H.563

Introduced by Representatives Botzow of Pownal, Bouchard of Colchester, Carr of Brandon, Cross of Winooski, Dickinson of St. Albans Town, Kitzmiller of Montpelier, Marcotte of Coventry, Ralston of Middlebury, and Young of Glover

Referred to Committee on

Date:

Subject: Insurance; captives; certificate of dormancy; National Association of Insurance Commissioners; accreditation

Statement of purpose of bill as introduced: This bill proposes to allow captive insurance companies to obtain a certificate of dormancy and also to make various other amendments to Vermont's captive insurance laws.

An act relating to captive insurance laws and accreditation standards

It is hereby enacted by the General Assembly of the State of Vermont:

* * * Dormant Captive Insurance Companies * * *

Sec. 1. 8 V.S.A. § 6024 is added to read:

§ 6024. DORMANT CAPTIVE INSURANCE COMPANIES

(a) As used in this section, unless the context requires otherwise, "dormant captive insurance company" means a pure captive insurance company which has:

(1) at no time, insured controlled unaffiliated business;

(2) ceased transacting the business of insurance, including the issuance of insurance policies; and

(3) no remaining liabilities associated with insurance business transactions, or insurance policies issued prior to the filing of its application for a certificate of dormancy under this section.

(b) A pure captive insurance company domiciled in Vermont which meets the criteria of subsection (a) of this section may apply to the Commissioner for a certificate of dormancy. The certificate of dormancy shall be subject to renewal every five years and shall be forfeited if not renewed within such time.

(c) A dormant captive insurance company which has been issued a certificate of dormancy shall:

(1) possess and thereafter maintain unimpaired, paid-in capital and surplus of not less than $25,000.00;

(2) prior to March 15 of each year, submit to the Commissioner a report of its financial condition, verified by oath of two of its executive officers, in a form as may be prescribed by the Commissioner; and

(3) pay a license renewal fee as provided in subsection 6002(d) of this chapter.

(d) A dormant captive insurance company shall not be subject to or liable for the payment of any tax under section 6014 of this chapter.

(e) A dormant captive insurance company shall apply to the Commissioner for approval to surrender its certificate of dormancy and resume conducting the business of insurance prior to issuing any insurance policies.

(f) A certificate of dormancy shall be revoked if a dormant captive insurance company no longer meets the criteria of subsection (a) of this section.

(g) The Commissioner may establish guidelines and procedures as necessary to carry out the provisions of this section.

* * * Risk Retention Groups; Producer Controlled Insurers * * *

Sec. 2. 8 V.S.A. § 4815(6) is amended to read:

(6) "Licensed insurer" or "insurer" means any person, firm, association or corporation duly licensed to transact an insurance business in this State. The following are not licensed insurers for the purposes of this subchapter:

(A) ~~all risk retention groups as defined in the Superfund Amendments Reauthorization Act of 1986, Pub. L. No. 99-499, 100 Stat. 1613 (1986) and the Risk Retention Act, 15 U.S.C. § 3901 et seq. (1982 & Supp. 1986) and chapter 142 of this title;~~

~~(B)~~ all residual market pools and joint underwriting authorities or associations; and

~~(C)~~(B) all captive insurers as defined in chapter 141 of this title, except risk retention groups.

Sec. 3. 8 V.S.A. chapter 142A is amended to read:

CHAPTER 142A. RISK RETENTION <u>GROUP</u> MANAGING GENERAL AGENTS ~~AND~~<u>,</u> REINSURANCE INTERMEDIARIES<u>,</u> <u>AND PRODUCER CONTROLLED INSURERS</u>

* * *

Sec. 4. 8 V.S.A. § 6070 is amended to read:

§ 6070. APPLICATION OF CHAPTER

<u>(a)</u> This chapter applies to risk retention groups domiciled in this State operating under the provisions of chapters 141 and 142 of this title and to persons serving as managing general agents for such risk retention groups.

<u>(b) The provisions of chapter 131, subchapter 2 of this title, pertaining to producer controlled insurers, shall apply to risk retention groups chartered in this State.</u>

* * * Captive; Reciprocal Insurer; Assessments; Exemption * * *

Sec. 5. 8 V.S.A. § 6006(j) is amended to read:

(j) Captive insurance companies formed as reciprocal insurers under the provisions of this chapter shall have the privileges and be subject to the provisions of chapter 132 of this title in addition to the applicable provisions of this chapter. In the event of a conflict between the provisions of chapter 132 and the provisions of this chapter, the latter shall control. <u>However, in approving assessments levied upon subscribers of a captive insurance company</u>

formed as a reciprocal insurer, the Commissioner may exempt the company from any provision of sections 4850 (assessments), 4851 (time limit for assessments), and 4852 (aggregate of liability) of chapter 132. To the extent a reciprocal insurer is made subject to other provisions of this title pursuant to chapter 132, such provisions shall not be applicable to a reciprocal insurer formed under this chapter unless such provisions are expressly made applicable to captive insurance companies under this chapter.

* * * Separate Account Assets; Delinquency * * *

Sec. 6. 8 V.S.A. § 6018 is amended to read:

§ 6018. DELINQUENCY

Except as otherwise provided in this chapter, the terms and conditions set forth in chapter 145 of this title shall apply in full to captive insurance companies formed or licensed under this chapter; however, the assets of a separate account established under subsection 6006(p) of this chapter shall not be used to pay any expenses or claims other than those attributable to such separate account.

* * * Incorporated Protected Cell as Reciprocal Insurer * * *

Sec. 7. 8 V.S.A. § 6032 is amended to read:

§ 6032. DEFINITIONS

As used in this subchapter, unless the context requires otherwise:

(1) “Incorporated protected cell” means a protected cell that is established as a corporation, mutual corporation, nonprofit corporation with one or more members, ~~or~~ limited liability company, or reciprocal insurer separate from the sponsored captive insurance company of which it is a part.

* * *

Sec. 8. 8 V.S.A. § 6034a(d) is amended to read:

(d) It is the intent of the General Assembly under this section to provide sponsored captive insurance companies, including those licensed as special purpose financial insurance companies under subchapter 4 of this chapter, with the option to establish one or more protected cells as a separate corporation, mutual corporation, nonprofit corporation, ~~or~~ limited liability company, or reciprocal insurer. This section shall not be construed to limit any rights or protections applicable to protected cells not established as corporations, mutual corporations, nonprofit corporations, ~~or~~ limited liability companies, or reciprocal insurers.

* * * Risk-Based Capital for Risk Retention Groups * * *

Sec. 9. 8 V.S.A. § 6052(f) is added to read:

(f) The provisions of chapter 159 of this title shall apply to risk retention groups chartered in this State.

* * * Effective Date * * *

Sec. 10. EFFECTIVE DATE

This act shall take effect on passage.