

1 H. \_\_\_\_\_

2 Introduced by

3 Referred to Committee on

4 Date:

5 Subject: Captive Insurance

6 Statement of purpose: This bill proposes to update our captive insurance laws comply with the

7 National Association of Insurance Commissioners' accreditation standards

8 AN ACT RELATING TO CAPTIVE INSURANCE

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

10 Sec. 1. 8 V.S.A. § \_\_\_\_\_ is added to read:

11 § \_\_\_\_\_. DORMANT CAPTIVE INSURANCE COMPANIES

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

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

15 (2) ceased issuance of insurance policies; and

16 (3) no remaining liabilities associated with insurance policies issued prior to the filing of  
17 its application for a certificate of dormancy.

18 (b) A pure captive insurance company domiciled in this state which meets the criteria of

19 subsection (a) of this section may apply to the Commissioner for a certificate of dormancy,

20 which shall be subject to renewal every five years and will be forfeited if not renewed within

21 such time.

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

1       (1) possess and thereafter maintain unimpaired paid-in capital and surplus of not less than  
2 [\$placeholder]:

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

6       (3) pay a license renewal fee for each year of \$[placeholder].

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

9       (e) A dormant captive insurance company must apply to the Commissioner for approval in  
10 advance of the issuance of any insurance policies.

11       (f) A dormant captive insurance company shall have its certificate of dormancy revoked  
12 effective as of the date that it no longer meets the criteria of subsection (a) of this section.

13       (g) The Commissioner may adopt and from time to time amend such guidelines and  
14 procedures relating to dormant captive insurance companies as are necessary to enable the  
15 Commissioner to carry out the provisions of this section.

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

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

20       ~~(A) all risk retention groups as defined in the Superfund Amendments Reauthorization Act~~  
21 ~~of 1986, Pub. L. No. 99-499, 100 Stat. 1613 (1986) and the Risk Retention Act, 15 U.S.C. §~~  
22 ~~3901 et seq. (1982 & Supp. 1986) and chapter 142 of this title;~~

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

1           (~~€~~B) all captive insurers as defined in chapter 141 of this title

2   Sec. 3. 8 V.S.A. § 6006(j) is amended to read:

3           (j) Captive insurance companies formed as reciprocal insurers under the provisions of this  
4   chapter shall have the privileges and be subject to the provisions of chapter 132 of this title in  
5   addition to the applicable provisions of this chapter. In the event of a conflict between the  
6   provisions of chapter 132 and the provisions of this chapter, the latter shall control. In approving  
7   assessments levied upon subscribers of a captive insurance company formed as a reciprocal  
8   insurer or an on-going plan therefore, the Commissioner may exempt a captive insurance  
9   company formed as a reciprocal insurer from any provision of sections 4850, 4851 and 4852 of  
10   this title if the Commissioner determines such provision to be inappropriate based on the captive  
11   insurance company's plan of operation. To the extent a reciprocal insurer is made subject to  
12   other provisions of this title pursuant to chapter 132, such provisions shall not be applicable to a  
13   reciprocal insurer formed under this chapter unless such provisions are expressly made  
14   applicable to captive insurance companies under this chapter.

15   Sec. 4. 8 V.S.A. § 6018 is amended to read:

16   § 6018. DELINQUENCY

17           (a) Except as otherwise provided in this chapter, the terms and conditions set forth in chapter  
18   145 of this title shall apply in full to captive insurance companies formed or licensed under this  
19   chapter.

20           (b) Notwithstanding the provisions of chapter 145 of this title, the assets of a separate account  
21   established pursuant to subsection (p) of section 6006 of this chapter may not be used to pay any  
22   expenses or claims other than those attributable to such separate account.

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Sec. 5. 8 V.S.A. § 6032 is amended to read:

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.

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Sec. 6. 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 captive 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.

Sec. 7. EFFECTIVE DATE

This act shall take effect on passage.