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H.76

Introduced by Representatives Marcotte of Coventry, Carroll of Bennington,
Jerome of Brandon, Nicoll of Ludlow, and White of Bethel

Referred to Committee on

Date:

Subject: Insurance; captive insurance; regulation

Statement of purpose of bill as introduced: This bill proposes to make various
amendments to Vermont's captive insurance laws.

An act relating to captive insurance

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

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

§ 6045. BRANCH CAPTIVE REPORTS

~~Prior to ~~March 1~~ March 15 of each year, or with the approval of the
Commissioner within 60 days after its fiscal year-end, a branch captive
insurance company shall file with the Commissioner a copy of all reports and
statements required to be filed under the laws of the jurisdiction in which the
alien captive insurance company is formed, verified by oath of two of its
executive officers. If the Commissioner is satisfied that the annual report filed
by the alien captive insurance company in its domiciliary jurisdiction provides~~

1 ~~adequate information concerning the financial condition of the alien captive~~
2 insurance company, the Commissioner may waive the requirement for
3 completion of the captive annual statement for business written in the alien
4 jurisdiction.

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

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

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

10 § 6034a. INCORPORATED PROTECTED CELLS

11 * * *

12 (c) The articles of incorporation or articles of organization of an
13 incorporated protected cell shall refer to the sponsored captive insurance
14 company for which it is a protected cell and shall state that the protected cell is
15 incorporated or organized for the limited purposes authorized by the sponsored
16 captive insurance company's license. A copy of the prior written approval of
17 the Commissioner to add the incorporated protected cell, required by
18 subdivision ~~6034(11)~~ 6034(8) of this title, shall be attached to and filed with
19 the articles of incorporation or the articles of organization.

20 (d)(1) An incorporated protected cell formed after ~~May 7, 2015~~ or
21 ~~established prior to the effective date of this act~~ shall have its own distinct

1 ~~name or designation, which shall include the words “Incorporated Cell” or the~~
2 ~~abbreviation “IC.” or, in the alternative, such incorporated protected cell may~~
3 ~~instead choose to have its own distinct name or designation consistent with the~~
4 ~~naming conventions in subdivisions (2)(A)–(C) of this subdivision, as~~
5 ~~applicable. The provisions of Title 11A, chapter 4 and Title 11B, chapter 4~~
6 ~~shall not apply to the naming of incorporated protected cells.~~

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

10 (A) If the incorporated protected cell is formed or established as a
11 corporation, mutual corporation, or nonprofit corporation, its name or
12 designation shall include the words “Incorporated Cell” or the abbreviation
13 “IC.” The provisions of Title 11A, chapter 4 and Title 11B, chapter 4 shall not
14 apply to the naming of such incorporated protected cell.

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

19 (C) If the incorporated protected cell is formed or established as a
20 reciprocal insurer, its name or designation shall include the word “Cell.” In

1 ~~addition, 8 V.S.A. § 4824(1) shall apply to the naming of such incorporated~~
2 protected cell.

3 * * *

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

5 (d) 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 of the
11 items listed in this subsection outside this State, the special purpose financial
12 insurance company shall maintain in this State a complete and true copy of
13 each such ~~original~~ item. Books, records, documents, accounts, vouchers, and
14 agreements may be photographed, reproduced on film, or stored and
15 reproduced electronically.

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

17 (c) Unless otherwise approved in advance by the Commissioner, all
18 ~~original~~ books, records, documents, accounts, vouchers, and agreements shall
19 be preserved and kept available in this State for the purpose of examination
20 and inspection and until such time as the Commissioner approves the
21 ~~destruction or other disposition of such books, records, documents, accounts,~~

1 ~~vouchers, and agreements. If the Commissioner approves the keeping outside~~
2 this State of the items listed in this subsection, the affiliated reinsurance
3 company shall maintain in this State a complete and true copy of each such
4 ~~original item.~~ Books, records, documents, accounts, vouchers, and agreements
5 may be photographed, reproduced on film, or stored and reproduced
6 electronically.

7 Sec. 6. EFFECTIVE DATE

8 ~~This act shall take effect on passage.~~

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

§ 6045. BRANCH CAPTIVE REPORTS

Prior to March 15 of each year, or with the approval of the Commissioner within 75 days after its fiscal year-end, a branch captive insurance company shall file with the Commissioner a copy of all reports and statements required to be filed under the laws of the jurisdiction in which the alien captive insurance company is formed, verified by oath of two of its executive officers. If the Commissioner is satisfied that the annual report filed by the alien captive insurance company in its domiciliary jurisdiction provides adequate information concerning the financial condition of the alien captive insurance company, the Commissioner may waive the requirement for completion of the captive annual statement for business written in the alien jurisdiction.

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

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

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

§ 6034a. INCORPORATED PROTECTED CELLS

** * **

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

(d)(1) An incorporated protected cell formed after ~~May 7, 2015~~ or established prior to the effective date of this act shall have its own distinct name or designation, which shall include the words "Incorporated Cell" or the abbreviation "IC-" or, in the alternative, such incorporated protected cell may instead choose to have its own distinct name or designation consistent with the naming conventions in subdivisions (2)(A)–(C) of this subsection, as

applicable. The provisions of Title 11A, V.S.A. chapter 4 and Title 11B, V.S.A. chapter 4 shall not apply to the naming of incorporated protected cells.

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

(A) If the incorporated protected cell is formed or established as a corporation, mutual corporation, or nonprofit corporation, its name or designation shall include the words "Incorporated Cell" or the abbreviation "IC." The provisions of 11A V.S.A. chapter 4 and 11B V.S.A. chapter 4 shall not apply to the naming of such incorporated protected cell.

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

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

* * *

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

(d) Unless otherwise approved in advance by the Commissioner, all ~~original~~ books, records, documents, accounts, vouchers, and agreements shall be preserved and kept available in this State for the purpose of examination and inspection and until such time as the Commissioner approves the destruction or other disposition of such books, records, documents, accounts, vouchers, and agreements. If the Commissioner approves the keeping of the items listed in this subsection outside this State, the special purpose financial insurance company shall maintain in this State a complete and true copy of each such ~~original~~ item. Books, records, documents, accounts, vouchers, and agreements may be photographed, reproduced on film, or stored and reproduced electronically.

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

(c) Unless otherwise approved in advance by the Commissioner, all ~~original~~ books, records, documents, accounts, vouchers, and agreements shall be preserved and kept available in this State for the purpose of examination and inspection and until such time as the Commissioner approves the destruction or other disposition of such books, records, documents, accounts, vouchers, and agreements. If the Commissioner approves the keeping outside this State of the items listed in this subsection, the affiliated reinsurance company shall maintain in this State a complete and true copy of each such

original item. Books, records, documents, accounts, vouchers, and agreements may be photographed, reproduced on film, or stored and reproduced electronically.

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

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

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

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

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

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

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

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

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

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

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

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

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~~*Sec. 7. EFFECTIVE DATE*~~

~~*This act shall take effect on passage.*~~

Sec. 7. EFFECTIVE DATES

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