§ 1301. Admitted assets. (a) In determining the financial condition of a domestic or foreign insurer or the United States branch of an alien insurer for the purposes of this chapter, there may be allowed as admitted assets of such insurer, unless otherwise specifically provided in this chapter, only the following assets owned by such insurer

(1) Cash, including legal tender or the equivalent in any office of such insurer or in transit under its control and the true balance of any deposit in a solvent bank, trust company or thrift institution.

(2) Investments acquired or held in accordance with the applicable provisions of this chapter, and the income due or accrued thereon subject to paragraphs three and four of this subsection as to dividends, interest, rents and accrued taxes paid.

(3) Declared and unpaid dividends on shares, unless the amount has otherwise been allowed as an admitted asset.

(4) Investment income due and accrued. Such amounts shall be assessed for collectibility. If it is probable that the investment income due and accrued balance is uncollectible, the amount shall be written off and shall be charged against investment income in the period such determination is made. Any remaining investment income due and accrued (i.e., amounts considered probable of collection) representing either (i) amounts that are over ninety days past due (generated by any invested asset except mortgage loans in default), or (ii) amounts otherwise designated as nonadmitted shall be considered nonadmitted. If a mortgage loan in default has interest one hundred eighty days past due that has been assessed as collectible, all interest shall be considered a nonadmitted asset. Such nonadmitted amounts shall be subject to continuing assessments of collectibility and, if determined to be uncollectible, a write-off shall be recorded in the period such determination is made. For purposes of this paragraph, "probable" shall mean that the future event or events are likely to occur.

(5) Premium notes, policy loans and other policy assets and liens on policies, contracts or certificates of a life insurance company or fraternal benefit society, in an amount not exceeding the legal reserve and other policy liabilities carried on each individual contract; the net amount of uncollected and deferred premiums, considerations or assessments of a life insurance company or of a fraternal benefit society which carries the full mean tabular reserve liability; for a

fraternal benefit society which does not carry such reserve liability, the net amount of uncollected premiums.

(6) Premiums in course of collection, other than life insurance premiums, not more than ninety days past due, less commissions payable thereon. The foregoing limitation of ninety days shall not apply to: (i) premiums payable directly or indirectly by the United States government or any of its instrumentalities, (ii) reinsurance premiums payable by ceding insurers authorized to transact such business in this state, or (iii) reinsurance premiums payable which may be offset by amounts carried by the assuming insurer as liabilities for amounts due to the ceding insurer for unpaid losses or other mutual debts. However reinsurance premiums more than ninety days past due shall not be allowed in excess of ten per centum of the reinsurer's total admitted assets as shown on its most recent annual statement on file in the office of the superintendent pursuant to section three hundred seven of this chapter.

(7) Instalment premiums, other than life insurance premiums, as prescribed by regulation.

(8) Notes and like written obligations, not past due, taken for premiums other than life insurance premiums, on policies permitted to be issued on such basis, to the extent of the unearned premium reserves carried thereon except as otherwise prescribed by regulation.

(9) Reinsurance recoverable by a ceding insurer: (i) from an insurer authorized to transact such business in this state, except from a captive insurance company licensed pursuant to the provisions of article seventy of this chapter, in the full amount thereof; (ii) from an accredited reinsurer, as defined in subsection (a) of section one hundred seven of this chapter, to the extent allowed by the superintendent on the basis of the insurer's compliance with the conditions of any applicable regulation; or (iii) from an insurer not so authorized or accredited or from a captive insurance company licensed pursuant to the provisions of article seventy of this chapter, in an amount not exceeding the liabilities carried by the ceding insurer for amounts withheld under a reinsurance treaty with such unauthorized insurer or captive insurance company licensed pursuant to the provisions of article seventy of this chapter as security for the payment of obligations thereunder if such funds are held subject to withdrawal by, and under the control of, the ceding insurer. Notwithstanding any other

provision of this chapter, the superintendent may by regulation prescribe the conditions under which a ceding insurer may be allowed credit, as an asset or as a deduction from loss and unearned premium reserves, for reinsurance recoverable from an accredited reinsurer, an insurer not authorized in this state or a captive insurance company licensed pursuant to the provisions of article seventy of this chapter.

(10) Amounts receivable by an assuming insurer for funds withheld by a ceding insurer under a reinsurance treaty, not exceeding the amounts carried by such assuming insurer as liabilities for unpaid losses and reserves under such contracts.

(11) Amounts receivable under a funding agreement issued pursuant to section three thousand two hundred twenty-two of this chapter.

(12) Deposits or equities recoverable from underwriting associations, syndicates and reinsurance funds, or from suspended banking institutions, to the extent deemed by the superintendent available for the payment of losses and claims and at values determined by him.

(13) (A) Electronic data processing apparatus and related equipment constituting a data processing, record keeping, or accounting system and operating system software, provided that such assets shall be deemed admitted, subject to such regulations as may be promulgated by the superintendent in an amount not to exceed three percent of the insurer's capital and surplus, or such other amount that the superintendent, in a regulation, determines to be appropriate in specified circumstances, as required to be shown on its statutory balance sheet for its most recently filed statement with the superintendent adjusted to exclude any net positive goodwill, electronic data processing apparatus and related equipment, operating system software and net deferred tax assets, provided that electronic data processing apparatus and related equipment and operating system software shall be amortized over the lesser of its useful life or three years. Nonoperating system software shall be nonadmitted and depreciated over the lesser of its useful life or five years.

(B) Notwithstanding the provisions of subparagraph (A) of this paragraph, until December thirty-first, two thousand eleven, electronic data processing apparatus and related equipment constituting a data processing, record keeping, or accounting system and operating system software of article forty-three corporations and public health law

article forty-four health maintenance organizations, integrated delivery systems, prepaid health service plans and comprehensive special needs plans may be allowed as admitted assets if the cost of each such system is fifty thousand dollars or more and provided that such cost shall be amortized over a period not to exceed ten years. Effective January first, two thousand twelve, the provisions of subparagraph (A) of this paragraph shall apply to article forty-three corporations and public health law article forty-four health maintenance organizations, integrated delivery systems, prepaid health service plans and comprehensive special needs plans.

(14) Positive goodwill, provided that such asset shall be deemed admitted, subject to such limitations and conditions in regulations as may be promulgated by the superintendent in an amount not to exceed ten percent of the insurer's capital and surplus as required to be shown on its statutory balance sheet for its most recently filed statement with the superintendent adjusted to exclude any net positive goodwill, electronic data processing apparatus and related equipment, operating system software and net deferred tax assets, and provided further that such positive goodwill shall be amortized in full over the period in which the insurer benefits economically, not to exceed ten years. When negative goodwill exists, it shall be recorded as a contra-asset.

(15) Amounts payable to the insurer from the property/casualty insurance security fund on behalf of insureds with medical malpractice insurance claims-made policies pursuant to subparagraph (G) of paragraph one of subsection (a) of section seven thousand six hundred three of this chapter.

(16) Gross deferred tax assets, provided that such assets shall be deemed admitted to the extent provided by regulations promulgated by the superintendent in an amount not to exceed the sum of:

(A) federal income taxes paid in prior years that can be recovered through loss carrybacks for existing temporary differences that reverse by the end of the subsequent calendar year;

(B) the lesser of:

(i) the amount of gross deferred tax assets after the application of subparagraph (A) of this paragraph expected to be realized within one year of the balance sheet date; or

(ii) ten percent of the insurer's statutory capital and surplus as

required to be shown on its statutory balance sheet for its most recently filed statement with the superintendent adjusted to exclude any net positive goodwill, electronic data processing apparatus and related equipment, operating system software and net deferred tax assets; and

(C) the amount of gross deferred tax assets after application of subparagraphs (A) and (B) of this paragraph that can be offset against existing gross deferred tax liabilities.

(17) Other assets, not inconsistent with the foregoing provisions, deemed by the superintendent available for the payment of losses and claims, at values determined by the superintendent.

(18) The superintendent may, be regulation, modify any requirement of this subsection to conform to any subsequent amendment to the accounting practices and procedures manual as adopted from time to time by the national association of insurance commissioners.

(b) Admitted assets may be allowed as deductions from corresponding liabilities, liabilities may be charged as deductions from assets, and deductions from assets may be charged as liabilities, in accordance with the form of annual statement applicable to such insurer as prescribed by the superintendent, or otherwise in his discretion.

(c) The superintendent may by regulation prescribe the application of the provisions of this section.