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MEMORANDUM

To: **Representative William Botzow, Chair, House Committee on Commerce and Economic Development**

CC: **Louis Porter, Secretary of Civil and Military Affairs**

From: **Susan L. Donegan, Commissioner, Department of Financial Regulation**

Date: **December 1, 2013**

Re: **Legislation relating to the Department of Financial Regulation (DFR)**

A. Legislation from the 2013 Legislative Session

There are three bills remaining in House Commerce from the 2013 legislative session.

1. H. 203, is the original DFR bill. The bulk of H. 203 became H. 513, an act relating to the Department of Financial Regulation, which was enacted into law as Act 29. However, the statutory changes relating to credit for reinsurance did not move from H. 203 to H. 513 and were not enacted into law. H. 203 would provide additional avenues for an insurer to receive credit for reinsurance, authorize the Commissioner to lower collateral requirements for alien insurers, impose new notice requirements on ceding insurers concerning concentrations of risk, and require inclusion of certain clauses in the reinsurance agreement for ceding insurers to receive credit for reinsurance.
2. H. 362, an act relating to automobile insurance and aftermarket parts. H. 362 proposes to regulate the use of aftermarket parts (as opposed to original equipment from the auto manufacturer) in automobile repairs covered by insurance. Specifically, it would impose "like kind and quality" requirements on the insurer, require insurers to clearly disclose all aftermarket parts on the repair estimate, require that all aftermarket parts contain permanent identification, and prohibit the use of aftermarket parts on certain vehicles.

3. H. 277, an act relating to severe weather deductibles. H. 277 would prohibit an insurer from including in a residential property insurance policy a separate deductible to loss or damage caused by a severe weather event. This bill codifies the current DFR practice.

[note: H. 198, Legacy Insurance Management Act, passed by the House last session remains on the wall in Senate Finance.]

B. New Legislation Proposed for the 2014 Legislative Session

DFR proposes one new piece of legislation for the upcoming 2014 legislative session to ensure that our captive insurance laws comply with the National Association of Insurance Commissioners' accreditation standards. A draft of the legislation is attached to this memorandum. The draft proposes the following statutory changes:

1. The first section allows a captive to enter into an inexpensive dormant status as an alternative to dissolution. Allowing a captive to go dormant would address the situation where a captive outlives its usefulness to its parent company and is dissolved with the intent to return if the need arises in the future. At that point, re-formation of the captive is likely to include a reassessment of the domicile and today, parent companies may choose from a plethora of domiciles. By allowing a captive to go dormant rather than dissolve, we greatly increase the likelihood that any future re-formation will occur in Vermont.

2. The second section eliminates the exclusion of Risk Retention Groups from Vermont's Producer Controlled Insurers laws. DFR, in conjunction with the NAIC, has determined than a Risk Retention Group can be a producer-controlled entity, and should be afforded the protections provided by Vermont law.

3. The third section clarifies that the Commissioner may exempt a captive formed as a reciprocal insurer from 8 V.S.A. §§ 4850-4852, which are very prescriptive in the calculation and timing of reciprocal assessments, to ensure that the captive may be managed in accordance with an approved plan of operation.

4. Mirroring current cell legislation, the fourth section clarifies that the assets of a separate account are indeed separate, and will not be used in a delinquency or liquidation proceeding except to pay claims and expenses attributable to the separate account.

5. The fifth and sixth sections expand the definition of "incorporated protected cell" to include a cell that is established as a reciprocal insurer.