

**No. 12. An act relating to captive insurance.**

(H.76)

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 4 15 of each year, or with the approval of the Commissioner within ~~60~~ 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, ~~44~~ 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

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(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(11)(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.

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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 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.

Date Governor signed bill: May 8, 2023