

1 TO THE HOUSE OF REPRESENTATIVES:

2 The Committee on Commerce and Economic Development to which was
3 referred House Bill No. 563 entitled “An act relating to captive insurance laws
4 and accreditation standards” respectfully reports that it has considered the
5 same and recommends that the bill be amended by striking out all after the
6 enacting clause and inserting in lieu thereof the following:

7 * * * Dormant Captive Insurance Companies * * *

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

9 § 6024. DORMANT CAPTIVE INSURANCE COMPANIES

10 (a) As used in this section, unless the context requires otherwise, “dormant
11 captive insurance company” means a pure captive insurance company
12 which has:

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

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

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

19 (b) A pure captive insurance company domiciled in Vermont which meets
20 the criteria of subsection (a) of this section may apply to the Commissioner for

1 a certificate of dormancy. The certificate of dormancy shall be subject to
2 renewal every five years and shall be forfeited if not renewed within such time.

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

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

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

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

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

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

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

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

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

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

3 (6) “Licensed insurer” or “insurer” means any person, firm, association
4 or corporation duly licensed to transact an insurance business in this State.

5 The following are not licensed insurers for the purposes of this subchapter:

6 (A) ~~all risk retention groups as defined in the Superfund~~
7 ~~Amendments Reauthorization Act of 1986, Pub. L. No. 99-499, 100 Stat. 1613~~
8 ~~(1986) and the Risk Retention Act, 15 U.S.C. § 3901 et seq. (1982 & Supp.~~
9 ~~1986) and chapter 142 of this title;~~

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

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

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

15 CHAPTER 142A. RISK RETENTION GROUP MANAGING
16 GENERAL AGENTS ~~AND~~, REINSURANCE INTERMEDIARIES,
17 AND PRODUCER CONTROLLED INSURERS

18 * * *

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

20 § 6070. APPLICATION OF CHAPTER

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

4 (b) The provisions of chapter 131, subchapter 2 of this title, pertaining to
5 producer controlled insurers, shall apply to risk retention groups chartered in
6 this State.

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

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

9 (j) Captive insurance companies formed as reciprocal insurers under the
10 provisions of this chapter shall have the privileges and be subject to the
11 provisions of chapter 132 of this title in addition to the applicable provisions of
12 this chapter. In the event of a conflict between the provisions of chapter 132
13 and the provisions of this chapter, the latter shall control. However, in
14 approving assessments levied upon subscribers of a captive insurance company
15 formed as a reciprocal insurer, the Commissioner may exempt the company
16 from any provision of sections 4850 (assessments), 4851 (time limit for
17 assessments), and 4852 (aggregate of liability) of chapter 132. To the extent a
18 reciprocal insurer is made subject to other provisions of this title pursuant to
19 chapter 132, such provisions shall not be applicable to a reciprocal insurer
20 formed under this chapter unless such provisions are expressly made
21 applicable to captive insurance companies under this chapter.

1 * * * Separate Account Assets; Delinquency * * *

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

3 § 6018. DELINQUENCY

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

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

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

12 § 6032. DEFINITIONS

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

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

18 * * *

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

20 (d) It is the intent of the General Assembly under this section to provide
21 sponsored captive insurance companies, including those licensed as special

1 purpose financial insurance companies under subchapter 4 of this chapter, with
2 the option to establish one or more protected cells as a separate corporation,
3 mutual corporation, nonprofit corporation, ~~or~~ limited liability company, or
4 reciprocal insurer. This section shall not be construed to limit any rights or
5 protections applicable to protected cells not established as corporations, mutual
6 corporations, nonprofit corporations, ~~or~~ limited liability companies, or
7 reciprocal insurers.

8 * * * Risk Based Capital for Risk Retention Groups * * *

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

10 (f) The provisions of chapter 159 of this title (risk based capital for
11 insurers) shall apply to risk retention groups chartered in this State, except that
12 the Commissioner may elect not to take regulatory action as otherwise required
13 by sections 8303–8306 of chapter 159 of this title, provided at least one of the
14 following conditions exist:

15 (1) The Commissioner determines that the risk retention group's
16 members or sponsoring organization, or both, are sufficiently capitalized to
17 support the operations of the risk retention group. As required by the
18 Commissioner, the members or sponsoring organization, or both, shall provide
19 evidence of:

1 (A) an investment grade credit rating from a nationally recognized
2 statistical rating organization or rating of A- or better by the A. M. Best
3 Company;

4 (B) an excess of assets over liabilities of at least \$100 million; or

5 (C) an excess of assets over liabilities of at least 10 times the risk
6 retention group’s largest net retained per occurrence limit.

7 (2) Each policyholder qualifies as an industrial insured under the law of
8 his or her home state, or under Vermont law, whichever the Commissioner
9 determines to be more stringent.

10 (3) The risk retention group’s certificate of authority was issued prior to
11 January 1, 2011 and, based on a minimum of five years of solvent operation, is
12 specifically exempted from the requirements for mandatory action in writing
13 by the Commissioner.

14 * * * Effective Date * * *

15 Sec. 10. EFFECTIVE DATE

16 This act shall take effect on passage.

17

18 (Committee vote: _____)

19

20

Representative [surname]

21

FOR THE COMMITTEE