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STATE OF VERMONT
OFFICE OF LEGISLATIVE COUNCIL

MEMORANDUM

To: Senator Thomas Chittenden

From: Maria Royle, Legislative Counsel

Date: February 17, 2026

Subject: **H.649 – Section by Section Summary**

H.649 pertains to captive insurance. It reflects proposals recommended by the Commissioner of Financial Regulation.

In general, a captive insurance company is a subsidiary corporation established to provide insurance to its parent company and its affiliates. It is a form of self-insurance. There are several different types of captive insurance companies categorized by their ownership structure and the scope of risks they cover.

This bill pertains to two types of captives: "risk retention groups" and "sponsored captive insurance companies," as further explained below.

Secs. 1 and 2 pertain to risk retention groups.

In general, a risk retention group is a liability insurance company owned directly by its members. It specializes in providing commercial liability insurance. They are authorized under federal law, the Liability Risk Retention Act.

The members of a risk retention group are businesses in similar industries and thus they share similar risk profiles. The group structure enables members to manage their own liability risks collectively. Types of liability insurance typically covered include professional liability, product liability, general liability, and directors' and officers' liability. [They do not offer workers' comp or personal lines of insurance such as auto liability coverage.]

The proposed amendment in Sec. 1 pertains to the lending and investing authority of a risk retention group. Specifically, it prohibits a risk retention group from lending to or investing in its members or the affiliates of its members.

Under current law, a risk retention group has such authority, but any loan or investment is subject to the Commissioner's approval. Such loans and investments are not common. The Department testified that only one risk retention group currently has an investment in a member and this investment was previously approved by the Commissioner. That investment would not be affected by this amendment because the language specifies that

the prohibition would not apply to any loan or investment in effect prior to January 1, 2026.

Risk retention groups are not subject to state insurance insolvency guaranty funds. As explained by the Department, preventing the drawing off of capital from the group to a member protects against potential conflicts of interest, preserves the financial integrity and solvency of the group, safeguards policyholder funds, and ensures there is sufficient capital to cover the future claims of its members.

The proposed amendment in Sec. 2 also pertains to risk retention groups. The amendment is to an existing captive insurance law concerning the filing of annual reports and financial statements with the Department. Existing law requires risk retention groups, unlike other captive insurance companies, to report their annual statements pursuant to the Vermont law that pertains to insurance companies, generally.

The proposed amendment instead requires risk retention groups to file annual and quarterly statements in the NAIC report form (annual statement convention blank; i.e., a template for insurance companies created by the National Association of Insurance Commissioners) and include a signed jurat page, and actuarial certification. It also includes specific due dates for the filing of the quarterly reports.

Current law does not require the filing of quarterly statements. However, the Department testified that this is the current practice. Therefore, the proposal here essentially codifies current departmental practice.

> [*If asked*: A "jurat page" is a notarial certificate on a document, verifying the signer personally appeared before the notary, took an oath or affirmation that the document's contents are true, and signed it in the notary's presence.]

As in current law (but in a different subsection of the statute), the proposed amendment in subsection (i) specifies that a risk retention group's regulatory financial filings are not confidential and must be filed with the National Association of Insurance Commissioners. This is because risk retention groups operate across state lines but are primarily only regulated by their "home" state (i.e., their state of domicile) and, therefore, transparency is required under federal law for the benefit of all state regulators and interested parties.

Finally, the amendment includes rulemaking authority for the Commissioner of Financial Regulation to adopt additional filing requirements specific to risk retention groups.

Sec. 3 pertains to sponsored captive insurance companies and their protected cells.

> *For background, if needed*: A "sponsored captive insurance company" is a specialized entity established by a "sponsor" (such as a commercial insurer, insurance broker, or trade organization) to provide captive insurance benefits to unrelated businesses, known as "participants."
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> The sponsor provides the initial capital and surplus required by DFR and handles administrative, underwriting, and compliance functions. The participants pay a fee and premiums to the sponsor in exchange for customized coverage.
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> Sponsored captives typically use a segregated cell ("protected cell") structure. This legally separates the assets and liabilities of each participant from the

sponsor's general account and from other participant's cells. This ensures that risks and liabilities are not shared among the participants.

The proposed amendment would enact a new statute that requires each protected cell to file, within 30 days of commencing business, a statement under oath or affirmation certifying that the cell possessed the requisite funding prior to commencing business, including any required collateral in accordance with the cell's approved plan of operation. In addition, the proposal requires that the statements are signed by the cell's president and secretary or by two individuals authorized by the governing board, depending upon how the cell is organized.

This amendment is similar to what is currently required of licensed captives. The requisite funding and collateral requirements would be in the business plan of a cell's application filed with the Department. So, the certifying statement basically confirms that the cell is doing what it said it would do in its application.

Sec. 4 makes this bill effective on July 1, 2026.

List of Witnesses:

- Christine Brown, Deputy Commissioner of Captive Insurance, Department of Financial Regulation
- Ian Davis, President, Vermont Captive Insurance Association
- Maria Royle, Legislative Counsel, Office of Legislative Counsel