

H.694

An act relating to captive insurance companies

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

* * * Licensing Authority * * *

Sec. 1. 8 V.S.A. § 6002(a) is amended to read:

(a) Any captive insurance company, when permitted by its articles of association, charter, or other organizational document, may apply to the Commissioner for a license to do any and all insurance comprised in subdivisions 3301(a)(1), (2), (3)(A)-(C), (E)-~~(R)~~(Q), and (4)-(9) of this title and may grant annuity contracts as defined in section 3717 of this title; provided, however, that:

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* * * Reports and Statements * * *

Sec. 2. 8 V.S.A. § 6007 is amended to read:

§ 6007. REPORTS AND STATEMENTS

(a) Captive insurance companies shall not be required to make any annual report except as provided in this chapter.

(b) Prior to March 1 of each year, and prior to March 15 of each year in the case of pure captive insurance companies, association captive insurance companies, sponsored captive insurance companies, or industrial insured captive insurance companies, each captive insurance company shall submit to the Commissioner a report of its financial condition, verified by oath of two of

its executive officers. Each captive insurance company shall report using generally accepted accounting principles, statutory accounting principles, or international financial reporting standards unless the Commissioner requires, approves, or accepts the use of any other comprehensive basis of accounting, in each case with any appropriate or necessary modifications or adaptations thereof required or approved or accepted by the Commissioner for the type of insurance and kinds of insurers to be reported upon, and as supplemented by additional information required by the Commissioner. As used in this section, statutory accounting principles shall mean the accounting principles codified in the NAIC Accounting Practices and Procedures Manual. Upon application for admission, a captive insurance company shall select, with explanation, an accounting method for reporting. Any change in a captive insurance company's accounting method shall require prior approval. Except as otherwise provided, each risk retention group shall file its report in the form required by subsection 3561(a) of this title, and each risk retention group shall comply with the requirements set forth in section 3569 of this title. The Commissioner shall by rule propose the forms in which pure captive insurance companies, association captive insurance companies, sponsored captive insurance companies, and industrial insured captive insurance companies shall report. Subdivision 6002(c)(3) of this title shall apply to each report filed

pursuant to this section, except that such subdivision shall not apply to reports filed by risk retention groups.

(c) Any pure captive insurance company, association captive insurance company, sponsored captive insurance company, or industrial insured captive insurance company may make written application for filing the required report on a fiscal year-end. If an alternative reporting date is granted:

(1) the annual report is due 75 days after the fiscal year-end; and

(2) in order to provide sufficient detail to support the premium tax return, the pure captive insurance company, association captive insurance company, sponsored captive insurance company, or industrial insured captive insurance company shall file prior to March 15 of each year for each calendar year-end, pages 1, 2, 3, and 5 of the “Vermont Captive Insurance Company Annual Report – Short Form” verified by oath of two of its executive officers.

* * * Tax on Premiums Collected * * *

Sec. 3. 8 V.S.A. § 6014 is amended to read:

§ 6014. TAX ON PREMIUMS COLLECTED

(a) Each captive insurance company shall pay to the Commissioner of Taxes, ~~in the month of February~~ on or before March 15 of each year; a tax at the rate of 38-hundredths of one percent on the first 20 million dollars and 285-thousandths of one percent on the next 20 million dollars and 19-hundredths of one percent on the next 20 million dollars and 72-thousandths of one percent

on each dollar thereafter on the direct premiums collected or contracted for on policies or contracts of insurance written by the captive insurance company during the year ending December 31 next preceding, after deducting from the direct premiums subject to the tax the amounts paid to policyholders as return premiums which shall include dividends on unabsorbed premiums or premium deposits returned or credited to policyholders; provided, however, that no tax shall be due or payable as to considerations received for annuity contracts.

(b) Each captive insurance company shall pay to the Commissioner of Taxes ~~in the month of February~~ on or before March 15 of each year a tax at the rate of 214-thousandths of one percent on the first 20 million dollars of assumed reinsurance premium, and 143-thousandths of one percent on the next 20 million dollars and 48-thousandths of one percent on the next 20 million dollars and 24-thousandths of one percent ~~of~~ on each dollar thereafter.

However, no reinsurance tax applies to premiums for risks or portions of risks ~~which~~ that are subject to taxation on a direct basis pursuant to subsection (a) of this section. No reinsurance premium tax shall be payable in connection with the receipt of assets in exchange for the assumption of loss reserves and other liabilities of another insurer under common ownership and control if such transaction is part of a plan to discontinue the operations of such other insurer, and if the intent of the parties to such transaction is to renew or maintain such business with the captive insurance company. No reinsurance premium tax

shall be payable in connection with the receipt of assets in exchange for the assumption of loss reserves and other liabilities of a captive insurance company's parent or affiliates if the intent of such exchange is to renew or maintain such business with the captive insurance company.

(c)(1) The annual minimum aggregate tax to be paid by a captive insurance company calculated under subsections (a) and (b) of this section shall be \$7,500.00. The annual maximum aggregate tax to be paid by a captive insurance company calculated under subsections (a) and (b) of this section shall be \$200,000.00.

(2) The annual minimum aggregate tax to be paid by a sponsored captive insurance company shall be \$7,500.00 and shall apply to the sponsored captive insurance company as a whole and not to each protected cell; such cells shall not be subject to the minimum tax.

(3) The annual maximum tax to be paid by a protected cell shall be as calculated under subdivision (1) of this subsection. The annual maximum tax to be remitted by a sponsored captive insurance company shall be the aggregate of the tax liabilities of each protected cell.

(d) A captive insurance company failing to make returns as required by 32 V.S.A. chapter 211 or failing to pay within the time required all taxes assessed by this section, shall be subject to the provisions of 32 V.S.A. §§ ~~5868, 5869, 5873, and 5875~~ § 3202.

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* * * Branch Captive Insurance Companies * * *

Sec. 4. 8 V.S.A. § 6041 is amended to read:

§ 6041. ESTABLISHMENT OF A BRANCH CAPTIVE INSURANCE

COMPANY

(a) A branch captive insurance company may be established in this State in accordance with the provisions of this chapter. In addition to the general provisions of this chapter, the provisions of this subchapter shall apply to branch captive insurance companies.

(b) No branch captive insurance company shall do any insurance business in this State unless it:

(1) maintains the principal place of business for its branch operations in this State; and

(2) ~~it~~ appoints a principal representative in this State who is a resident of this State; and

(3) designates the Commissioner as its agent of such branch captive insurance company upon whom any process, notice, or demand may be served.

(c) As used in this ~~subsection~~ section, principal representative shall mean a person designated as such by the branch captive insurance company as its principal representative on such forms and with such information as required by the Commissioner.

(d) The provisions of subsection 6006(f) of this title shall not apply to branch ~~captives~~ captive insurance companies formed in this State.

Sec. 5. REPEAL

8 V.S.A. § 6044 (concerning alien captive insurance companies and the licensing and maintenance of branch operations) is repealed.

* * * 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 determinations annually; and maintain a record of the determinations, which shall be provided to the Commissioner ~~promptly, upon request~~ annually. If the Commissioner disagrees with the board's determination regarding independence, the board, within six months, shall take such actions as are necessary in order to obtain written confirmation from the Commissioner that the board meets the independence requirements set forth in subdivision (1)(C) of this subsection.

* * * Effective Date * * *

Sec. 7. EFFECTIVE DATE

This act shall take effect on passage.