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1	H.694
2	Introduced by Representatives Botzow of Pownal, Kimbell of Woodstock, and
3	Marcotte of Coventry
4	Referred to Committee on
5	Date:
6	Subject: Insurance; captive insurance companies
7	Statement of purpose of bill as introduced: This bill proposes to make various
8	amendments to Vermont law regarding captive insurance companies.
9	An act relating to captive insurance companies
10	It is hereby enacted by the General Assembly of the State of Vermont:
11	* * * Licensing Authority * * *
12	Sec. 1. 8 V.S.A. § 6002(a) is amended to read:
13	(a) Any captive insurance company, when permitted by its articles of
14	association, charter, or other organizational document, may apply to the
15	Commissioner for a license to do any and all insurance comprised in
16	subdivisions 3301(a)(1), (2), (3)(A)-(C), (E)-(R)(Q), and (4)-(9) of this title
17	and may grant annuity contracts as defined in section 3717 of this title;
18	provided, however, that:

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1	* * * Reports and Statements * * *
2	Sec. 2. 8 V.S.A. § 6007 is amended to read:
3	§ 6007. REPORTS AND STATEMENTS
4	(a) Captive insurance companies shall not be required to make any annual
5	report except as provided in this chapter.
6	(b) Prior to March 1 of each year, and prior to March 15 of each year in the
7	case of pure captive insurance companies, association captive insurance
8	companies, sponsored captive insurance companies, or industrial insured
9	captive insurance companies, each captive insurance company shall submit to
10	the Commissioner a report of its financial condition, verified by oath of two of
11	its executive officers. Each captive insurance company shall report using
12	generally accepted accounting principles, statutory accounting principles, or
13	international financial reporting standards unless the Commissioner requires,
14	approves, or accepts the use of any other comprehensive basis of accounting,
15	in each case with any appropriate or necessary modifications or adaptations
16	thereof required or approved or accepted by the Commissioner for the type of
17	insurance and kinds of insurers to be reported upon, and as supplemented by
18	additional information required by the Commissioner. As used in this section,
19	statutory accounting principles shall mean the accounting principles codified in
20	the NAIC Accounting Practices and Procedures Manual. Upon application for
21	admission, a captive insurance company shall select, with explanation, an

1	accounting method for reporting. Any change in a captive insurance
2	company's accounting method shall require prior approval. Except as
3	otherwise provided, each risk retention group shall file its report in the form
4	required by subsection 3561(a) of this title, and each risk retention group shall
5	comply with the requirements set forth in section 3569 of this title. The
6	Commissioner shall by rule propose the forms in which pure captive insurance
7	companies, association captive insurance companies, sponsored captive
8	insurance companies, and industrial insured captive insurance companies shall
9	report. Subdivision 6002(c)(3) of this title shall apply to each report filed
10	pursuant to this section, except that such subdivision shall not apply to reports
11	filed by risk retention groups.
12	(c) Any pure captive insurance company, association captive insurance
13	company, sponsored captive insurance company, or industrial insured captive
14	insurance company may make written application for filing the required report
15	on a fiscal year-end. If an alternative reporting date is granted:
16	(1) the annual report is due 75 days after the fiscal year-end; and
17	(2) in order to provide sufficient detail to support the premium tax
18	return, the pure captive insurance company, association captive insurance
19	company, sponsored captive insurance company, or industrial insured captive
20	insurance company shall file prior to March 15 of each year for each calendar
21	year-end, pages 1, 2, 3, and 5 of the "Vermont Captive Insurance Company

1	Annual Report - Short Form" verified by oath of two of its executive officers.
2	* * * Tax on Premiums Collected * * *
3	Sec. 3. 8 V.S.A. § 6014 is amended to read:
4 5	§ 6014. TAX ON PREMIUMS COLLECTED(a) Each captive insurance company shall pay to the Commissioner of
6	Taxes, in the month of February on or before March 15 of each year, a tax at
7	the rate of 38-hundredths of one percent on the first 20 million dollars and
8	285-thousandths of one percent on the next 20 million dollars and 19-
9	hundredths of one percent on the next 20 million dollars and 72-thousandths of
10	one percent on each dollar thereafter on the direct premiums collected or
11	contracted for on policies or contracts of insurance written by the captive
12	insurance company during the year ending December 31 next preceding, after
13	deducting from the direct premiums subject to the tax the amounts paid to
14	policyholders as return premiums which shall include dividends on unabsorbed
15	premiums or premium deposits returned or credited to policyholders; provided,
16	however, that no tax shall be due or payable as to considerations received for
17	annuity contracts.
18	(b) Each captive insurance company shall pay to the Commissioner of
19	Taxes in the month of February on or before March 15 of each year a tax at the
20	rate of 214-thousandths of one percent on the first 20 million dollars of
21	assumed reinsurance premium, and 143-thousandths of one percent on the next
22	20 million dollars and 48-thousandths of one percent on the next 20 million

1	dollars and 24-thousandths of one percent of on each dollar thereafter.
2	However, no reinsurance tax applies to premiums for risks or portions of risks
3	which that are subject to taxation on a direct basis pursuant to subsection (a) of
4	this section. No reinsurance premium tax shall be payable in connection with
5	the receipt of assets in exchange for the assumption of loss reserves and other
6	liabilities of another insurer under common ownership and control if such
7	transaction is part of a plan to discontinue the operations of such other insurer,
8	and if the intent of the parties to such transaction is to renew or maintain such
9	business with the captive insurance company. No reinsurance premium tax
10	shall be payable in connection with the receipt of assets in exchange for the
11	assumption of loss reserves and other liabilities of a captive insurance
12	company's parent or affiliates if the intent of such exchange is to renew or
13	maintain such business with the captive insurance company.
14	(c)(1) The annual minimum aggregate tax to be paid by a captive insurance
15	company calculated under subsections (a) and (b) of this section shall be
16	\$7,500.00. The annual maximum aggregate tax to be paid by a captive
17	insurance company calculated under subsections (a) and (b) of this section
18	shall be \$200,000.00.
19	(2) The annual minimum aggregate tax to be paid by a sponsored
20	captive insurance company shall be \$7,500.00 and shall apply to the sponsored
21	captive insurance company as a whole and not to each protected cell; such

1	cells shall not be subject to the minimum tax.
2	(3) The annual maximum tax to be paid by a protected cell shall be as
3	calculated under subdivision (1) of this subsection. The annual maximum tax
4	to be remitted by a sponsored captive insurance company shall be the
5	aggregate of the tax liabilities of each protected cell.
6	(d) A captive insurance company failing to make returns as required by
7	32 V.S.A. chapter 211 or failing to pay within the time required all taxes
8	assessed by this section, shall be subject to the provisions of 32 V.S.A.
9	§§ 5868, 5869, 5873, and 5875 <u>§ 3202</u> .
10	* * *
11	* * * Branch Captive Insurance Companies * * *
12	Sec. 4. 8 V.S.A. § 6041 is amended to read:
13	§ 6041. ESTABLISHMENT OF A BRANCH CAPTIVE INSURANCE
14	COMPANY
15	(a) A branch captive <u>insurance company</u> may be established in this State in
16	accordance with the provisions of this chapter. In addition to the general
17	provisions of this chapter, the provisions of this subchapter shall apply to
18	branch captive insurance companies.
19	(b) No branch captive insurance company shall do any insurance business
20	in this State unless it:
21	(1) maintains the principal place of business for its branch operations in

1 this State; and

2	(2) it appoints a principal representative in this State who is a resident of
3	this State; and
4	(3) designates the Commissioner as its agent of such branch captive
5	insurance company upon whom any process, notice, or demand may be served.
6	(c) As used in this subsection section, principal representative shall mean a
7	person designated as such by the branch captive insurance company as its
8	principal representative on such forms and with such information as required
9	by the Commissioner.
10	(d) The provisions of subsection $6006(f)$ of this title shall not apply to
11	branch captives captive insurance companies formed in this State.
12	Sec. 5. REPEAL
13	8 V.S.A. § 6044 (concerning alien captive insurance companies and the
14	licensing and maintenance of branch operations) is repealed.
14 15	licensing and maintenance of branch operations) is repealed. * * * Risk Retention Groups; Governance Standards * * *
15	* * * Risk Retention Groups; Governance Standards * * *
15 16	 * * Risk Retention Groups; Governance Standards * * * Sec. 6. 8 V.S.A. § 6052(g)(2) is amended to read:
15 16 17	 * * Risk Retention Groups; Governance Standards * * * Sec. 6. 8 V.S.A. § 6052(g)(2) is amended to read: (2) The board shall have a majority of independent directors. The board
15 16 17 18	 * * Risk Retention Groups; Governance Standards * * * Sec. 6. 8 V.S.A. § 6052(g)(2) is amended to read: (2) The board shall have a majority of independent directors. The board of directors shall determine whether a director is independent; review such

1	independence, the board, within six months, shall take such actions as are
2	necessary in order to obtain written confirmation from the Commissioner that
3	the board meets the independence requirements set forth in subdivision $(1)(C)$
4	of this subsection.
5	* * * Effective Date * * *
6	Sec. 7. EFFECTIVE DATE
7	This act shall take effect on passage.