



# House of Representatives

General Assembly

**File No. 339**

January Session, 2021

Substitute House Bill No. 6392

*House of Representatives, April 8, 2021*

The Committee on Insurance and Real Estate reported through REP. WOOD, K. of the 29th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

***AN ACT CONCERNING THE INSURANCE DEPARTMENT'S  
RECOMMENDATIONS REGARDING CREDIT 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 Section 38a-85 of the general statutes is repealed and the  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, 2021*):
- 3 (a) (1) Credit for reinsurance shall be allowed a domestic ceding  
4 insurer as either an asset or a deduction from liability on account of  
5 reinsurance ceded only when the reinsurer meets the requirements of:
- 6 [(1)] (A) Subsection (b) of this section;
- 7 [(2)] (B) Subsection (c) of this section;
- 8 [(3)] (C) Subsections (d) and (h) of this section;
- 9 [(4)] (D) Subsections (e), (h) and (i) of this section;
- 10 [(5)] (E) Subsections (f) and (i) of this section;

11        [(6)] (F) Subsection (g) of this section; [or]

12        (G) Subsection (h) of this section; or

13        [(7)] (H) Any regulation adopted pursuant to subsection (b) of section  
14 38a-88, as amended by this act.

15        (2) Credit shall be allowed under subsection (b), (c) or (d) of this  
16 section only as respects cessions of those kinds or classes of business  
17 which the assuming insurer is licensed or otherwise permitted to write  
18 or assume in its state of domicile, or, in the case of a United States branch  
19 of an alien assuming insurer, in the state through which it is entered and  
20 licensed to transact insurance or reinsurance. Credit shall be allowed  
21 under subsection (d) or (e) of this section only if the applicable  
22 requirements of subsection (i) of this section have been satisfied.

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

26        (c) (1) Credit shall be allowed when the reinsurance is ceded to an  
27 assuming insurer that is accredited by the commissioner as a reinsurer  
28 in this state. To be eligible for accreditation, an insurer shall (A) file with  
29 the commissioner evidence of its submission to this state's jurisdiction,  
30 (B) submit to this state's authority to examine its books and records, (C)  
31 be licensed to transact insurance or reinsurance in at least one state, or  
32 in the case of a United States branch of an alien assuming insurer is  
33 entered through and licensed to transact insurance or reinsurance in at  
34 least one state, (D) file annually with the commissioner a copy of its  
35 annual statement filed with the insurance department of its state of  
36 domicile and a copy of its most recent audited financial statement, and  
37 (E) demonstrate to the satisfaction of the commissioner that it has  
38 adequate financial capacity to meet its reinsurance obligations and is  
39 otherwise qualified to assume reinsurance from a domestic insurer. An  
40 assuming insurer shall be deemed to meet the requirements of this  
41 subparagraph if it maintains a surplus with regard to policyholders of  
42 not less than twenty million dollars at the time of accreditation and its

43 accreditation has not been denied by the commissioner within ninety  
44 days after the date the insurer submitted its application.

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

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

73 (e) (1) Credit shall be allowed when the reinsurance is ceded to an  
74 assuming insurer that maintains a trust that complies with the  
75 requirements of subdivisions (2) and (3) of this subsection in a qualified

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

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

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

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

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

101 (B) (i) The trust shall be subject to examination by the commissioner  
102 and shall remain in effect for as long as the assuming insurer has  
103 outstanding obligations due under the reinsurance agreements subject  
104 to the trust.

105 (ii) Not later than March first, annually, the trustee of the trust shall  
106 (I) report to the commissioner, in writing, the balance and a list of the

107 investments of the trust at the end of the preceding calendar year, and  
108 (II) certify to the commissioner the date of termination of the trust, if so  
109 planned, or that the trust will not expire prior to the following December  
110 thirty-first.

111 (3) (A) (i) In the case of a single assuming insurer, the trust shall  
112 consist of a trusteed account with funds in an amount not less than the  
113 assuming insurer's liabilities attributable to reinsurance ceded by  
114 domestic and foreign ceding insurers and, unless otherwise provided in  
115 subparagraph (A)(ii) of this subdivision, the assuming insurer shall  
116 maintain a trusteed surplus of not less than twenty million dollars.

117 (ii) (I) The insurance regulatory official with principal oversight of the  
118 trust may authorize a reduction in the required trusteed surplus.

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

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

138 (i) (I) For reinsurance ceded under a reinsurance agreement with an

139 inception date prior to January 1, 1993, and not amended or renewed  
140 after said date, the trust shall consist of a trusteed account with funds in  
141 an amount not less than such underwriters' several insurance and  
142 reinsurance liabilities attributable to business written in the United  
143 States; or

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

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

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

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

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

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

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

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

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

190 (f) (1) Credit shall be allowed when the reinsurance is ceded to an  
191 assuming insurer that is certified in accordance with section 38a-85a by  
192 the commissioner as a reinsurer in this state and such certified reinsurer  
193 maintains security in a form and amounts set forth in subdivision (3) of  
194 subsection (e) of this section or, for a multibeneficiary trust set forth in  
195 subdivision (2) of subsection (e) of section 38a-85a, in accordance with  
196 the provisions of subdivision (2) of subsection (e) of section 38a-85a.

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

202 (g) (1) Credit shall be allowed when the reinsurance is ceded to an  
203 assuming insurer meeting each of the conditions set forth below:

204 (A) The assuming insurer shall have its head office or be domiciled  
205 in, as applicable, and be licensed in a reciprocal jurisdiction. A  
206 "reciprocal jurisdiction" is a jurisdiction that meets one of the following:

207 (i) A non-United States jurisdiction that is subject to an in-force  
208 covered agreement with the United States, each within its legal  
209 authority, or, in the case of a covered agreement between the United  
210 States and the European Union, is a member state of the European  
211 Union. For purposes of this subsection, a "covered agreement" is an  
212 agreement entered into pursuant to the Dodd-Frank Wall Street Reform  
213 and Consumer Protection Act, 31 USC Sections 313 and 314, that is  
214 currently in effect or in a period of provisional application and  
215 addresses the elimination, under specified conditions, of collateral  
216 requirements as a condition for entering into any reinsurance agreement  
217 with a ceding insurer domiciled in this state or for allowing the ceding  
218 insurer to recognize credit for reinsurance;

219 (ii) A United States jurisdiction that meets the requirements for  
220 accreditation under the National Association of Insurance  
221 Commissioners' financial standards and accreditation program; or

222 (iii) A qualified jurisdiction, as determined by the commissioner  
223 pursuant to subsection (c) of section 38a-85a, which is not otherwise  
224 described in subparagraph (A)(i) or (A)(ii) of this subdivision and which  
225 meets certain additional requirements, consistent with the terms and  
226 conditions of in-force covered agreements, as specified by the  
227 commissioner in regulations adopted in accordance with the provisions  
228 of chapter 54.

229 (B) The assuming insurer shall have and maintain, on an ongoing  
230 basis, minimum capital and surplus, or its equivalent, calculated  
231 according to the methodology of its domiciliary jurisdiction, in an  
232 amount to be set forth in regulation. If the assuming insurer is an  
233 association, including incorporated and individual unincorporated

234 underwriters, it shall have and maintain, on an ongoing basis, minimum  
235 capital and surplus equivalents, net of liabilities, calculated according to  
236 the methodology applicable in its domiciliary jurisdiction, and a central  
237 fund containing a balance in amounts to be set forth in regulation.

238 (C) The assuming insurer shall have and maintain, on an ongoing  
239 basis, a minimum solvency or capital ratio, as applicable, which will be  
240 set forth in regulation. If the assuming insurer is an association,  
241 including incorporated and individual unincorporated underwriters, it  
242 shall have and maintain, on an ongoing basis, a minimum solvency or  
243 capital ratio in the reciprocal jurisdiction where the assuming insurer  
244 has its head office or is domiciled, as applicable, and is also licensed.

245 (D) The assuming insurer shall agree and provide adequate  
246 assurance to the commissioner, in a form specified by the commissioner  
247 pursuant to regulation, as follows:

248 (i) The assuming insurer shall provide prompt written notice and  
249 explanation to the commissioner if it falls below the minimum  
250 requirements set forth in subparagraph (B) or (C) of this subdivision, or  
251 if any regulatory action is taken against it for serious noncompliance  
252 with applicable law;

253 (ii) The assuming insurer shall consent in writing to the jurisdiction  
254 of the courts of this state and to the appointment of the commissioner as  
255 agent for service of process. The commissioner may require that consent  
256 for service of process be provided to the commissioner and included in  
257 each reinsurance agreement. Nothing in this provision shall limit, or in  
258 any way alter, the capacity of parties to a reinsurance agreement to agree  
259 to alternative dispute resolution mechanisms, except to the extent such  
260 agreements are unenforceable under applicable insolvency or  
261 delinquency laws;

262 (iii) The assuming insurer shall consent in writing to pay all final  
263 judgments, wherever enforcement is sought, obtained by a ceding  
264 insurer or its legal successor, that have been declared enforceable in the  
265 jurisdiction where the judgment was obtained;

266 (iv) Each reinsurance agreement shall include a provision requiring  
267 the assuming insurer to provide security in an amount equal to one  
268 hundred per cent of the assuming insurer's liabilities attributable to  
269 reinsurance ceded pursuant to that agreement if the assuming insurer  
270 resists enforcement of a final judgment that is enforceable under the law  
271 of the jurisdiction in which it was obtained or a properly enforceable  
272 arbitration award, whether obtained by the ceding insurer or by its legal  
273 successor on behalf of its resolution estate; and

274 (v) The assuming insurer shall confirm that it is not presently  
275 participating in any solvent scheme of arrangement that involves this  
276 state's ceding insurers, and agree to notify the ceding insurer and the  
277 commissioner and to provide security in an amount equal to one  
278 hundred per cent of the assuming insurer's liabilities to the ceding  
279 insurer, should the assuming insurer enter into such a solvent scheme  
280 of arrangement. Such security shall be in a form consistent with the  
281 provisions of subsection (f) of this section and sections 38a-85a and 38a-  
282 86 and as specified in regulations adopted by the commissioner in  
283 accordance with the provisions of chapter 54.

284 (E) The assuming insurer or its legal successor shall provide, if  
285 requested by the commissioner, on behalf of itself and any legal  
286 predecessors, certain documentation to the commissioner, as specified  
287 by the commissioner in regulation.

288 (F) The assuming insurer shall maintain a practice of prompt  
289 payment of claims under reinsurance agreements, pursuant to criteria  
290 set forth in regulation.

291 (G) The assuming insurer's supervisory authority shall confirm to the  
292 commissioner on an annual basis, as of the preceding December thirty-  
293 first or at the annual date otherwise statutorily reported to the reciprocal  
294 jurisdiction, that the assuming insurer complies with the requirements  
295 set forth in subparagraphs (B) and (C) of this subdivision.

296 (H) Nothing in this provision precludes an assuming insurer from  
297 providing the commissioner with information on a voluntary basis.

298       (2) The commissioner shall timely create and publish a list of  
299 reciprocal jurisdictions.

300       (A) A list of reciprocal jurisdictions is published through the National  
301 Association of Insurance Commissioners' committee process. The  
302 commissioner's list shall include any reciprocal jurisdiction as defined  
303 under subparagraphs (A)(i) and (A)(ii) of subdivision (1) of this  
304 subsection, and shall consider any other reciprocal jurisdiction included  
305 on the National Association of Insurance Commissioners' list. The  
306 commissioner may approve a jurisdiction that does not appear on the  
307 National Association of Insurance Commissioners' list of reciprocal  
308 jurisdictions in accordance with criteria to be developed under  
309 regulations adopted by the commissioner in accordance with the  
310 provisions of chapter 54.

311       (B) The commissioner may remove a jurisdiction from the list of  
312 reciprocal jurisdictions upon a determination that the jurisdiction no  
313 longer meets the requirements of a reciprocal jurisdiction, in accordance  
314 with a process set forth in regulations adopted by the commissioner  
315 pursuant to chapter 54, except that the commissioner shall not remove  
316 from the list a reciprocal jurisdiction as defined under subparagraphs  
317 (A)(i) and (A)(ii) of subdivision (1) of this subsection. Upon removal of  
318 a reciprocal jurisdiction from this list, credit for reinsurance ceded to an  
319 assuming insurer which has its home office or is domiciled in that  
320 jurisdiction shall be allowed, if otherwise allowed pursuant to this  
321 section and sections 38a-85a to 38a-88, inclusive, as amended by this act.

322       (3) The commissioner shall timely create and publish a list of  
323 assuming insurers that have satisfied the conditions set forth in this  
324 subsection and to which cessions shall be granted credit in accordance  
325 with this subsection. The commissioner may add an assuming insurer  
326 to such list if a National Association of Insurance Commissioners  
327 accredited jurisdiction has added such assuming insurer to a list of such  
328 assuming insurers or if, upon initial eligibility, the assuming insurer  
329 submits the information to the commissioner as required under  
330 subparagraph (D) of subdivision (1) of this subsection and complies

331 with any additional requirements that the commissioner may impose by  
332 regulation, except to the extent that they conflict with an applicable  
333 covered agreement.

334 (4) If the commissioner determines that an assuming insurer no  
335 longer meets one or more of the requirements under this subsection, the  
336 commissioner may revoke or suspend the eligibility of the assuming  
337 insurer for recognition under this subsection in accordance with  
338 procedures set forth in regulation.

339 (A) While an assuming insurer's eligibility is suspended, no  
340 reinsurance agreement issued, amended or renewed after the effective  
341 date of the suspension qualifies for credit except to the extent that the  
342 assuming insurer's obligations under the contract are secured in  
343 accordance with section 38a-86.

344 (B) If an assuming insurer's eligibility is revoked, no credit for  
345 reinsurance may be granted after the effective date of the revocation  
346 with respect to any reinsurance agreements entered into by the  
347 assuming insurer, including reinsurance agreements entered into prior  
348 to the date of revocation, except to the extent that the assuming insurer's  
349 obligations under the contract are secured in a form acceptable to the  
350 commissioner and consistent with the provisions of section 38a-86.

351 (5) If subject to a legal process of rehabilitation, liquidation or  
352 conservation, as applicable, the ceding insurer, or its representative,  
353 may seek and, if determined appropriate by the court in which the  
354 proceedings are pending, may obtain an order requiring that the  
355 assuming insurer post security for all outstanding ceded liabilities.

356 (6) Nothing in this subsection shall limit or in any way alter the  
357 capacity of parties to a reinsurance agreement to agree on requirements  
358 for security or other terms in that reinsurance agreement, except as  
359 expressly prohibited by this section and sections 38a-85a to 38a-88,  
360 inclusive, as amended by this act, or other applicable law or regulation.

361 (7) Credit may be taken under this subsection only for reinsurance

362 agreements entered into, amended or renewed on or after October 1,  
363 2021, and only with respect to losses incurred and reserves reported on  
364 or after the later of the date on which the assuming insurer has met all  
365 eligibility requirements pursuant to subdivision (1) of this subsection,  
366 and the effective date of the new reinsurance agreement, amendment or  
367 renewal.

368 (A) This subsection does not alter or impair a ceding insurer's right  
369 to take credit for reinsurance, to the extent that credit is not available  
370 under this subsection, as long as the reinsurance qualifies for credit  
371 under any other applicable provision of this section or sections 38a-85a  
372 to 38a-88, inclusive, as amended by this act.

373 (B) Nothing in this subsection shall authorize an assuming insurer to  
374 withdraw or reduce the security provided under any reinsurance  
375 agreement except as permitted by the terms of the agreement.

376 (C) Nothing in this subsection shall limit, or in any way alter, the  
377 capacity of parties to any reinsurance agreement to renegotiate the  
378 agreement.

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

384 [(h)] (i) If the assuming insurer is not licensed, accredited or certified  
385 to transact insurance or reinsurance in this state, the credit permitted by  
386 subsection (d) or (e) of this section shall not be allowed unless the  
387 assuming insurer agrees (1) that in the event of the failure of the  
388 assuming insurer to perform its obligations under the terms of the  
389 reinsurance agreement, the assuming insurer, at the request of the  
390 ceding insurer, shall (A) submit to the jurisdiction of any court of  
391 competent jurisdiction in any state of the United States, (B) comply with  
392 all requirements necessary to give such court jurisdiction, and (C) abide  
393 by the final decision of such court or any appellate court in the event of

394 an appeal, and (2) to designate the commissioner or a designated  
395 attorney as its true and lawful attorney upon whom may be served any  
396 lawful process in any action, suit or proceeding instituted by or on  
397 behalf of the ceding company. This provision is not intended to conflict  
398 with or override the obligation of the parties to a reinsurance agreement  
399 to arbitrate their disputes, if such an obligation is created in the  
400 agreement.

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

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

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

421 (3) The trustee shall distribute any trust assets or part thereof that are  
422 returned by the insurance regulatory official with principal regulatory  
423 oversight of the trust, based on such regulatory official's determination  
424 that such assets or part thereof are not necessary to satisfy the claims of  
425 domestic and foreign ceding insurers of the grantor of the trust, in  
426 accordance with the trust instrument; and

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

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

434 (B) If a certified reinsurer's domiciliary jurisdiction ceases to be a  
435 qualified jurisdiction, as set forth in section 38a-85a, the commissioner  
436 may suspend the reinsurer's certification indefinitely, in lieu of  
437 revocation.

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

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

441 (B) The commissioner's action is based on (i) regulatory action taken  
442 by a regulatory official of the reinsurer's state of domicile, or (ii) the  
443 voluntary surrender or termination of the reinsurer's eligibility to  
444 transact the business of insurance or reinsurance in its state of domicile  
445 or its primary certifying jurisdiction as described in subdivision (2) of  
446 subsection (a) of section 38a-85a; or

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

450 (3) (A) While a reinsurer's accreditation or certification is suspended,  
451 no credit shall be allowed under this section for a reinsurance contract  
452 issued or renewed by the reinsurer on or after the effective date of such  
453 suspension, except to the extent that such reinsurer's obligations under  
454 such contract are secured in accordance with the provisions of section  
455 38a-86.

456 (B) If a reinsurer's accreditation or certification is revoked, no credit

457 shall be allowed under this section on and after the effective date of such  
458 revocation, except to the extent that such reinsurer's obligations under  
459 such contract are secured in accordance with the provisions of  
460 subsection (e) of section 38a-85a or section 38a-86.

461 (4) A reinsurer whose certification has been suspended, revoked or  
462 voluntarily surrendered or is inactive shall be treated as a certified  
463 reinsurer required to secure one hundred per cent of its obligations,  
464 except that this requirement shall not apply to a reinsurer whose  
465 certification has been suspended or is inactive if the commissioner  
466 continues to assign a high rating to such reinsurer pursuant to section  
467 38a-85a.

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

471 [(k)] (l) (1) A domestic ceding insurer shall manage its reinsurance  
472 recoverables in proportion to its own book of business. Such insurer  
473 shall notify the commissioner not later than thirty days after (A)  
474 reinsurance recoverables from any single assuming insurer or group of  
475 affiliated assuming insurers exceed fifty per cent of the domestic ceding  
476 insurer's last reported surplus to policyholders, or (B) the domestic  
477 ceding insurer determines that reinsurance recoverables from any single  
478 assuming insurer or group of affiliated assuming insurers are likely to  
479 exceed such limit. Any such notice shall demonstrate that the exposure  
480 is safely managed by the domestic ceding insurer.

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

490 domestic ceding insurer.

491 Sec. 2. Subdivision (9) of subsection (a) of section 38a-25 of the general  
492 statutes is repealed and the following is substituted in lieu thereof  
493 (*Effective October 1, 2021*):

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

497 Sec. 3. Subparagraph (C) of subdivision (2) of subsection (a) of section  
498 38a-92m of the general statutes is repealed and the following is  
499 substituted in lieu thereof (*Effective October 1, 2021*):

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

510 Sec. 4. Subsection (b) of section 38a-88 of the general statutes is  
511 repealed and the following is substituted in lieu thereof (*Effective October*  
512 *1, 2021*):

513 (b) (1) The commissioner may adopt regulations in accordance with  
514 the provisions of chapter 54 to establish, in addition to the requirements  
515 of sections 38a-85, as amended by this act, and 38a-86, requirements  
516 relating to or setting forth (A) the valuation of assets or reserve credits,  
517 (B) the circumstances under which credit will be reduced or eliminated,  
518 and (C) the amounts and forms of security supporting reinsurance  
519 agreements relating to (i) life insurance policies with guaranteed  
520 nonlevel gross premiums or guaranteed nonlevel benefits, (ii) universal

521 life insurance policies with provisions that permit a policyholder to keep  
522 such policy in force over a secondary guarantee period, (iii) variable  
523 annuities with guaranteed death or living benefits, (iv) long-term care  
524 insurance policies, or (v) any other life insurance, health insurance or  
525 annuity products for which the National Association of Insurance  
526 Commissioners adopts model regulatory credit for reinsurance  
527 requirements.

528 (2) Any regulation adopted pursuant to subdivision (1) of this  
529 subsection that relates to policies described in subparagraph (C)(i) or  
530 (C)(ii) of subdivision (1) of this subsection may apply to reinsurance  
531 agreements that include such policies issued on or after January 1, 2015,  
532 and such policies issued prior to January 1, 2015, if risk pertaining to  
533 such policies is ceded, in whole or in part, in connection with such  
534 agreement on or after January 1, 2015.

535 (3) Any regulations adopted pursuant to subdivision (1) of this  
536 subsection [:(A) May] may require the ceding insurer, in calculating the  
537 amounts or forms of security supporting reinsurance agreements, to use  
538 the Valuation Manual, as defined in section 38a-78, in effect on the date  
539 such calculation is made, to the extent applicable. [; and]

540 [(B)] (4) [Shall] Any regulation adopted pursuant to this subsection  
541 shall not apply to cessions to an assuming insurer [(i)] that (A) meets the  
542 conditions set forth in subsection (g) of section 38a-85, as amended by  
543 this act, (B) is certified as a reinsurer in accordance with the provisions  
544 of section 38a-85a, or [(ii) (I) that] (C) maintains at least two hundred  
545 fifty million dollars in capital and surplus, determined in accordance  
546 with the National Association of Insurance Commissioners Accounting  
547 Practices and Procedures Manual, including all amendments adopted  
548 by the National Association of Insurance Commissioners and excluding  
549 the impact of any permitted or prescribed practices, and [(II)] (i) is  
550 licensed in at least twenty-six states, or (ii) is licensed in at least ten states  
551 and licensed or accredited in a total of at least thirty-five states.

552 (5) The authority to adopt regulations pursuant to this subsection  
553 does not limit the commissioner's general authority to adopt regulations

554 pursuant to subsection (a) of this section.

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2021	38a-85
Sec. 2	October 1, 2021	38a-25(a)(9)
Sec. 3	October 1, 2021	38a-92m(a)(2)(C)
Sec. 4	October 1, 2021	38a-88(b)

**Statement of Legislative Commissioners:**

In Sections 1(e)(3)(B)(i)(II) and 1(e)(3)(B)(ii), "and" was bracketed for consistency; in Section 1(g)(1)(A)(i), "the" was added for proper form; in Sections 1(g)(1)(A), 1(g)(1)(B), 1(g)(1)(C), 1(g)(1)(D), 1(g)(1)(D)(i), 1(g)(1)(D)(ii), 1(g)(1)(D)(iii), 1(g)(1)(D)(iv), 1(g)(1)(D)(v), 1(g)(1)(E), 1(g)(1)(F) and 1(g)(1)(G), "shall" was substituted for "must" for consistency and proper form; in Sections 1(g)(2)(B) and 1(g)(6), "this section and sections 38a-85a" was substituted for "sections 38a-85" for proper form; and in Section 1(g)(7)(A), "this section or sections 38a-85a" was substituted for "sections 38a-85" for proper form.

**INS**      *Joint Favorable Subst. -LCO*

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

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### **OFA Fiscal Note**

**State Impact:** None

**Municipal Impact:** None

### **Explanation**

The bill is not anticipated to result in a fiscal impact. The bill eliminates reinsurance collateral requirements for “reciprocal” reinsurers in certain jurisdictions to bring Connecticut into compliance with agreements signed at the national level with the European Union and the United Kingdom. The Insurance Department has the necessary staff and expertise to implement the change and update regulations in accordance with the bill.

### **The Out Years**

**State Impact:** None

**Municipal Impact:** None

*Sources: Connecticut Insurance Department*

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**OLR Bill Analysis****sHB 6392*****AN ACT CONCERNING THE INSURANCE DEPARTMENT'S  
RECOMMENDATIONS REGARDING CREDIT FOR REINSURANCE.*****SUMMARY**

This bill aligns Connecticut's insurance laws with the National Association of Insurance Commissioners' (NAIC) 2019 amendments to its "Credit for Reinsurance Model Law." Alignment is necessary to (1) avoid federal preemption and (2) conform to agreements between the United States and the European Union and United Kingdom (together, the "covered agreements"), which were entered into pursuant to federal law. These agreements eliminate collateral requirements as a condition for entering into a reinsurance agreement with a Connecticut-domiciled insurer or allowing the insurer to recognize credit for reinsurance.

Under existing state law, an insurer may count reinsurance as a credit for an asset or a reduction for a liability on certain financial statements, including annual reports to the insurance commissioner, if the reinsurer meets specified statutory requirements pertaining to minimum surplus, licensing, filing, and examinations. Reinsurance is a transaction in which an insurance company transfers a portion of risk (the ceding insurer) to another insurance company (the assuming insurer or reinsurer) so that a large loss does not fall on any one company.

The bill specifies that, in general, credit for reinsurance is allowed only with respect to cessions for the kinds or classes of business which the assuming insurer is licensed or permitted to write or assume in its domiciliary state or, if it is an insurer in another country (i.e., alien insurer), the state in which it is licensed to transact insurance or reinsurance.

The bill also allows credit for reinsurance when the reinsurance is

ceded to an assuming insurer that meets newly specified criteria as described below. The assuming insurer must comply with any related regulations the commissioner adopts.

The bill requires the commissioner to publish a list of assuming insurers that meet all conditions set forth in statute and to which cessions will be granted credit for reinsurance. It authorizes him to revoke or suspend an assuming insurer's eligibility in accordance with regulations if the insurer no longer meets the statutory requirements. After a suspension or revocation, no credit for reinsurance is generally allowed, except to the extent that they have been secured in accordance with state law.

The bill also makes other minor, technical, and conforming changes.

EFFECTIVE DATE: October 1, 2021

#### **REQUIREMENTS FOR ASSUMING INSURERS**

The bill allows credit for reinsurance when the reinsurance is ceded to an assuming insurer that meets specified criteria. Credit may be taken for reinsurance agreements entered into, amended, or renewed on or after October 1, 2021, and only for losses incurred on or after the later of when the assuming insurer meets all requirements and the agreement's effective date.

The bill requires an assuming insurer to have its head office or be domiciled in, as applicable, and licensed in, a reciprocal jurisdiction. A "reciprocal jurisdiction" is (1) a non-U.S. jurisdiction subject to a covered agreement; (2) an NAIC-accredited U.S. jurisdiction; or (3) a qualified jurisdiction that meets requirements consistent with the covered agreements, as specified in regulations the commissioner adopts. The bill requires the commissioner to publish a list of reciprocal jurisdictions, for which he must consider NAIC's list of reciprocal jurisdictions. It authorizes him to remove a jurisdiction from his list if it no longer meets the requirements of a reciprocal jurisdiction.

Under the bill, an assuming insurer, among other things, must

maintain minimum capital and surplus, or its equivalent, and a minimum solvency or capital ratio, all of which the commissioner is to set forth in regulations. If the assuming insurer is an association, it also must maintain a central fund with a balance in amounts set forth in regulations. The bill requires the assuming insurer's supervisory authority to confirm annually to the commissioner that the insurer complies with these requirements.

Under the bill, an assuming insurer must also give the commissioner certain assurances in a manner the commissioner specifies in regulations, including that it will:

1. give prompt notice if it falls below the minimum requirements or if any regulatory action is taken against it for serious noncompliance with applicable law;
2. consent to the jurisdiction of the state's courts and appoint the commissioner as agent for service of process, but parties to a reinsurance agreement may agree to alternative dispute resolution mechanisms, so long as they are enforceable under applicable laws;
3. pay all final enforceable judgements obtained by a ceding insurer; and
4. provide security of 100% of the assuming insurer's liabilities attributable to the ceded reinsurance.

Additionally, the assuming insurer must confirm that it is not participating in any "solvent scheme of arrangement" with the state's ceding insurers and agree to notify the commissioner and the ceding insurer if it enters into one. In that case, the assuming insurer must provide security of 100% of the assuming insurer's liabilities to the ceding insurer.

The bill requires the assuming insurer to comply with any related regulations the commissioner adopts, including those about paying claims promptly and providing the commissioner with documentation

upon request. It specifies that it does not preclude an assuming insurer from providing the commissioner information voluntarily.

**COMMITTEE ACTION**

Insurance and Real Estate Committee

Joint Favorable

Yea 18 Nay 0 (03/22/2021)