



General Assembly

February Session, 2020

Raised Bill No. 338

LCO No. 2212



Referred to Committee on INSURANCE AND REAL ESTATE

Introduced by:
(INS)

***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 Section 38a-85 of the general statutes is repealed and the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, 2020*):

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 trustee 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 trustee 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 must 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 European Union, is a member state of the European Union.
211 For purposes of this subsection, a "covered agreement" is an agreement
212 entered into pursuant to Dodd-Frank Wall Street Reform and Consumer
213 Protection Act, 31 USC Sections 313 and 314, that is currently in effect or
214 in a period of provisional application and addresses the elimination,
215 under specified conditions, of collateral requirements as a condition for
216 entering into any reinsurance agreement with a ceding insurer
217 domiciled in this state or for allowing the ceding insurer to recognize
218 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 must 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 must have and maintain, on an ongoing basis,
235 minimum capital and surplus equivalents, net of liabilities, calculated

236 according to the methodology applicable in its domiciliary jurisdiction,
237 and a central fund containing a balance in amounts to be set forth in
238 regulation.

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

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

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

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

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

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

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

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

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

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

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

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

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

312 (B) The commissioner may remove a jurisdiction from the list of
313 reciprocal jurisdictions upon a determination that the jurisdiction no
314 longer meets the requirements of a reciprocal jurisdiction, in accordance
315 with a process set forth in regulations adopted by the commissioner
316 pursuant to chapter 54, except that the commissioner shall not remove
317 from the list a reciprocal jurisdiction as defined under subparagraphs
318 (A)(i) and (A)(ii) of subdivision (1) of this subsection. Upon removal of
319 a reciprocal jurisdiction from this list credit for reinsurance ceded to an
320 assuming insurer which has its home office or is domiciled in that
321 jurisdiction shall be allowed, if otherwise allowed pursuant to sections
322 38a-85 to 38a-88, inclusive, as amended by this act.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

427 accordance with the trust instrument; and

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

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

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

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

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

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

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

451 (3) (A) While a reinsurer's accreditation or certification is suspended,
452 no credit shall be allowed under this section for a reinsurance contract
453 issued or renewed by the reinsurer on or after the effective date of such
454 suspension, except to the extent that such reinsurer's obligations under
455 such contract are secured in accordance with the provisions of section
456 38a-86.

457 (B) If a reinsurer's accreditation or certification is revoked, no credit
458 shall be allowed under this section on and after the effective date of such
459 revocation, except to the extent that such reinsurer's obligations under
460 such contract are secured in accordance with the provisions of
461 subsection (e) of section 38a-85a or section 38a-86.

462 (4) A reinsurer whose certification has been suspended, revoked or
463 voluntarily surrendered or is inactive shall be treated as a certified
464 reinsurer required to secure one hundred per cent of its obligations,
465 except that this requirement shall not apply to a reinsurer whose
466 certification has been suspended or is inactive if the commissioner
467 continues to assign a high rating to such reinsurer pursuant to section
468 38a-85a.

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

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

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

489 affiliated assuming insurers is likely to exceed such limit. Any such
490 notice shall demonstrate that the exposure is safely managed by the
491 domestic ceding insurer.

492 Sec. 2. Subdivision (9) of subsection (a) of section 38a-25 of the general
493 statutes is repealed and the following is substituted in lieu thereof
494 (*Effective October 1, 2020*):

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

498 Sec. 3. Subparagraph (C) of subdivision (2) of subsection (a) of section
499 38a-92m of the general statutes is repealed and the following is
500 substituted in lieu thereof (*Effective October 1, 2020*):

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

511 Sec. 4. Subsection (b) of section 38a-88 of the general statutes is
512 repealed and the following is substituted in lieu thereof (*Effective October*
513 *1, 2020*):

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

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

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

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

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

553 (5) The authority to adopt regulations pursuant to this subsection
554 does not limit the commissioner's general authority to adopt regulations
555 pursuant to subsection (a) of this section.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2020</i>	38a-85
Sec. 2	<i>October 1, 2020</i>	38a-25(a)(9)
Sec. 3	<i>October 1, 2020</i>	38a-92m(a)(2)(C)
Sec. 4	<i>October 1, 2020</i>	38a-88(b)

Statement of Purpose:

To adopt the Insurance Department's recommendations regarding credit for reinsurance.

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