

1 TO THE HONORABLE SENATE:

2 The Committee on Finance to which was referred House Bill No. 179
3 entitled “An act relating to insurance companies and trust companies”
4 respectfully reports that it has considered the same and recommends that the
5 Senate propose to the House that that the bill be amended by adding two new
6 sections to be Secs. 9 and 10 and one accompanying reader assistance heading,
7 as follows:

8 * * * Captive Insurance; Affiliated Reinsurance Companies * * *

9 Sec. 9. 8 V.S.A. § 6001(5) is amended to read:

10 (5) “Captive insurance company” means any pure captive insurance
11 company, association captive insurance company, sponsored captive insurance
12 company, industrial insured captive insurance company, agency captive
13 insurance company, risk retention group, affiliated reinsurance company, or
14 special purpose financial insurance company formed or licensed under the
15 provisions of this chapter. For purposes of this chapter, a branch captive
16 insurance company shall be a pure captive insurance company with respect to
17 operations in this State, unless otherwise permitted by the Commissioner.

18 Sec. 10. 8 V.S.A. chapter 141, subchapter 5 is added to read:

19 Subchapter 5. Affiliated Reinsurance Companies

1 § 6049a. APPLICABLE LAW

2 (a) An affiliated reinsurance company shall be subject to the provisions of
3 this subchapter and to the provisions of subchapter 1 of this chapter. In the
4 event of any conflict between the provisions of this subchapter and the
5 provisions of subchapter 1 of this chapter, the provisions of this subchapter
6 shall control.

7 (b) An affiliated reinsurance company shall be subject to all applicable
8 rules adopted pursuant to section 6015 of this chapter that are in effect as of the
9 effective date of this subchapter and those that are adopted after the effective
10 date of this subchapter.

11 § 6049b. DEFINITIONS

12 As used in this subchapter:

13 (1) “Affiliated reinsurance company” means a company licensed by the
14 Commissioner pursuant to this subchapter to reinsure risks ceded by a ceding
15 insurer that is its parent or affiliate.

16 (2) “Ceding insurer” means an insurance company approved by the
17 Commissioner and licensed or otherwise authorized to transact the business of
18 insurance or reinsurance in its state or country of domicile, which cedes risk to
19 an affiliated reinsurance company pursuant to a reinsurance contract.

1 (3) “Organizational documents” means the affiliated reinsurance
2 company’s articles of incorporation and bylaws and such other documents as
3 shall be approved by the Commissioner.

4 (4) “Reinsurance contract” means a contract between an affiliated
5 reinsurance company and a ceding insurer pursuant to which the affiliated
6 reinsurance company agrees to provide reinsurance to the ceding insurer.

7 § 6049c. LICENSING; AUTHORITY

8 (a) An affiliated reinsurance company shall only reinsure the risks of a
9 ceding insurer. An affiliated reinsurance company may cede the risks assumed
10 under a reinsurance contract to another reinsurer, subject to the prior approval
11 of the Commissioner.

12 (b) In conjunction with the issuance of a license to an affiliated reinsurance
13 company, the Commissioner may issue an order that includes any provisions,
14 terms, and conditions regarding the organization, licensing, and operation of
15 the affiliated reinsurance company that are deemed appropriate by the
16 Commissioner and that are not inconsistent with the provisions of this chapter.

17 (c) To qualify for a license, an affiliated reinsurance company shall be
18 subject, in addition to the requirements of subsection 6002(c) of this chapter, to
19 the following:

20 (1) The information submitted to the Commissioner pursuant to
21 subsection 6002(c)(1)(B) of this chapter shall include:

1 (A) the source and form of the affiliated reinsurance company’s
2 capital and surplus;

3 (B) the investment policy of the affiliated reinsurance company,
4 which shall provide for a diversified investment portfolio both as to type and
5 issue and shall include a requirement for liquidity and for the reasonable
6 preservation, administration, and management of such assets with respect to
7 the risks associated with any reinsurance transactions.

8 (2) The application shall include copies of all agreements and
9 documentation, including reinsurance agreements, described in subdivision (1)
10 of this subsection (c) unless otherwise approved by the Commissioner and any
11 other statements or documents required by the Commissioner to evaluate the
12 affiliated reinsurance company’s application for licensure.

13 (d) Subdivision 6002(c)(3) of this chapter shall apply to all information
14 submitted pursuant to subsection (c) of this section and to any order issued to
15 the affiliated reinsurance company pursuant to subsection (b) of this section.

16 § 6049d. FORMATION

17 (a) An affiliated reinsurance company may be incorporated as a stock
18 insurer with its capital divided into shares, or in such other organizational form
19 as may be approved by the Commissioner.

20 (b) An affiliated reinsurance company’s organizational documents shall
21 limit the affiliated reinsurance company’s authority to the transaction of the

1 business of insurance or reinsurance and to those activities that the affiliated
2 reinsurance company conducts to accomplish its purposes as expressed in this
3 subchapter.

4 § 6049e. MINIMUM CAPITAL AND SURPLUS

5 An affiliated reinsurance company shall not be issued a license unless it
6 possesses and thereafter maintains unimpaired paid-in capital and surplus of
7 not less than \$5,000,000.00. The Commissioner may prescribe additional
8 capital and surplus based upon the type, volume, and nature of reinsurance
9 business transacted. Except as otherwise provided in this section, the
10 provisions of chapter 159 of this title, Risk Based Capital for Insurers, shall
11 apply in full to an affiliated reinsurance company.

12 § 6049f. PERMITTED REINSURANCE

13 (a) An affiliated reinsurance company shall only reinsure the risks of a
14 ceding insurer, pursuant to a reinsurance contract. An affiliated reinsurance
15 company shall not issue a contract of insurance or a contract for assumption of
16 risk or indemnification of loss other than such reinsurance contract.

17 (b) The reinsurance contract shall contain all provisions reasonably
18 required or approved by the Commissioner, which requirements shall take into
19 account the laws applicable to the ceding insurer regarding the ceding insurer's
20 taking credit for the reinsurance provided under such reinsurance contract.

1 (c) An affiliated reinsurance company may cede risks assumed through a
2 reinsurance contract to one or more reinsurers through the purchase of
3 reinsurance, subject to the prior approval of the Commissioner. Except as
4 otherwise provided in this section, the provisions of subchapter 10 of chapter
5 101 of this title, reinsurance of risks, shall apply in full to an affiliated
6 reinsurance company.

7 (d) Unless otherwise approved in advance by the Commissioner, a
8 reinsurance contract shall not contain any provision for payment by the
9 affiliated reinsurance company in discharge of its obligations under the
10 reinsurance contract to any person other than the ceding insurer or any receiver
11 of the ceding insurer.

12 (e) An affiliated reinsurance company shall notify the Commissioner
13 immediately of any action by a ceding insurer or any other person to foreclose
14 on or otherwise take possession of collateral provided by the affiliated
15 reinsurance company to secure any obligation of the affiliated reinsurance
16 company.

17 § 6049g. DISPOSITION OF ASSETS; INVESTMENTS

18 (a) The assets of an affiliated reinsurance company shall be preserved and
19 administered by or on behalf of the affiliated reinsurance company to satisfy
20 the liabilities and obligations of the affiliated reinsurance company incident to
21 the reinsurance contract and other related agreements.

1 (b) The Commissioner may prohibit or limit any investment that threatens
2 the solvency or liquidity of the affiliated reinsurance company unless the
3 investment is otherwise approved in its plan of operation or in an order issued
4 to the affiliated reinsurance company pursuant to subsection 6049c of this
5 chapter.

6 § 6049h. ANNUAL REPORT; BOOKS AND RECORDS

7 (a) For the purposes of subsection 6007(b) of this chapter:

8 (1) Each affiliated reinsurance company shall file its report in the form
9 required by subsection 3561(a) of this title, and each affiliated reinsurance
10 company shall comply with the requirements set forth in section 3569 of this
11 title; and

12 (2) An affiliated reinsurance company shall report using statutory
13 accounting principles, unless the Commissioner requires, approves, or accepts
14 the use of generally accepted accounting principles or another comprehensive
15 basis of accounting, in each case with any appropriate or necessary
16 modifications or adaptations required or approved or accepted by the
17 Commissioner and as supplemented by additional information required by the
18 Commissioner.

19 (b) Unless otherwise approved in advance by the Commissioner, an
20 affiliated reinsurance company shall maintain its books, records, documents,
21 accounts, vouchers, and agreements in this State. An affiliated reinsurance

1 company shall make its books, records, documents, accounts, vouchers, and
2 agreements available for inspection by the Commissioner at any time. An
3 affiliated reinsurance company shall keep its books and records in such manner
4 that its financial condition, affairs, and operations can be readily ascertained
5 and so that the Commissioner may readily verify its financial statements and
6 determine its compliance with this chapter.

7 (c) Unless otherwise approved in advance by the Commissioner, all
8 original books, records, documents, accounts, vouchers, and agreements shall
9 be preserved and kept available in this State for the purpose of examination
10 and inspection and until such time as the Commissioner approves the
11 destruction or other disposition of such books, records, documents, accounts,
12 vouchers, and agreements. If the Commissioner approves the keeping outside
13 this State of the items listed in this subsection, the affiliated reinsurance
14 company shall maintain in this State a complete and true copy of each such
15 original. Books, records, documents, accounts, vouchers, and agreements may
16 be photographed, reproduced on film, or stored and reproduced electronically

17 (d) The provisions of sections 3578a (annual financial reporting) and 3579
18 (qualified accountants) of this title shall apply in full to an affiliated
19 reinsurance company.

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1 § 6049i. INSURANCE HOLDING COMPANY SYSTEMS

2 Except as otherwise provided in this section, the provisions of subchapter
3 13 of chapter 101 of this title shall apply in full to an affiliated reinsurance
4 company.

5 § 6049j. CORPORATE GOVERNANCE; DISCLOSURE

6 Except as otherwise provided in this section, the provisions of section 3316
7 of this title shall apply in full to an affiliated reinsurance company.

8 § 6049k. OWN RISK AND SOLVENCY ASSESSMENT

9 Except as otherwise provided in this section, the provisions of chapter 101,
10 subchapter 7A (own risk and solvency assessment) of this title shall apply in
11 full to an affiliated reinsurance company.

12 § 6049l. REQUIREMENTS FOR ACTUARIAL OPINIONS

13 Except as otherwise provided in this section, the provisions of chapter 101,
14 section 3577 (requirements for actuarial opinions) of this title shall apply in
15 full to an affiliated reinsurance company.

16 § 6049m. CONFIDENTIALITY

17 (a) All documents, materials, and other information, including confidential
18 and privileged documents, examination reports, preliminary examination
19 reports or results, working papers, recorded information, and copies of any of
20 these produced by, obtained by, or disclosed to the Commissioner or any other

1 person in the course of an examination made under this subchapter are
2 confidential and shall not be:

3 (1) subject to subpoena;

4 (2) subject to public inspection and copying under the Public Records
5 Act; or

6 (3) discoverable or admissible in evidence in any private civil action.

7 (b) In furtherance of his or her regulatory duties, the Commissioner may:

8 (1) share documents, materials, and other information, including those
9 that are confidential and privileged, with other state, federal, or international
10 regulatory agencies and law enforcement authorities, the National Association
11 of Insurance Commissioners, the North American Securities Administrators
12 Association, self-regulatory organizations organized under 15 U.S.C. §§ 78f,
13 78o-3, and 78q-1, and other self-regulatory organizations and their affiliates or
14 subsidiaries, provided that the recipient agrees in writing to maintain the
15 confidentiality and privileged status of the documents, materials, and other
16 information;

17 (2) receive documents, materials, and information, including those that
18 are confidential and privileged, from other state, federal, and international
19 regulatory agencies and law enforcement authorities, the National Association
20 of Insurance Commissioners, the North American Securities Administrators
21 Association, self-regulatory organizations organized under 15 U.S.C. §§ 78f,

1 78o-3, and 78q-1, and other self-regulatory organizations and their affiliates or
2 subsidiaries and shall maintain as confidential or privileged any document,
3 material, or information received with notice or the understanding that it is
4 confidential or privileged under the laws of the jurisdiction that is the source of
5 the document, material, or information;

6 (3) enter into written agreements with other state, federal, and
7 international regulatory agencies and law enforcement authorities, the National
8 Association of Insurance Commissioners, the North American Securities
9 Administrators Association, self-regulatory organizations organized under
10 15 U.S.C. §§ 78f, 78o-3 and 78q-1, and other self-regulatory organizations and
11 their affiliates or subsidiaries governing the sharing and use of information
12 consistent with this section, including agreements providing for cooperation
13 between the Commissioner and other agencies in relation to the activities of a
14 supervisory college; and

15 (4) participate in a supervisory college for any affiliated reinsurance
16 company that is part of an affiliated group with international operations in
17 order to assess the insurer's compliance with Vermont laws and regulations, as
18 well as to assess its business strategy, financial condition, risk exposure, risk
19 management, governance processes, and legal and regulatory position.

20 (c) Prior to sharing information under subsection (b) of this section, the
21 Commissioner shall determine that sharing the information will substantially

1 further the performance of the regulatory or law enforcement duties of the
2 recipient and that the information shall not be made public by the
3 Commissioner or an employee or agent of the Commissioner without the
4 written consent of the company, except to the extent provided in subsection (b)
5 of this section.

6 and by renumbering the remaining section to be numerically correct.

7
8
9 (Committee vote: _____)

10 _____

11 Senator _____

12 FOR THE COMMITTEE