

1 TO THE HOUSE OF REPRESENTATIVES:

2 The Committee on Commerce and Economic Development to which was
3 referred House Bill No. 76 entitled “An act relating to captive insurance”
4 respectfully reports that it has considered the same and recommends that the
5 bill be amended by striking out all after the enacting clause and inserting in
6 lieu thereof the following:

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

8 § 6045. BRANCH CAPTIVE REPORTS

9 Prior to March + 15 of each year, or with the approval of the Commissioner
10 within 60 75 days after its fiscal year-end, a branch captive insurance company
11 shall file with the Commissioner a copy of all reports and statements required
12 to be filed under the laws of the jurisdiction in which the alien captive
13 insurance company is formed, verified by oath of two of its executive officers.
14 If the Commissioner is satisfied that the annual report filed by the alien captive
15 insurance company in its domiciliary jurisdiction provides adequate
16 information concerning the financial condition of the alien captive insurance
17 company, the Commissioner may waive the requirement for completion of the
18 captive annual statement for business written in the alien jurisdiction.

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

2 (h) Annually, ~~11~~ 13 percent of the premium tax revenues collected pursuant
3 to this section shall be transferred to the Department of Financial Regulation
4 for the regulation of captive insurance companies under this chapter.

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

6 § 6034a. INCORPORATED PROTECTED CELLS

7 * * *

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

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

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

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

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

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

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

19 * * *

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

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

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

14 (c) 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 outside
20 this State of the items listed in this subsection, the affiliated reinsurance
21 company shall maintain in this State a complete and true copy of each such

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

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

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

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

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

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

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

- 1 (B) the adequacy of the expertise, experience, and character of the
2 person or persons who will manage it;
- 3 (C) the overall soundness of its plan of operation;
- 4 (D) the adequacy of the loss prevention programs of its insureds; and
- 5 (E) its beneficial ownership, sponsorship, or membership; and
- 6 (F) such other factors deemed relevant by the Commissioner in
7 ascertaining whether the proposed captive insurance company will be able to
8 meet its policy obligations.

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

14 * * *

15 Sec. 7. EFFECTIVE DATE

16 This act shall take effect on passage.

17
18 (Committee vote: _____)

19 _____
20 Representative _____

21 FOR THE COMMITTEE