

1 H.76

2 An act relating to captive insurance

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

4 Sec. 1. 8 V.S.A. § 6045 is amended to read:

5 § 6045. BRANCH CAPTIVE REPORTS

6 Prior to March ~~4~~ 15 of each year, or with the approval of the Commissioner
7 within ~~60~~ 75 days after its fiscal year-end, a branch captive insurance company
8 shall file with the Commissioner a copy of all reports and statements required
9 to be filed under the laws of the jurisdiction in which the alien captive
10 insurance company is formed, verified by oath of two of its executive officers.

11 If the Commissioner is satisfied that the annual report filed by the alien captive
12 insurance company in its domiciliary jurisdiction provides adequate
13 information concerning the financial condition of the alien captive insurance
14 company, the Commissioner may waive the requirement for completion of the
15 captive annual statement for business written in the alien jurisdiction.

16 Sec. 2. 8 V.S.A. § 6014(h) is amended to read:

17 (h) Annually, ~~4~~ 13 percent of the premium tax revenues collected pursuant
18 to this section shall be transferred to the Department of Financial Regulation
19 for the regulation of captive insurance companies under this chapter.

20 Sec. 3. 8 V.S.A. § 6034a is amended to read:

21 § 6034a. INCORPORATED PROTECTED CELLS

22 * * *

1 (c) The articles of incorporation or articles of organization of an
2 incorporated protected cell shall refer to the sponsored captive insurance
3 company for which it is a protected cell and shall state that the protected cell is
4 incorporated or organized for the limited purposes authorized by the sponsored
5 captive insurance company's license. A copy of the prior written approval of
6 the Commissioner to add the incorporated protected cell, required by
7 subdivision 6034(11)(8) of this title, shall be attached to and filed with the
8 articles of incorporation or the articles of organization.

9 (d)(1) An incorporated protected cell formed ~~after May 7, 2015~~ or
10 established prior to the effective date of this act shall have its own distinct
11 name or designation, which shall include the words "Incorporated Cell" or the
12 abbreviation "IC;" or, in the alternative, such incorporated protected cell may
13 instead choose to have its own distinct name or designation consistent with the
14 naming conventions in subdivisions (2)(A)–(C) of this subsection, as
15 applicable. The provisions of ~~Title 11A;~~ V.S.A. chapter 4 and ~~Title 11B;~~
16 V.S.A. chapter 4 shall not apply to the naming of incorporated protected cells.

17 (2) An incorporated protected cell formed or established on or after the
18 effective date of this act shall have its own distinct name or designation as
19 follows:

20 (A) If the incorporated protected cell is formed or established as a
21 corporation, mutual corporation, or nonprofit corporation, its name or

1 designation shall include the words “Incorporated Cell” or the abbreviation
2 “IC.” The provisions of 11A V.S.A. chapter 4 and 11B V.S.A. chapter 4 shall
3 not apply to the naming of such incorporated protected cell.

4 (B) If the incorporated protected cell is formed or established as a
5 limited liability company, its name or designation shall include the word
6 “Cell.” In addition, 11 V.S.A. § 4005 shall apply to the naming of such
7 incorporated protected cell.

8 (C) If the incorporated protected cell is formed or established as a
9 reciprocal insurer, its name or designation shall include the word “Cell.” In
10 addition, subdivision 4834(1) of this title shall apply to the naming of such
11 incorporated protected cell.

12 * * *

13 Sec. 4. 8 V.S.A. § 6048k(d) is amended to read:

14 (d) Unless otherwise approved in advance by the Commissioner, all
15 ~~original~~ books, records, documents, accounts, vouchers, and agreements shall
16 be preserved and kept available in this State for the purpose of examination
17 and inspection and until such time as the Commissioner approves the
18 destruction or other disposition of such books, records, documents, accounts,
19 vouchers, and agreements. If the Commissioner approves the keeping of the
20 items listed in this subsection outside this State, the special purpose financial
21 insurance company shall maintain in this State a complete and true copy of

1 each such ~~original~~ item. Books, records, documents, accounts, vouchers, and
2 agreements may be photographed, reproduced on film, or stored and
3 reproduced electronically.

4 Sec. 5. 8 V.S.A. § 6049h(c) is amended to read:

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

16 Sec. 6. 8 V.S.A. § 6002(c) is amended to read:

17 (c)(1) Before receiving a license, a captive insurance company shall:

18 (A) File with the Commissioner a copy of its organizational
19 documents and any other statements or documents required by the
20 Commissioner.

1 (B) Submit to the Commissioner for approval a description of the
2 coverages, deductibles, coverage limits, and rates, together with such
3 additional information as the Commissioner may reasonably require. In the
4 event of any subsequent material change in any item in such description, the
5 captive insurance company shall submit to the Commissioner for approval an
6 appropriate revision and shall not offer any additional kinds of insurance until
7 a revision of such description is approved by the Commissioner. The captive
8 insurance company shall inform the Commissioner of any material change in
9 rates within 30 days ~~of~~ following the adoption of such change.

10 (2) Each applicant captive insurance company shall also file with the
11 Commissioner evidence of the following:

12 (A) the amount and liquidity of its assets relative to the risks to be
13 assumed;

14 (B) the adequacy of the expertise, experience, and character of the
15 person or persons who will manage it;

16 (C) the overall soundness of its plan of operation;

17 (D) the adequacy of the loss prevention programs of its insureds; ~~and~~

18 (E) its beneficial ownership, sponsorship, or membership; and

19 (F) such other factors deemed relevant by the Commissioner in
20 ascertaining whether the proposed captive insurance company will be able to
21 meet its policy obligations.

1 (3) Information submitted pursuant to this subsection, including any
2 subsequent updates, amendments, or revisions of or to such information, shall
3 be and remain confidential, and may not be made public by the Commissioner
4 or an employee or agent of the Commissioner without the written consent of
5 the company, except that:

6 * * *

7 Sec. 7. EFFECTIVE DATES

8 This act shall take effect on passage, except that Sec. 2 (concerning the
9 percentage of premium tax revenue transferred to the Department of Financial
10 Regulation) shall take effect on July 1, 2023.