



General Assembly

**Substitute Bill No. 5484**

February Session, 2012

\* \_\_\_\_\_ HB05484INS \_\_\_ 032012 \_\_\_ \*

**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 Section 38a-85 of the general statutes is repealed and the  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22 insurer, if the assuming insurers' accreditation has been revoked by the  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 trusteed 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 trusteed 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 trusteed 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 trustee 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 trustee 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.*