the National Association of Insurance
495 Commissioners, including those deemed exempt from filing by the
496 Purposes and Procedures Manual of said office, and qualifying as
497 admitted assets, (3) clean, irrevocable, unconditional letters of credit,
498 issued or confirmed by a qualified [United States financial] institution,
499 [as defined in subsection (a) of section 38a-87,] that is effective not later
500 than December thirty-first [in respect] of the year for which filing is
501 being made, and in the possession of or in trust for the ceding
502 [company] insurer on or before the filing date of its annual statement,
503 [.] provided letters of credit meeting applicable standards of issuer
504 acceptability as of the dates of their issuance or confirmation shall,
505 notwithstanding the issuing or confirming institution's subsequent
506 failure to meet applicable standards of issuer acceptability, continue to
507 be acceptable as security until their expiration, extension, renewal,
508 modification or amendment, whichever first occurs. As used in this
509 subdivision, "qualified institution" means an institution that (A) is
510 organized or, in the case of a United States office of a foreign banking
511 organization, licensed, under the laws of the United States or any state
512 thereof, (B) is regulated, supervised and examined by federal or state
513 authorities having regulatory authority over banks and trust

514 companies, and (C) has been determined by the commissioner or the
515 Securities Valuation Office of the National Association of Insurance
516 Commissioners to meet such standards of financial condition and
517 standing as are considered necessary and appropriate to regulate the
518 quality of financial institutions whose letters of credit will be
519 acceptable to the commissioner, or (4) any other form of security
520 acceptable to the commissioner.

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

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

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

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

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

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

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

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

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

541 (8) The Connecticut Insurance Guaranty Association and the

542 Connecticut Life and Health Insurance Guaranty Association.

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

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

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

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

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

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

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

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

571 (a) of this section. Such appointment shall continue in force so long as
572 any certificate of membership, policy or liability remains outstanding
573 in this state.

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

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

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

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

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

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

601 receiver of the ceding insurer or reinsurer; and

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

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

613 (B) An insurer licensed in this state to transact surety insurance or
614 reinsurance [,] but not financial guaranty insurance pursuant to
615 sections 38a-92 to 38a-92n, inclusive, [or] accredited as a reinsurer in
616 this state as provided in subdivision (1) of subsection (c) of section 38a-
617 85, as amended by this act, or certified as a reinsurer in this state as
618 provided in section 2 of this act, if the insurer or reinsurer meets all of
619 the following criteria: (i) Has and maintains combined capital and
620 surplus of at least fifty million dollars; (ii) establishes and maintains
621 the reserves required in section 38a-92c, except that if the reinsurance
622 agreement is nonproportional, the contribution to the contingency
623 reserve shall be equal to fifty per cent of the quarterly written
624 insurance premium; (iii) complies with the provisions of subsection (b)
625 of section 38a-92i, except that its maximum aggregate assumed total
626 net liability shall be one-half that permitted for a financial guaranty
627 insurance corporation. For the purpose of determining compliance, the
628 reinsurer, unless at the time of cession and thereafter it is rated in one
629 of the two top generic rating classifications by a securities rating
630 agency acceptable to the commissioner, shall be limited to using ten
631 per cent of its capital and surplus in making this calculation; (iv)
632 complies with the provisions of section 38a-92j; and (v) assumes,

633 together with all other reinsurers subject to this subparagraph, less
634 than fifty per cent of the ceding insurer's total liability after deducting
635 any reinsurance ceded to any insurers pursuant to subparagraph (A) of
636 this subdivision;

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

648 (D) An insurer not licensed in this state and transacting only
649 financial guaranty insurance as is or would be permitted by sections
650 38a-92 to 38a-92n, inclusive, and such other lines of insurance as is or
651 would be permitted under section 38a-41, and that otherwise complies
652 with the provisions of subparagraphs (B)(i) and (B)(ii) of this
653 subdivision, in an amount not exceeding the liabilities carried by the
654 ceding financial guaranty insurance corporation for amounts withheld
655 under a reinsurance agreement for such reinsurer, including funds
656 held in trust for the ceding insurer, or amounts deposited by such
657 reinsurer as security for the payment of obligations under the
658 agreement if such funds or deposits are held subject to withdrawal by
659 and under the control of the ceding insurer, or in the case of a trust,
660 held in a qualified United States financial institution, as defined in
661 [subsection (b) of] section 38a-87, as amended by this act; or

662 (E) An insurer not licensed in this state and not transacting only
663 financial guaranty insurance as is or would be permitted by sections
664 38a-92 to 38a-92n, inclusive, and such other lines of insurance as is or

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

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

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

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

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

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

Statement of Purpose:

To update the insurance statutes concerning credit for reinsurance.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]