



General Assembly

January Session, 2007

Committee Bill No. 58

LCO No. 4514

04514SB00058INS

Referred to Committee on Insurance and Real Estate

Introduced by:
(INS)

AN ACT CONCERNING CAPTIVE INSURANCE COMPANIES.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (Effective January 1, 2008) As used in sections 1 to
2 18, inclusive, of this act:

3 (1) "Affiliated company" means any company in the same corporate
4 system as a parent, an industrial insured, or a member organization by
5 virtue of common ownership, control, operation or management.

6 (2) "Association" means any legal association of individuals,
7 corporations, limited liability companies, partnerships, associations or
8 other entities that has been in continuous existence for at least one
9 year, where the association itself or some or all of the member
10 organizations:

11 (A) Own, control or hold with power to vote all of the outstanding
12 voting securities of an association captive insurance company
13 incorporated as a stock insurer;

14 (B) Have complete voting control over an association captive
15 insurance company incorporated as a mutual insurer; or

16 (C) Constitute all of the subscribers of an association captive
17 insurance company formed as a reciprocal insurer.

18 (3) "Association captive insurance company" means any company
19 that insures risks of the member organizations of the association and
20 their affiliated companies.

21 (4) "Captive insurance company" means any pure captive insurance
22 company, association captive insurance company, industrial insured
23 captive insurance company or risk retention group formed or licensed
24 under the provisions of sections 1 to 18, inclusive, of this act.

25 (5) "Commissioner" means the Insurance Commissioner.

26 (6) "Controlled unaffiliated business" means any company:

27 (A) That is not in the corporate system of a parent and affiliated
28 companies;

29 (B) That has an existing contractual relationship with a parent or
30 affiliated company; and

31 (C) Whose risks are insured by a pure captive insurance company in
32 accordance with section 18 of this act.

33 (7) "Excess workers' compensation insurance" means, in the case of
34 an employer that has insured or self-insured its workers' compensation
35 risks in accordance with applicable state or federal law, insurance in
36 excess of a specified per-incident or aggregate limit established by the
37 commissioner.

38 (8) "Industrial insured" means an insured:

39 (A) Who procures the insurance of any risk or risks by use of the
40 services of a full-time employee acting as an insurance manager or
41 buyer;

42 (B) Whose aggregate annual premiums for insurance on all risks

43 total at least twenty-five thousand dollars; and

44 (C) Who has at least twenty-five full-time employees.

45 (9) "Industrial insured captive insurance company" means any
46 company that insures risks of the industrial insureds that comprise the
47 industrial insured group and their affiliated companies.

48 (10) "Industrial insured group" means any group of industrial
49 insureds that collectively:

50 (A) Own, control or hold with power to vote all of the outstanding
51 voting securities of an industrial insured captive insurance company
52 incorporated as a stock insurer;

53 (B) Have complete voting control over an industrial insured captive
54 insurance company incorporated as a mutual insurer; or

55 (C) Constitute all of the subscribers of an industrial insured captive
56 insurance company formed as a reciprocal insurer.

57 (11) "Member organization" means any individual, corporation,
58 limited liability company, partnership, association or other entity that
59 belongs to an association.

60 (12) "Mutual corporation" means a corporation organized without
61 stockholders and includes a nonprofit corporation with members.

62 (13) "Parent" means a corporation, limited liability company,
63 partnership, other entity or individual, that directly or indirectly owns,
64 controls or holds with power to vote more than fifty per cent of the
65 outstanding voting:

66 (A) Securities of a pure captive insurance company organized as a
67 stock corporation; or

68 (B) Membership interests of a pure captive insurance company
69 organized as a nonprofit corporation.

70 (14) "Pure captive insurance company" means any company that
71 insures risks of its parent and affiliated companies or controlled
72 unaffiliated business.

73 (15) "Risk retention group" means a captive insurance company
74 organized under the laws of this state pursuant to the federal Liability
75 Risk Retention Act of 1986, 15 USC 3901 et seq., as amended from time
76 to time, as a stock or mutual corporation, a reciprocal or other limited
77 liability entity.

78 Sec. 2. (NEW) (*Effective January 1, 2008*) (a) Any captive insurance
79 company, when permitted by its articles of association, charter or other
80 organizational document, may apply to the Insurance Commissioner
81 for a license to do the business of life insurance, annuities, health
82 insurance, as defined in section 38a-469 of the general statutes, and
83 commercial risk insurance, as defined in section 38a-663 of the general
84 statutes, provided:

85 (1) No pure captive insurance company may insure any risks other
86 than those of its parent and affiliated companies or controlled
87 unaffiliated business;

88 (2) No association captive insurance company may insure any risks
89 other than those of the member organizations of its association, and
90 their affiliated companies;

91 (3) No industrial insured captive insurance company may insure
92 any risks other than those of the industrial insureds that comprise the
93 industrial insured group, and their affiliated companies;

94 (4) No risk retention group may insure any risks other than those of
95 its members and owners;

96 (5) No captive insurance company may provide private passenger
97 motor vehicle or homeowner's insurance coverage or any component
98 thereof;

99 (6) No captive insurance company may accept or cede reinsurance
100 except as provided in section 11 of this act;

101 (7) No captive insurer may provide workers' compensation
102 insurance, except that any captive insurance company may provide
103 excess workers' compensation insurance to its parent and affiliated
104 companies, unless prohibited by federal law or the laws of the state
105 having jurisdiction over the transaction. Any captive insurance
106 company, unless prohibited by federal law, may reinsure workers'
107 compensation of a qualified self-insured plan of its parent and
108 affiliated companies; and

109 (8) Any captive insurance company which provides life insurance,
110 annuities or health insurance shall comply with all applicable state and
111 federal laws.

112 (b) No captive insurance company shall do any insurance business
113 in this state unless:

114 (1) It first obtains from the Insurance Commissioner a license
115 authorizing it to do insurance business in this state;

116 (2) Its board of directors or committee of managers or, in the case of
117 a reciprocal insurer, its subscribers' advisory committee holds at least
118 one meeting each year in this state;

119 (3) It maintains its principal place of business in this state; and

120 (4) It appoints a registered agent to accept service of process and to
121 otherwise act on its behalf in this state. Whenever such registered
122 agent cannot with reasonable diligence be found at the registered
123 office of the captive insurance company, the Insurance Commissioner
124 shall be an agent of such captive insurance company upon whom any
125 process, notice or demand may be served.

126 (c) (1) To be considered for a license, a captive insurance company
127 shall:

128 (A) File with the commissioner a certified copy of its organizational
129 documents, a statement under oath of its president and secretary
130 showing its financial condition, and any other statements or
131 documents required by the commissioner; and

132 (B) Submit to the commissioner for approval a description of the
133 coverages, deductibles, coverage limits and rates and such additional
134 information as the commissioner may require. In the event of any
135 subsequent material change in any item in such description, the
136 captive insurance company shall submit to the commissioner for
137 approval an appropriate revision and shall not offer any additional
138 kinds of insurance until a revision of such description is approved by
139 the commissioner. The captive insurance company shall inform the
140 commissioner of any material change in rates not later than thirty days
141 after the adoption of such change.

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

144 (A) The amount and liquidity of the company's assets relative to the
145 risks to be assumed;

146 (B) The adequacy of the expertise, experience and character of the
147 persons who will manage the company;

148 (C) The overall soundness of the company's plan of operation;

149 (D) The adequacy of the loss prevention programs of the company's
150 insureds; and

151 (E) Such other factors deemed relevant by the commissioner in
152 ascertaining whether the proposed captive insurance company will be
153 able to meet its policy obligations.

154 (3) Information submitted pursuant to this subsection shall be and
155 remain confidential and may not be made public by the commissioner
156 or an employee or agent of the commissioner without the written

157 consent of the company, except that:

158 (A) Such information may be discoverable by a party in a civil
159 action or contested case to which the captive insurance company that
160 submitted such information is a party upon a showing by the party
161 seeking to discover such information that:

162 (i) The information sought is relevant to and necessary for the
163 furtherance of such action or case;

164 (ii) The information sought is unavailable from other
165 nonconfidential sources; and

166 (iii) A subpoena issued by a judicial or administrative officer of
167 competent jurisdiction has been submitted to the commissioner,
168 provided such submission requirement shall not apply to a risk
169 retention group; and

170 (B) The commissioner may, in the commissioner's discretion,
171 disclose such information to a public official having jurisdiction over
172 the regulation of insurance in another state, provided:

173 (i) Such public official agrees, in writing, to maintain the
174 confidentiality of such information; and

175 (ii) The laws of the state in which such public official serves require
176 such information to be and to remain confidential.

177 (d) (1) Each captive insurance company shall pay to the
178 commissioner a nonrefundable fee of two hundred dollars for
179 examining, investigating and processing its application for license, and
180 the commissioner may retain legal, financial and examination services
181 from outside the department, the reasonable cost of which may be
182 charged against the applicant. The provisions of subdivisions (2) to (5),
183 inclusive, of subsection (k) of section 38a-14 of the general statutes
184 shall apply to examinations, investigations and processing conducted
185 under this section.

186 (2) Each captive insurance company shall pay a license fee for the
187 first year of licensure and a renewal fee for each year thereafter as set
188 forth in section 38a-11 of the general statutes, as amended by this act.

189 (e) If the commissioner finds that the documents and statements
190 that a captive insurance company has filed comply with the provisions
191 of sections 1 to 18, inclusive, of this act, the commissioner may grant a
192 license authorizing the company to do insurance business in this state
193 until April first thereafter. The captive insurance company may apply
194 to renew such license on such forms as the commissioner prescribes.

195 Sec. 3. (NEW) (*Effective January 1, 2008*) No captive insurance
196 company shall adopt a name that is the same, deceptively similar or
197 likely to be confused with or mistaken for any other existing business
198 name registered in this state.

199 Sec. 4. (NEW) (*Effective January 1, 2008*) (a) The Insurance
200 Commissioner may not issue a license to a captive insurance company
201 or allow the company to retain a license unless the company has and
202 maintains unimpaired paid-in capital and surplus of:

203 (1) In the case of a pure captive insurance company, not less than
204 two hundred fifty thousand dollars;

205 (2) In the case of an association captive insurance company, not less
206 than seven hundred fifty thousand dollars;

207 (3) In the case of an industrial insured captive insurance company,
208 not less than five hundred thousand dollars; and

209 (4) In the case of a risk retention group, not less than one million
210 dollars.

211 (b) The commissioner may adopt regulations, in accordance with
212 chapter 54 of the general statutes, to establish additional capital and
213 surplus requirements based upon the type, volume and nature of
214 insurance business transacted.

215 (c) Capital and surplus may be in the form of cash or an irrevocable
216 letter of credit issued by a bank chartered by this state or a member
217 bank of the Federal Reserve System and approved by the
218 commissioner.

219 Sec. 5. (NEW) (*Effective January 1, 2008*) No captive insurance
220 company may pay a dividend out of, or other distribution with respect
221 to, capital or surplus without the prior approval of the Insurance
222 Commissioner. Approval of an ongoing plan for the payment of
223 dividends or other distributions shall be conditioned on the retention,
224 at the time of each payment, of capital or surplus in excess of amounts
225 specified by, or determined in accordance with formulas approved by,
226 the commissioner.

227 Sec. 6. (NEW) (*Effective January 1, 2008*) (a) A pure captive insurance
228 company may be incorporated as a stock insurer with its capital
229 divided into shares and held by the stockholders, as a nonprofit
230 corporation with one or more members, or as a manager-managed
231 limited liability company.

232 (b) An association captive insurance company, an industrial insured
233 captive insurance company, or a risk retention group may be:

234 (1) Incorporated as a stock insurer with its capital divided into
235 shares and held by the stockholders;

236 (2) Incorporated as a mutual insurer without capital stock, the
237 governing body of which is elected by its insureds;

238 (3) Organized as a reciprocal insurer; or

239 (4) Organized as a manager-managed limited liability company.

240 (c) A captive insurance company incorporated or organized in this
241 state shall have not less than three incorporators or three organizers of
242 whom at least one shall be a resident of this state.

243 (d) In the case of a captive insurance company:

244 (1) (A) Formed as a corporation, before the articles of incorporation
245 are transmitted to the Secretary of the State, the incorporators shall
246 petition the Insurance Commissioner to issue a certificate setting forth
247 the commissioner's finding that the establishment and maintenance of
248 the proposed corporation will promote the general good of the state. In
249 arriving at such a finding the commissioner shall consider:

250 (i) The character, reputation, financial standing and purposes of the
251 incorporators;

252 (ii) The character, reputation, financial responsibility, insurance
253 experience and business qualifications of the officers and directors;
254 and

255 (iii) Such other aspects as the commissioner deems advisable.

256 (B) The articles of incorporation, such certificate and the
257 organization fee shall be transmitted to the Secretary of the State who
258 shall record both the articles of incorporation and the certificate.

259 (2) Formed as a reciprocal insurer, the organizers shall petition the
260 commissioner to issue a certificate setting forth the commissioner's
261 finding that the establishment and maintenance of the proposed
262 association will promote the general good of the state. In arriving at
263 such a finding the commissioner shall consider the items set forth in
264 subparagraph (A) of subdivision (1) of this subsection.

265 (3) Formed as a limited liability company, before the articles of
266 organization are transmitted to the Secretary of the State, the
267 organizers shall petition the commissioner to issue a certificate setting
268 forth the commissioner's finding that the establishment and
269 maintenance of the proposed company will promote the general good
270 of the state. In arriving at such a finding, the commissioner shall
271 consider the items set forth in subparagraph (A) of subdivision (1) of
272 this subsection.

273 (e) The capital stock of a captive insurance company incorporated as
274 a stock insurer may be authorized with no par value.

275 (f) In the case of a captive insurance company:

276 (1) Formed as a corporation, at least one of the members of the
277 board of directors shall be a resident of this state;

278 (2) Formed as a reciprocal insurer, at least one of the members of the
279 subscribers' advisory committee shall be a resident of this state;

280 (3) Formed as a limited liability company, at least one of the
281 managers shall be a resident of this state.

282 (g) Other than captive insurance companies formed as limited
283 liability companies or as nonprofit corporations, captive insurance
284 companies formed as corporations under the provisions of sections 1
285 to 18, inclusive, of this act shall have the privileges and be subject to
286 the provisions of title 33 of the general statutes as well as the
287 applicable provisions in sections 1 to 18, inclusive, of this act. In the
288 event of conflict between the provisions of title 33 of the general
289 statutes and sections 1 to 18, inclusive, of this act, the provisions of
290 sections 1 to 18, inclusive, of this act shall control.

291 (h) Captive insurance companies formed under the provisions of
292 this chapter:

293 (1) As limited liability companies shall have the privileges and be
294 subject to the provisions of chapter 613 of the general statutes and
295 applicable provisions in sections 1 to 18, inclusive, of this act. In the
296 event of a conflict between the provisions of chapter 613 of the general
297 statutes and sections 1 to 18, inclusive, of this act, the provisions of
298 sections 1 to 18, inclusive, of this act shall control; or

299 (2) As nonprofit corporations shall have the privileges and be
300 subject to the applicable provisions of title 33 of the general statutes
301 and applicable provisions in sections 1 to 18, inclusive, of this act. In

302 the event of conflict between the provisions of title 33 of the general
303 statutes and sections 1 to 18, inclusive, of this act, the provisions of
304 sections 1 to 18, inclusive, of this act shall control.

305 (i) The provisions of chapter 698 of the general statutes pertaining to
306 mergers, consolidations and conversions shall apply in determining
307 the procedures to be followed by captive insurance companies in
308 carrying out any of the transactions described in said chapter 698.

309 (j) Captive insurance companies formed as reciprocal insurers under
310 the provisions of sections 1 to 18, inclusive, of this act shall have the
311 privileges and be subject to the provisions of title 38a of the general
312 statutes in addition to the applicable provisions of sections 1 to 18,
313 inclusive, of this act. In the event of a conflict between the provisions
314 of sections 1 to 18, inclusive, of this act and title 38a of the general
315 statutes, the provisions of sections 1 to 18, inclusive, of this act shall
316 control.

317 (k) The articles of incorporation or bylaws of a captive insurance
318 company formed as a corporation may authorize a quorum of its board
319 of directors to consist of no fewer than one-third of the fixed or
320 prescribed number of directors.

321 (l) The subscribers' agreement or other organizing document of a
322 captive insurance company formed as a reciprocal insurer may
323 authorize a quorum of its subscribers' advisory committee to consist of
324 no fewer than one-third of the number of its members.

325 Sec. 7. (NEW) (*Effective January 1, 2008*) (a) Captive insurance
326 companies shall not be required to make any annual report except as
327 provided in sections 1 to 18, inclusive, of this act.

328 (b) Prior to March first of each year, each captive insurance
329 company shall submit to the Insurance Commissioner a report of its
330 financial condition verified by oath of two of its executive officers.
331 Each captive insurance company shall report using generally accepted

332 accounting principles, unless the commissioner approves the use of
333 statutory accounting principles, with any appropriate or necessary
334 modifications or adaptations required or approved or accepted by the
335 commissioner for the type of insurance and kinds of insurers to be
336 reported upon, and as supplemented by additional information
337 required by the commissioner. Except as otherwise provided, each
338 association captive insurance company and each risk retention group
339 shall file its report in the form required by sections 38a-53 and 38a-53a
340 of the general statutes. The commissioner may adopt regulations, in
341 accordance with chapter 54 of the general statutes, to establish the
342 manner in which pure captive insurance companies and industrial
343 insured captive insurance companies shall report. The provisions of
344 subsection (b) of section 38a-69a of the general statutes shall apply to
345 each report filed pursuant to this section.

346 (c) Any pure captive insurance company or industrial insured
347 captive insurance company may make written application to the
348 commissioner for approval to file the required report at the end of the
349 fiscal year. If the commissioner grants approval for such alternative
350 reporting date:

351 (1) The annual report shall be due sixty days after the end of the
352 fiscal year; and

353 (2) In order to provide sufficient detail to support the premium tax
354 return, the pure captive insurance company or industrial insured
355 captive insurance company shall file prior to March first of each year
356 for each calendar year-end such information as the commissioner may
357 prescribe verified by oath of two of its executive officers.

358 Sec. 8. (NEW) (*Effective January 1, 2008*) (a) At least once every three
359 years, and additionally whenever the Insurance Commissioner
360 determines it to be prudent, the commissioner or the commissioner's
361 designee shall visit each captive insurance company and thoroughly
362 inspect and examine its affairs to ascertain its financial condition, its
363 ability to fulfill its obligations and whether it has complied with the

364 provisions of sections 1 to 18, inclusive, of this act and any applicable
365 provisions of title 38a of the general statutes. The commissioner may
366 extend said three-year period to five years, provided the captive
367 insurance company is subject to a comprehensive annual audit during
368 such period of a scope satisfactory to the commissioner by
369 independent auditors approved by the commissioner. The expenses
370 and charges of the examination shall be paid to the commissioner for
371 deposit in the Insurance Fund by the company examined.

372 (b) The provisions of subsection (k) of section 38a-14 of the general
373 statutes shall apply to examinations conducted under this section.

374 (c) All examination reports, preliminary examination reports or
375 results, working papers, recorded information, documents and copies
376 thereof produced by, obtained by or disclosed to the commissioner or
377 any other person in the course of an examination made under this
378 section are confidential and are not subject to subpoena and may not
379 be made public by the commissioner or an employee or agent of the
380 commissioner without the written consent of the company, except to
381 the extent provided in this subsection. Nothing in this subsection shall
382 prevent the commissioner from using such information in furtherance
383 of the commissioner's regulatory authority under sections 1 to 18,
384 inclusive, of this act or title 38a of the general statutes. The
385 commissioner may, in the commissioner's discretion, grant access to
386 such information to public officials having jurisdiction over the
387 regulation of insurance in any other state or country, or to law
388 enforcement officers of this state or any other state or agency of the
389 federal government at any time, provided such officials or officers
390 receiving the information agree, in writing, to hold the information in a
391 manner consistent with this section.

392 Sec. 9. (NEW) (*Effective January 1, 2008*) (a) The license of a captive
393 insurance company may be suspended or revoked by the Insurance
394 Commissioner for any of the following reasons:

395 (1) Insolvency or impairment of capital or surplus;

396 (2) Failure to meet the requirements of section 4 of this act;

397 (3) Refusal or failure to submit an annual report, as required by
398 section 7 of this act or any other report or statement required by law or
399 by lawful order of the commissioner;

400 (4) Failure to comply with the provisions of its own charter, bylaws
401 or other organizational document;

402 (5) Failure to submit to or pay the cost of examination or any legal
403 obligation related to such examination as required by any provision of
404 section 8 of this act or title 38a of the general statutes;

405 (6) Use of methods that, although not otherwise specifically
406 prohibited by law, nevertheless render its operation detrimental or its
407 condition unsound with respect to the public or to its policyholders; or

408 (7) Failure otherwise to comply with the laws of this state.

409 (b) If the commissioner finds, after examination, hearing or other
410 evidence, that any captive insurance company has violated any
411 provision of subsection (a) of this section, the commissioner may
412 suspend or revoke such company's license if the commissioner deems
413 it in the best interest of the public and the policyholders of such
414 captive insurance company, notwithstanding any other provision of
415 sections 1 to 18, inclusive, of this act or title 38a of the general statutes.

416 Sec. 10. (NEW) (*Effective January 1, 2008*) (a) Association captive
417 insurance companies and risk retention groups shall comply with the
418 investment requirements in chapter 698 of the general statutes, as
419 applicable. Notwithstanding any other provision of sections 1 to 18,
420 inclusive, of this act, the commissioner may approve the use of
421 alternative reliable methods of valuation and rating.

422 (b) No pure captive insurance company or industrial insured
423 captive insurance company shall be subject to any restrictions on
424 allowable investments, except that the Insurance Commissioner may

425 prohibit or limit any investment that threatens the solvency or
426 liquidity of any such company.

427 (c) No pure captive insurance company may make a loan to or an
428 investment in its parent company or affiliates without prior written
429 approval of the commissioner, and any such loan or investment shall
430 be evidenced by documentation approved by the commissioner. Loans
431 of minimum capital and surplus funds required in section 4 of this act
432 are prohibited.

433 Sec. 11. (NEW) (*Effective January 1, 2008*) (a) Any captive insurance
434 company may provide reinsurance on risks ceded by any other
435 insurer.

436 (b) A captive insurance company may only take credit for the
437 reinsurance of risks or portions of risks ceded to reinsurers that
438 complies with the provisions of section 38a-85 or 38a-86 of the general
439 statutes.

440 (c) In addition to reinsurance authorized under the provisions of
441 sections 38a-85 and 38a-86 of the general statutes, a captive insurance
442 company may take credit for the reinsurance of risks or portions of
443 risks ceded to a pool, exchange or association acting as a reinsurer
444 which has been authorized by the commissioner. The commissioner
445 may require any other documents, financial information or other
446 evidence that such a pool, exchange or association will be able to
447 provide adequate security for its financial obligations. The
448 commissioner may deny authorization or impose any limitations on
449 the activities of a reinsurance pool, exchange or association that, in the
450 commissioner's judgment, are necessary and proper to provide
451 adequate security for the ceding captive insurance company and for
452 the protection and consequent benefit of the public.

453 (d) For purposes of sections 1 to 18, inclusive, of this act, insurance
454 by a captive insurance company of any workers' compensation
455 qualified self-insured plan of its parent and affiliates shall be deemed

456 to be reinsurance.

457 Sec. 12. (NEW) (*Effective January 1, 2008*) No captive insurance
458 company shall be required to join a rating organization.

459 Sec. 13. (NEW) (*Effective January 1, 2008*) No captive insurance
460 company may join or contribute financially to any plan, pool,
461 association or guaranty or insolvency fund in this state, nor shall any
462 such captive insurance company, or any insured or affiliate thereof,
463 receive any benefit from any such plan, pool, association or guaranty
464 or insolvency fund for claims arising out of the operations of such
465 captive insurance company.

466 Sec. 14. (NEW) (*Effective January 1, 2008*) (a) Each captive insurance
467 company shall pay to the Commissioner of Revenue Services, in the
468 month of February of each year, a tax at the rate of thirty-eight
469 hundredths of one per cent on the first twenty million dollars and two
470 hundred eighty-five thousandths of one per cent on the next twenty
471 million dollars and nineteen hundredths of one per cent on the next
472 twenty million dollars and seventy-two thousandths of one per cent on
473 each dollar thereafter on the direct premiums collected or contracted
474 for on policies or contracts of insurance written by the captive
475 insurance company during the year ending December thirty-first next
476 preceding, after deducting from the direct premiums subject to the tax
477 the amounts paid to policyholders as return premiums which shall
478 include dividends on unabsorbed premiums or premium deposits
479 returned or credited to policyholders, except that no tax shall be due or
480 payable as to considerations received for annuity contracts.

481 (b) Each captive insurance company shall pay to the Commissioner
482 of Revenue Services in the month of February of each year a tax at the
483 rate of two hundred fourteen thousandths of one per cent on the first
484 twenty million dollars of assumed reinsurance premium, and one
485 hundred forty-three thousandths of one per cent on the next twenty
486 million dollars and forty-eight thousandths of one per cent on the next
487 twenty million dollars and twenty-four thousandths of one per cent of

488 each dollar thereafter, except that no reinsurance tax shall apply to
489 premiums for risks or portions of risks which are subject to taxation on
490 a direct basis pursuant to subsection (a) of this section. No reinsurance
491 premium tax shall be payable in connection with the receipt of assets
492 in exchange for the assumption of loss reserves and other liabilities of
493 another insurer under common ownership and control if (1) such
494 transaction is part of a plan to discontinue the operations of such other
495 insurer, and (2) the intent of the parties to such transaction is to renew
496 or maintain such business with the captive insurance company.

497 (c) The annual minimum aggregate tax to be paid by a captive
498 insurance company calculated under subsections (a) and (b) of this
499 section shall be seven thousand five hundred dollars, and the annual
500 maximum aggregate tax shall be two hundred thousand dollars.

501 (d) A captive insurance company failing to file returns as required
502 in this section or failing to pay within the time required all taxes
503 assessed by this section shall be subject to penalty under section 12-229
504 of the general statutes.

505 (e) Two or more captive insurance companies under common
506 ownership and control shall be taxed as though they were a single
507 captive insurance company.

508 (f) For the purposes of this section common ownership and control
509 means:

510 (1) In the case of stock corporations, the direct or indirect ownership
511 of eighty per cent or more of the outstanding voting stock of two or
512 more corporations by the same shareholder or shareholders; and

513 (2) In the case of mutual or nonprofit corporations, the direct or
514 indirect ownership of eighty per cent or more of the surplus and the
515 voting power of two or more corporations by the same member or
516 members.

517 (g) The tax provided for in this section shall constitute all taxes

518 collectible under the laws of this state from any captive insurance
519 company, and no other occupation tax or other taxes shall be levied or
520 collected from any captive insurance company by the state or any
521 county, city or municipality within this state, except taxes on real and
522 personal property used in the production of income.

523 (h) The premium tax revenues collected pursuant to this section
524 shall be deposited in the Insurance Fund established in section 38a-52a
525 of the general statutes for the purpose of regulating captive insurance
526 companies under sections 1 to 18, inclusive, of this act.

527 (i) The tax provided for in this section shall be calculated on an
528 annual basis, notwithstanding policies or contracts of insurance or
529 contracts of reinsurance issued on a multiyear basis. In the case of
530 multiyear policies or contracts, the premium shall be prorated for
531 purposes of determining the tax under this section.

532 Sec. 15. (NEW) (*Effective January 1, 2008*) Except as otherwise
533 provided in sections 1 to 18, inclusive, of this act, no provision of title
534 38a of the general statutes shall apply to captive insurance companies.
535 Risk retention groups shall have the privileges and be subject to the
536 provisions of chapter 698c of the general statutes in addition to the
537 applicable provisions of sections 1 to 18, inclusive, of this act.

538 Sec. 16. (NEW) (*Effective January 1, 2008*) Except as otherwise
539 provided in sections 1 to 14, inclusive, and sections 17 and 18 of this
540 act, the terms and conditions set forth in title 38a of the general statutes
541 pertaining to insurance liquidations and receiverships shall apply to
542 captive insurance companies formed or licensed under sections 1 to 18,
543 inclusive, of this act.

544 Sec. 17. (NEW) (*Effective January 1, 2008*) (a) An association captive
545 insurance company, risk retention group or industrial insured captive
546 insurance company formed as a stock or mutual corporation may be
547 converted to or merged with and into a reciprocal insurer in
548 accordance with a plan for such conversion or merger and the

549 provisions of this section.

550 (b) Any plan for such conversion or merger shall provide a fair and
551 equitable plan for purchasing, retiring or otherwise extinguishing the
552 interests of the stockholders and policyholders of a stock insurer, and
553 the members and policyholders of a mutual insurer, including a fair
554 and equitable provision for the rights and remedies of dissenting
555 stockholders, members or policyholders.

556 (c) In the case of a conversion authorized under subsection (a) of
557 this section:

558 (1) Such conversion shall be accomplished under such reasonable
559 plan and procedure as may be approved by the commissioner, except
560 that the Insurance Commissioner shall not approve any such plan of
561 conversion unless such plan:

562 (A) Satisfies the provisions of subsection (b) of this section;

563 (B) Provides for a hearing, of which notice is given or to be given to
564 the captive insurance company, its directors, officers and
565 policyholders, and in the case of a stock insurer, its stockholders, and
566 in the case of a mutual insurer, its members, all of which persons shall
567 be entitled to attend and appear at such hearing, except that if notice of
568 a hearing is given and no director, officer, policyholder, member or
569 stockholder requests a hearing, the commissioner may cancel such
570 hearing;

571 (C) Provides a fair and equitable plan for the conversion of
572 stockholder, member or policyholder interests into subscriber interests
573 in the resulting reciprocal insurer, substantially proportionate to the
574 corresponding interests in the stock or mutual insurer, except that such
575 plan shall not preclude the resulting reciprocal insurer from applying
576 underwriting criteria that could affect ongoing ownership interests;
577 and

578 (D) Is approved:

579 (i) In the case of a stock insurer, by a majority of the shares entitled
580 to vote represented in person or by proxy at a duly called regular or
581 special meeting at which a quorum is present; and

582 (ii) In the case of a mutual insurer, by a majority of the voting
583 interests of policyholders represented in person or by proxy at a duly
584 called regular or special meeting thereof at which a quorum is present;

585 (2) The commissioner shall approve such plan of conversion if the
586 commissioner finds that the conversion will promote the general good
587 of the state in conformity with those standards set forth in subdivision
588 (2) of subsection (d) of section 6 of this act;

589 (3) If the commissioner approves the plan, the commissioner shall
590 amend the converting insurer's certificate of authority to reflect
591 conversion to a reciprocal insurer and issue such amended certificate
592 of authority to the company's attorney-in-fact;

593 (4) The conversion shall be effective upon the issuance of an
594 amended certificate of authority of a reciprocal insurer by the
595 commissioner; and

596 (5) Upon the effective date of such conversion the corporate
597 existence of the converting insurer shall cease and the resulting
598 reciprocal insurer shall notify the Secretary of the State of such
599 conversion.

600 (d) A merger authorized under subsection (a) of this section shall be
601 accomplished substantially in accordance with the procedures set forth
602 in chapter 698 of the general statutes, except that, solely for purposes
603 of such merger:

604 (1) The plan of merger shall satisfy the provisions of subsection (b)
605 of this section;

606 (2) The subscribers' advisory committee of a reciprocal insurer shall
607 be equivalent to the board of directors of a stock or mutual insurance

608 company;

609 (3) The subscribers of a reciprocal insurer shall be the equivalent of
610 the policyholders of a mutual insurance company;

611 (4) If a subscribers' advisory committee does not have a president or
612 secretary, the officers of such committee having substantially
613 equivalent duties shall be deemed the president or secretary of such
614 committee;

615 (5) The commissioner shall approve the articles of merger if the
616 commissioner finds that the merger will promote the general good of
617 the state in conformity with those standards set forth in subdivision (2)
618 of subsection (d) of section 6 of this act. If the commissioner approves
619 the articles of merger, the commissioner shall endorse the
620 commissioner's approval thereon and the surviving insurer shall
621 present the articles of merger to the Secretary of the State at the
622 Secretary of the State's office;

623 (6) Notwithstanding section 4 of this act, the commissioner may
624 permit the formation, without surplus, of a captive insurance company
625 organized as a reciprocal insurer, into which an existing captive
626 insurance company may be merged for the purpose of facilitating a
627 transaction under this section, except that there shall be no more than
628 one authorized insurance company surviving such merger; and

629 (7) An alien insurer may be a party to a merger authorized under
630 subsection (a) of this section, except that the requirements for a merger
631 between a domestic and a foreign insurer under chapter 698 of the
632 general statutes shall apply to a merger between a domestic and an
633 alien insurer under this subsection. Such alien insurer shall be treated
634 as a foreign insurer under chapter 698 of the general statutes and such
635 other jurisdictions shall be the equivalent of a state for purposes of
636 chapter 698 of the general statutes.

637 (e) A conversion or merger under this section shall have the effects

638 of conversion or merger set forth in chapter 698 of the general statutes
639 to the extent such effects are not inconsistent with the provisions of
640 sections 1 to 18, inclusive, of this act.

641 Sec. 18. (NEW) (*Effective January 1, 2008*) The Insurance
642 Commissioner may adopt regulations, in accordance with chapter 54
643 of the general statutes, to establish standards to ensure that a parent or
644 affiliated company is able to exercise control of the risk management
645 function of any controlled unaffiliated business to be insured by the
646 pure captive insurance company, except that until such regulations are
647 approved, the commissioner may approve the coverage of such risks
648 by a pure captive insurance company.

649 Sec. 19. Subsection (a) of section 38a-11 of the general statutes is
650 repealed and the following is substituted in lieu thereof (*Effective*
651 *January 1, 2008*):

652 (a) The commissioner shall demand and receive the following fees:
653 (1) For the annual fee for each license issued to a domestic insurance
654 company, one hundred dollars; (2) for receiving and filing annual
655 reports of domestic insurance companies, twenty-five dollars; (3) for
656 filing all documents prerequisite to the issuance of a license to an
657 insurance company, one hundred seventy-five dollars, except that the
658 fee for such filings by any health care center, as defined in section 38a-
659 175, shall be one thousand one hundred dollars; (4) for filing any
660 additional paper required by law, fifteen dollars; (5) for each certificate
661 of valuation, organization, reciprocity or compliance, twenty dollars;
662 (6) for each certified copy of a license to a company, twenty dollars; (7)
663 for each certified copy of a report or certificate of condition of a
664 company to be filed in any other state, twenty dollars; (8) for
665 amending a certificate of authority, one hundred dollars; (9) for each
666 license issued to a rating organization, one hundred dollars. In
667 addition, insurance companies shall pay any fees imposed under
668 section 12-211; (10) a filing fee of twenty-five dollars for each initial
669 application for a license made pursuant to section 38a-769; (11) with

670 respect to insurance agents' appointments: (A) A filing fee of twenty-
671 five dollars for each request for any agent appointment, except that no
672 filing fee shall be payable for a request for agent appointment by an
673 insurance company domiciled in a state or foreign country which does
674 not require any filing fee for a request for agent appointment for a
675 Connecticut insurance company; (B) a fee of forty dollars for each
676 appointment issued to an agent of a domestic insurance company or
677 for each appointment continued; and (C) a fee of twenty dollars for
678 each appointment issued to an agent of any other insurance company
679 or for each appointment continued, except that no fee shall be payable
680 for an appointment issued to an agent of an insurance company
681 domiciled in a state or foreign country which does not require any fee
682 for an appointment issued to an agent of a Connecticut insurance
683 company; (12) with respect to insurance producers: (A) An
684 examination fee of seven dollars for each examination taken, except
685 when a testing service is used, the testing service shall pay a fee of
686 seven dollars to the commissioner for each examination taken by an
687 applicant; (B) a fee of forty dollars for each license issued; (C) a fee of
688 forty dollars per year, or any portion thereof, for each license renewed;
689 and (D) a fee of forty dollars for any license renewed under the
690 transitional process established in section 38a-784; (13) with respect to
691 public adjusters: (A) An examination fee of seven dollars for each
692 examination taken, except when a testing service is used, the testing
693 service shall pay a fee of seven dollars to the commissioner for each
694 examination taken by an applicant; and (B) a fee of one hundred
695 twenty-five dollars for each license issued or renewed; (14) with
696 respect to casualty adjusters: (A) An examination fee of ten dollars for
697 each examination taken, except when a testing service is used, the
698 testing service shall pay a fee of ten dollars to the commissioner for
699 each examination taken by an applicant; (B) a fee of forty dollars for
700 each license issued or renewed; and (C) the expense of any
701 examination administered outside the state shall be the responsibility
702 of the entity making the request and such entity shall pay to the
703 commissioner one hundred dollars for such examination and the

704 actual traveling expenses of the examination administrator to
705 administer such examination; (15) with respect to motor vehicle
706 physical damage appraisers: (A) An examination fee of forty dollars
707 for each examination taken, except when a testing service is used, the
708 testing service shall pay a fee of forty dollars to the commissioner for
709 each examination taken by an applicant; (B) a fee of forty dollars for
710 each license issued or renewed; and (C) the expense of any
711 examination administered outside the state shall be the responsibility
712 of the entity making the request and such entity shall pay to the
713 commissioner one hundred dollars for such examination and the
714 actual traveling expenses of the examination administrator to
715 administer such examination; (16) with respect to certified insurance
716 consultants: (A) An examination fee of thirteen dollars for each
717 examination taken, except when a testing service is used, the testing
718 service shall pay a fee of thirteen dollars to the commissioner for each
719 examination taken by an applicant; (B) a fee of two hundred dollars for
720 each license issued; and (C) a fee of one hundred twenty-five dollars
721 for each license renewed; (17) with respect to surplus lines brokers: (A)
722 An examination fee of ten dollars for each examination taken, except
723 when a testing service is used, the testing service shall pay a fee of ten
724 dollars to the commissioner for each examination taken by an
725 applicant; and (B) a fee of five hundred dollars for each license issued
726 or renewed; (18) with respect to fraternal agents, a fee of forty dollars
727 for each license issued or renewed; (19) a fee of thirteen dollars for
728 each license certificate requested, whether or not a license has been
729 issued; (20) with respect to domestic and foreign benefit societies shall
730 pay: (A) For service of process, twenty-five dollars for each person or
731 insurer to be served; (B) for filing a certified copy of its charter or
732 articles of association, five dollars; (C) for filing the annual report, ten
733 dollars; and (D) for filing any additional paper required by law, three
734 dollars; (21) with respect to foreign benefit societies: (A) For each
735 certificate of organization or compliance, four dollars; (B) for each
736 certified copy of permit, two dollars; and (C) for each copy of a report
737 or certificate of condition of a society to be filed in any other state, four

738 dollars; (22) with respect to reinsurance intermediaries: A fee of five
 739 hundred dollars for each license issued or renewed; (23) with respect
 740 to viatical settlement providers: (A) A filing fee of thirteen dollars for
 741 each initial application for a license made pursuant to section 38a-465a;
 742 and (B) a fee of twenty dollars for each license issued or renewed; (24)
 743 with respect to viatical settlement brokers: (A) A filing fee of thirteen
 744 dollars for each initial application for a license made pursuant to
 745 section 38a-465a; and (B) a fee of twenty dollars for each license issued
 746 or renewed; (25) with respect to viatical settlement investment agents:
 747 (A) A filing fee of thirteen dollars for each initial application for a
 748 license made pursuant to section 38a-465a; and (B) a fee of twenty
 749 dollars for each license issued or renewed; (26) with respect to
 750 preferred provider networks, a fee of two thousand five hundred
 751 dollars for each license issued or renewed; (27) with respect to rental
 752 companies, as defined in section 38a-799, a fee of forty dollars for each
 753 permit issued or renewed; (28) with respect to medical discount plan
 754 organizations licensed under section 38a-479rr, a fee of five hundred
 755 dollars for each license issued or renewed; (29) with respect to captive
 756 insurance companies, as defined in section 1 of this act, a fee of three
 757 hundred dollars for each license issued or renewed; and [(29)] (30)
 758 with respect to each duplicate license issued a fee of twenty-five
 759 dollars for each license issued.

760 Sec. 20. Section 38a-254 of the general statutes is repealed and the
 761 following is substituted in lieu thereof (*Effective January 1, 2008*):

762 All premiums paid for coverages within this state to a risk retention
 763 [groups and insurers] group or insurer, other than a captive insurance
 764 company, as defined in section 1 of this act, or a licensed or eligible
 765 surplus lines [insurers] insurer, shall be subject to taxation as provided
 766 in section 38a-277.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>January 1, 2008</i>	New section

Sec. 2	January 1, 2008	New section
Sec. 3	January 1, 2008	New section
Sec. 4	January 1, 2008	New section
Sec. 5	January 1, 2008	New section
Sec. 6	January 1, 2008	New section
Sec. 7	January 1, 2008	New section
Sec. 8	January 1, 2008	New section
Sec. 9	January 1, 2008	New section
Sec. 10	January 1, 2008	New section
Sec. 11	January 1, 2008	New section
Sec. 12	January 1, 2008	New section
Sec. 13	January 1, 2008	New section
Sec. 14	January 1, 2008	New section
Sec. 15	January 1, 2008	New section
Sec. 16	January 1, 2008	New section
Sec. 17	January 1, 2008	New section
Sec. 18	January 1, 2008	New section
Sec. 19	January 1, 2008	38a-11(a)
Sec. 20	January 1, 2008	38a-254

Statement of Purpose:

To allow captive insurance companies to be licensed and domiciled in this state.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]

Co-Sponsors: SEN. CRISCO, 17th Dist.

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