



General Assembly

Amendment

January Session, 2007

LCO No. 8481

SB0006008481SD0

Offered by:
SEN. CRISCO, 17th Dist.

To: Subst. Senate Bill No. 60

File No. 25

Cal. No. 104

"AN ACT ESTABLISHING A DIVISION REGULATING CAPTIVE INSURANCE COMPANIES WITHIN THE INSURANCE DEPARTMENT."

1 In line 2, after "2008," strike "and"

2 In line 3, after "statutes" and before the comma insert "and within
3 available appropriations"

4 After the last section, add the following and renumber sections and
5 internal references accordingly:

6 "Sec. 501. (NEW) (*Effective January 1, 2009*) As used in sections 501 to
7 517, inclusive, of this act:

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

11 (2) "Association" means any legal association of individuals,
12 corporations, limited liability companies, partnerships, associations or

13 other entities that has been in continuous existence for at least one
14 year, where the association itself or some or all of the member
15 organizations:

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

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

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

23 (3) "Association captive insurance company" means any company
24 that insures risks of the member organizations of the association and
25 their affiliated companies.

26 (4) "Captive insurance company" means any pure captive insurance
27 company, association captive insurance company, industrial insured
28 captive insurance company or risk retention group that is domiciled in
29 this state and formed or licensed under the provisions of sections 501
30 to 517, inclusive, of this act.

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

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

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

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

37 (C) Whose risks are insured by a pure captive insurance company in
38 accordance with section 517 of this act.

39 (7) "Excess workers' compensation insurance" means, in the case of
40 an employer that has insured or self-insured its workers' compensation

41 risks in accordance with applicable state or federal law, insurance in
42 excess of a specified per-incident or aggregate limit established by the
43 commissioner.

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

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

48 (B) Whose aggregate annual premiums for insurance on all risks
49 total at least twenty-five thousand dollars; and

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

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

54 (10) "Industrial insured group" means any group of industrial
55 insureds that collectively:

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

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

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

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

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

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

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

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

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

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

84 Sec. 502. (NEW) (*Effective January 1, 2009*) (a) Any captive insurance
85 company, when permitted by its articles of association, charter or other
86 organizational document, may apply to the Insurance Commissioner
87 for a license to do the business of life insurance, annuities, health
88 insurance, as defined in section 38a-469 of the general statutes, and
89 commercial risk insurance, as defined in section 38a-663 of the general
90 statutes, provided:

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

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

97 (3) No industrial insured captive insurance company may insure

98 any risks other than those of the industrial insureds that comprise the
99 industrial insured group, and their affiliated companies;

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

102 (5) No captive insurance company may provide private passenger
103 motor vehicle or homeowner's insurance coverage or any component
104 thereof;

105 (6) No captive insurance company may accept or cede reinsurance
106 except as provided in section 511 of this act;

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

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

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

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

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

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

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

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

134 (A) File with the commissioner a certified copy of its organizational
135 documents, a statement under oath of its president and secretary
136 showing its financial condition, and any other statements or
137 documents required by the commissioner; and

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

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

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

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

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

155 (D) The adequacy of the loss prevention programs of the company's

156 insureds; and

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

160 (3) Information submitted pursuant to this subsection shall be and
161 remain confidential and may not be made public by the commissioner
162 or an employee or agent of the commissioner without the written
163 consent of the company, except that:

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

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

170 (ii) The information sought is unavailable from other
171 nonconfidential sources; and

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

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

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

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

183 (d) (1) Each captive insurance company shall pay to the

184 commissioner a nonrefundable fee of two hundred dollars for
185 examining, investigating and processing its application for license, and
186 the commissioner may retain legal, financial and examination services
187 from outside the department, the reasonable cost of which may be
188 charged against the applicant. The provisions of subdivisions (2) to (5),
189 inclusive, of subsection (k) of section 38a-14 of the general statutes
190 shall apply to examinations, investigations and processing conducted
191 under this section.

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

195 (e) If the commissioner finds that the documents and statements
196 that a captive insurance company has filed comply with the provisions
197 of sections 501 to 517, inclusive, of this act, the commissioner may
198 grant a license authorizing the company to do insurance business in
199 this state until April first thereafter. The captive insurance company
200 may apply to renew such license on such forms as the commissioner
201 prescribes.

202 Sec. 503. (NEW) (*Effective January 1, 2009*) No captive insurance
203 company shall adopt a name that is the same, deceptively similar or
204 likely to be confused with or mistaken for any other existing business
205 name registered in this state.

206 Sec. 504. (NEW) (*Effective January 1, 2009*) (a) The Insurance
207 Commissioner may not issue a license to a captive insurance company
208 or allow the company to retain a license unless the company has and
209 maintains unimpaired paid-in capital and surplus of:

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

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

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

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

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

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

226 Sec. 505. (NEW) (*Effective January 1, 2009*) No captive insurance
227 company may pay a dividend out of, or other distribution with respect
228 to, capital or surplus without the prior approval of the Insurance
229 Commissioner. Approval of an ongoing plan for the payment of
230 dividends or other distributions shall be conditioned on the retention,
231 at the time of each payment, of capital or surplus in excess of amounts
232 specified by, or determined in accordance with formulas approved by,
233 the commissioner.

234 Sec. 506. (NEW) (*Effective January 1, 2009*) (a) A pure captive
235 insurance company may be incorporated as a stock insurer with its
236 capital divided into shares and held by the stockholders, as a nonprofit
237 corporation with one or more members, or as a manager-managed
238 limited liability company.

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

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

243 (2) Incorporated as a mutual insurer without capital stock, the

244 governing body of which is elected by its insureds;

245 (3) Organized as a reciprocal insurer; or

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

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

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

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

257 (i) The character, reputation, financial standing and purposes of the
258 incorporators;

259 (ii) The character, reputation, financial responsibility, insurance
260 experience and business qualifications of the officers and directors;
261 and

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

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

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

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

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

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

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

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

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

289 (g) Other than captive insurance companies formed as limited
290 liability companies or as nonprofit corporations, captive insurance
291 companies formed as corporations under the provisions of sections 501
292 to 517, inclusive, of this act shall have the privileges and be subject to
293 the provisions of title 33 of the general statutes as well as the
294 applicable provisions in sections 501 to 517, inclusive, of this act. In the
295 event of conflict between the provisions of title 33 of the general
296 statutes and sections 501 to 517, inclusive, of this act, the provisions of
297 sections 501 to 517, inclusive, of this act shall control.

298 (h) Captive insurance companies formed under the provisions of
299 this chapter:

300 (1) As limited liability companies shall have the privileges and be
301 subject to the provisions of chapter 613 of the general statutes and

302 applicable provisions in sections 501 to 517, inclusive, of this act. In the
303 event of a conflict between the provisions of chapter 613 of the general
304 statutes and sections 501 to 517, inclusive, of this act, the provisions of
305 sections 501 to 517, inclusive, of this act shall control; or

306 (2) As nonprofit corporations shall have the privileges and be
307 subject to the applicable provisions of title 33 of the general statutes
308 and applicable provisions in sections 501 to 517, inclusive, of this act.
309 In the event of conflict between the provisions of title 33 of the general
310 statutes and sections 501 to 517, inclusive, of this act, the provisions of
311 sections 501 to 517, inclusive, of this act shall control.

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

316 (j) Captive insurance companies formed as reciprocal insurers under
317 the provisions of sections 501 to 517, inclusive, of this act shall have the
318 privileges and be subject to the provisions of title 38a of the general
319 statutes in addition to the applicable provisions of sections 501 to 517,
320 inclusive, of this act. In the event of a conflict between the provisions
321 of sections 501 to 517, inclusive, of this act and title 38a of the general
322 statutes, the provisions of sections 501 to 517, inclusive, of this act shall
323 control.

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

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

332 Sec. 507. (NEW) (*Effective January 1, 2009*) (a) Captive insurance

333 companies shall not be required to make any annual report except as
334 provided in sections 501 to 517, inclusive, of this act.

335 (b) Prior to March first of each year, each captive insurance
336 company shall submit to the Insurance Commissioner a report of its
337 financial condition verified by oath of two of its executive officers.
338 Each captive insurance company shall report using generally accepted
339 accounting principles, unless the commissioner approves the use of
340 statutory accounting principles, with any appropriate or necessary
341 modifications or adaptations required or approved or accepted by the
342 commissioner for the type of insurance and kinds of insurers to be
343 reported upon, and as supplemented by additional information
344 required by the commissioner. Except as otherwise provided, each
345 association captive insurance company and each risk retention group
346 shall file its report in the form required by sections 38a-53 and 38a-53a
347 of the general statutes. The commissioner may adopt regulations, in
348 accordance with chapter 54 of the general statutes, to establish the
349 manner in which pure captive insurance companies and industrial
350 insured captive insurance companies shall report. The provisions of
351 subsection (b) of section 38a-69a of the general statutes shall apply to
352 each report filed pursuant to this section.

353 (c) Any pure captive insurance company or industrial insured
354 captive insurance company may make written application to the
355 commissioner for approval to file the required report at the end of the
356 fiscal year. If the commissioner grants approval for such alternative
357 reporting date:

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

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

365 Sec. 508. (NEW) (*Effective January 1, 2009*) (a) At least once every five
366 years, and additionally whenever the Insurance Commissioner
367 determines it to be prudent, the commissioner, or the commissioner's
368 designee, shall visit each captive insurance company and thoroughly
369 inspect and examine its affairs to ascertain its financial condition, its
370 ability to fulfill its obligations and whether it has complied with the
371 provisions of sections 501 to 517, inclusive, of this act and any
372 applicable provisions of title 38a of the general statutes.

373 (b) In scheduling and determining the nature, scope and frequency
374 of such examinations, the commissioner shall consider such matters as
375 the results of financial statement analyses and ratios, changes in
376 management or ownership, actuarial opinions, reports of independent
377 certified public accountants and such other criteria as set forth in the
378 examiners' handbook adopted by the National Association of
379 Insurance Commissioners and in effect at the time the commissioner
380 exercises discretion under this section.

381 (c) (1) To carry out examinations under this section, the
382 commissioner may appoint as examiners one or more competent
383 persons, not officers of or connected with or interested in any
384 insurance company, other than as a policyholder. The commissioner
385 may engage the services of attorneys, appraisers, independent
386 actuaries, independent certified public accountants or other
387 professionals and specialists to assist in conducting the examinations
388 under this section as examiners, the cost of which shall be borne by the
389 company which is the subject of the examination. Notwithstanding the
390 provisions of this subdivision, no domestic captive insurance company
391 subject to examination under this section shall pay as costs associated
392 with the examination the salaries, fringe benefits, traveling and
393 maintenance expenses of examining personnel of the Insurance
394 Department engaged in such examination if such domestic company is
395 otherwise liable to assessment levied under section 38a-47 of the
396 general statutes, except that such company shall pay the traveling and
397 maintenance expenses of examining personnel of the department when
398 such company is examined outside the state.

399 (2) In conducting the examination, the commissioner, the
400 commissioner's actuary or any examiner authorized by the
401 commissioner may examine, under oath, the officers and agents of
402 such a company and all persons deemed to have material information
403 regarding the company's property or business. Each such company, its
404 officers and agents shall produce the books and papers, in its or their
405 possession, relating to its business or affairs, and any other person may
406 be required to produce any book or paper, in his custody, deemed to
407 be relevant to such examination, for the inspection of the
408 commissioner, the commissioner's actuary or examiners, when
409 required. The officers and agents of the company shall facilitate the
410 examination and aid the examiners in making the same so far as it is in
411 their power to do so. The refusal of any company, by its officers,
412 directors, employees or agents, to submit to examination or to comply
413 with any reasonable written request of the examiners shall be grounds
414 for suspension of, or refusal of or nonrenewal of any license or
415 authority held by the company to engage in an insurance or other
416 business subject to the commissioner's jurisdiction. Any such
417 proceedings for suspension, revocation or refusal of any license or
418 authority shall be conducted pursuant to section 509 of this act.

419 (3) In conducting the examination, the examiner shall observe those
420 guidelines and procedures set forth in the examiners' handbook
421 adopted by the National Association of Insurance Commissioners. The
422 commissioner may also adopt such other guidelines or procedures as
423 the commissioner may deem appropriate.

424 (d) (1) Nothing contained in this section shall be construed to limit
425 the commissioner's authority to terminate or suspend any examination
426 in order to pursue legal or regulatory action pursuant to the insurance
427 laws of this state. Findings of fact and conclusions made pursuant to
428 any examination shall be prima facie evidence in any legal or
429 regulatory action.

430 (2) Nothing contained in this section shall be construed to limit the
431 commissioner's authority in such legal or regulatory action to use and,

432 if appropriate, to make public any final or preliminary examination
433 report, any examiner or company workpapers or other documents, or
434 any other information discovered or developed during the course of
435 any examination.

436 (3) Not later than sixty days after completion of the examination, the
437 examiner in charge shall file, under oath, with the Insurance
438 Department a verified written report of examination. Upon receipt of
439 the verified report, the Insurance Department shall transmit the report
440 to the company examined, together with a notice which shall afford
441 the company examined a reasonable opportunity, not to exceed thirty
442 days, to make a written submission or rebuttal with respect to any
443 matters contained in the examination report. Not later than thirty days
444 after the period allowed for the receipt of written submissions or
445 rebuttals, the commissioner shall fully consider and review the report,
446 together with any written submissions or rebuttals and any relevant
447 portions of the examiner's workpapers and enter an order: (A)
448 Adopting the examination report as filed or with modification or
449 corrections. If the examination report reveals that the company is
450 operating in violation of any law, regulation or prior order of the
451 commissioner, the commissioner may order the company to take any
452 action the commissioner considers necessary and appropriate to cure
453 such violation; or (B) rejecting the examination report with directions
454 to the examiners to reopen the examination for purposes of obtaining
455 additional data, documentation or information, and refiling pursuant
456 to subparagraph (A) of this subdivision; or (C) calling for an
457 investigatory hearing with no less than twenty days notice to the
458 company for purposes of obtaining additional documentation, data,
459 information and testimony.

460 (e) (1) All orders entered pursuant to subdivision (3) of subsection
461 (d) of this section shall be accompanied by findings and conclusions
462 resulting from the commissioner's consideration and review of the
463 examination report, relevant examiner workpapers and any written
464 submissions or rebuttals. The findings and conclusions, which form
465 the basis of any such order of the commissioner, shall be subject to

466 review as provided in section 38a-19 of the general statutes.

467 (2) Any investigatory hearing conducted under subparagraph (C) of
468 subdivision (3) of subsection (d) of this section by the commissioner or
469 authorized representative, shall be conducted as a nonadversarial
470 confidential investigatory proceeding as necessary for the resolution of
471 any inconsistencies, discrepancies or disputed issues apparent (A)
472 upon the filed examination report, (B) raised by or as a result of the
473 commissioner's review of relevant workpapers, or (C) by the written
474 submission or rebuttal of the company. Not later than twenty days
475 after conclusions of any such hearing, the commissioner shall enter an
476 order pursuant to subparagraph (A) of subdivision (3) of subsection
477 (d) of this section. The commissioner shall not appoint an examiner as
478 an authorized representative to conduct the hearing. The hearing shall
479 proceed expeditiously with discovery by the company limited to the
480 examiner's workpapers which tend to substantiate any assertions set
481 forth in any written submission or rebuttal. The commissioner or the
482 commissioner's authorized representative may issue subpoenas for the
483 attendance of any witnesses or the production of any documents
484 deemed relevant to the investigation whether under the control of the
485 department, the company or other persons. The documents produced
486 shall be included in the record and testimony taken by the
487 commissioner or the commissioner's authorized representative shall be
488 under oath and preserved for the record. Nothing contained in this
489 section shall require the department to disclose any information or
490 records which would indicate or show the existence or content of any
491 investigation or activity of a criminal justice agency. The hearing shall
492 proceed with the commissioner or the commissioner's authorized
493 representative posing questions to the persons subpoenaed. Thereafter
494 the company and the Insurance Department may present testimony
495 relevant to the investigation. Cross-examination shall be conducted
496 only by the commissioner or the commissioner's authorized
497 representative. The company and the Insurance Department shall be
498 permitted to make closing statements and may be represented by
499 counsel of their choice.

500 (f) The commissioner may, if the commissioner's deems it in the
501 public interest, publish any such report, or the result of any such
502 examination contained in such report, in one or more newspapers of
503 the state.

504 (g) Nothing contained in this section shall prevent or be construed
505 as prohibiting the commissioner from disclosing the content of an
506 examination report, preliminary examination report or results, or any
507 matter relating to such report, to the Insurance Department of this or
508 any other state or country, or to law enforcement officials of this or any
509 other state or to any agency of the federal government at any time,
510 unless such agency or office receiving the report or matters relating to
511 such report agrees, in writing, that such documents shall be
512 confidential.

513 (h) All working papers, recorded information, documents and
514 copies thereof produced by, obtained by or disclosed to the
515 commissioner or any other person in the course of an examination
516 made under this section shall be confidential, shall not be subject to
517 subpoena and shall not be made public by the commissioner or any
518 other person, except to the extent provided in subsection (g) of this
519 section. Access to such information may be granted by the
520 commissioner to the National Association of Insurance
521 Commissioners, unless it agrees, in writing, that such information shall
522 be confidential.

523 (i) (1) The commissioner may engage the services of, from time to
524 time, on an individual basis, qualified actuaries, certified public
525 accountants or other similar individuals who are independently
526 practicing their professions, even though said persons may, from time
527 to time, be similarly employed or retained by persons subject to
528 examination under this section.

529 (2) No cause of action shall arise nor shall any liability be imposed
530 against the commissioner, the commissioner's authorized
531 representatives or any examiner appointed by the commissioner for

532 any statements made or conduct performed in good faith while
533 carrying out the provisions of this section.

534 (3) No cause of action shall arise, nor shall any liability be imposed
535 against any person for the act of communicating or delivering
536 information or data to the commissioner or the commissioner's
537 authorized representative examiner pursuant to an examination made
538 under this section, if such act of communication or delivery was
539 performed in good faith and without fraudulent intent or the intent to
540 deceive.

541 (4) This section does not abrogate or modify in any way any
542 common law or statutory privilege or immunity heretofore enjoyed by
543 any person identified in subdivision (2) of this subsection.

544 (5) A person identified in subdivision (2) of this subsection shall be
545 entitled to an award of attorney's fees and costs if he is the prevailing
546 party in a civil cause of action for libel, slander or any other relevant
547 tort arising out of activities in carrying out the provisions of this
548 section and the party bringing the action was not substantially justified
549 in doing so. For purposes of this section, a proceeding is "substantially
550 justified" if it had a reasonable basis in law or fact at the time that it
551 was initiated.

552 Sec. 509. (NEW) (*Effective January 1, 2009*) (a) The commissioner
553 may, at any time, for cause, suspend, revoke or refuse to renew any
554 license of a captive insurance company or in lieu of or in addition to
555 suspension or revocation of such license the commissioner, after
556 reasonable notice to and hearing of any holder of such license, may
557 impose a fine not to exceed ten thousand dollars. Such hearings may
558 be held by the commissioner or any person designated by the
559 commissioner.

560 (b) Any captive insurance company aggrieved by the action of the
561 commissioner in suspending, revoking, or refusing to renew a license
562 or in imposing a fine may appeal therefrom, in accordance with the
563 provisions of section 4-183 of the general statutes, except venue for

564 such appeal shall be in the judicial district of New Britain. Appeals
565 under this section shall be privileged in respect to the order of trial
566 assignment.

567 Sec. 510. (NEW) (*Effective January 1, 2009*) (a) Association captive
568 insurance companies and risk retention groups shall comply with the
569 investment requirements in chapter 698 of the general statutes, as
570 applicable. Notwithstanding any other provision of sections 501 to 517,
571 inclusive, of this act, the commissioner may approve the use of
572 alternative reliable methods of valuation and rating.

573 (b) No pure captive insurance company or industrial insured
574 captive insurance company shall be subject to any restrictions on
575 allowable investments, except that the Insurance Commissioner may
576 prohibit or limit any investment that threatens the solvency or
577 liquidity of any such company.

578 (c) No pure captive insurance company may make a loan to or an
579 investment in its parent company or affiliates without prior written
580 approval of the commissioner, and any such loan or investment shall
581 be evidenced by documentation approved by the commissioner. Loans
582 of minimum capital and surplus funds required in section 504 of this
583 act are prohibited.

584 Sec. 511. (NEW) (*Effective January 1, 2009*) (a) Any captive insurance
585 company may provide reinsurance on risks ceded by any other
586 insurer.

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

591 (c) In addition to reinsurance authorized under the provisions of
592 sections 38a-85 and 38a-86 of the general statutes, a captive insurance
593 company may take credit for the reinsurance of risks or portions of
594 risks ceded to a pool, exchange or association acting as a reinsurer

595 which has been authorized by the commissioner. The commissioner
596 may require any other documents, financial information or other
597 evidence that such a pool, exchange or association will be able to
598 provide adequate security for its financial obligations. The
599 commissioner may deny authorization or impose any limitations on
600 the activities of a reinsurance pool, exchange or association that, in the
601 commissioner's judgment, are necessary and proper to provide
602 adequate security for the ceding captive insurance company and for
603 the protection and consequent benefit of the public.

604 (d) For purposes of sections 501 to 517, inclusive, of this act,
605 insurance by a captive insurance company of any workers'
606 compensation qualified self-insured plan of its parent and affiliates
607 shall be deemed to be reinsurance.

608 Sec. 512. (NEW) (*Effective January 1, 2009*) No captive insurance
609 company shall be required to join a rating organization.

610 Sec. 513. (NEW) (*Effective January 1, 2009*) No captive insurance
611 company may join or contribute financially to any plan, pool,
612 association or guaranty or insolvency fund in this state, nor shall any
613 such captive insurance company, or any insured or affiliate thereof,
614 receive any benefit from any such plan, pool, association or guaranty
615 or insolvency fund for claims arising out of the operations of such
616 captive insurance company.

617 Sec. 514. (NEW) (*Effective January 1, 2009*) (a) Each captive insurance
618 company shall pay to the Commissioner of Revenue Services, in the
619 month of February of each year, a tax at the rate of thirty-eight
620 hundredths of one per cent on the first twenty million dollars and two
621 hundred eighty-five thousandths of one per cent on the next twenty
622 million dollars and nineteen hundredths of one per cent on the next
623 twenty million dollars and seventy-two thousandths of one per cent on
624 each dollar thereafter on the direct premiums collected or contracted
625 for on policies or contracts of insurance written by the captive
626 insurance company during the year ending December thirty-first next

627 preceding, after deducting from the direct premiums subject to the tax
628 the amounts paid to policyholders as return premiums which shall
629 include dividends on unabsorbed premiums or premium deposits
630 returned or credited to policyholders, except that no tax shall be due or
631 payable as to considerations received for annuity contracts.

632 (b) Each captive insurance company shall pay to the Commissioner
633 of Revenue Services in the month of February of each year a tax at the
634 rate of two hundred fourteen thousandths of one per cent on the first
635 twenty million dollars of assumed reinsurance premium, and one
636 hundred forty-three thousandths of one per cent on the next twenty
637 million dollars and forty-eight thousandths of one per cent on the next
638 twenty million dollars and twenty-four thousandths of one per cent of
639 each dollar thereafter, except that no reinsurance tax shall apply to
640 premiums for risks or portions of risks which are subject to taxation on
641 a direct basis pursuant to subsection (a) of this section. No reinsurance
642 premium tax shall be payable in connection with the receipt of assets
643 in exchange for the assumption of loss reserves and other liabilities of
644 another insurer under common ownership and control if (1) such
645 transaction is part of a plan to discontinue the operations of such other
646 insurer, and (2) the intent of the parties to such transaction is to renew
647 or maintain such business with the captive insurance company.

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

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

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

659 (f) For the purposes of this section common ownership and control
660 means:

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

664 (2) In the case of mutual or nonprofit corporations, the direct or
665 indirect ownership of eighty per cent or more of the surplus and the
666 voting power of two or more corporations by the same member or
667 members.

668 (g) The tax provided for in this section shall constitute all taxes
669 collectible under the laws of this state from any captive insurance
670 company, and no other occupation tax or other taxes shall be levied or
671 collected from any captive insurance company by the state or any
672 county, city or municipality within this state, except taxes on real and
673 personal property used in the production of income.

674 (h) The tax provided for in this section shall be calculated on an
675 annual basis, notwithstanding policies or contracts of insurance or
676 contracts of reinsurance issued on a multiyear basis. In the case of
677 multiyear policies or contracts, the premium shall be prorated for
678 purposes of determining the tax under this section.

679 Sec. 515. (NEW) (*Effective January 1, 2009*) Unless otherwise
680 provided in sections 501 to 517, inclusive, of this act, no provision of
681 title 38a of the general statutes shall apply to captive insurance
682 companies, unless expressly included therein, except for the following:
683 Sections 38a-16, 38a-17, 38a-54, 38a-55, 38a-56, 38a-57, 38a-59, 38a-69a,
684 sections 38a-250 to 38a-266, inclusive, sections 38a-903 to 38a-961,
685 inclusive, and sections 38a-962 to 38a-962j, inclusive, of the general
686 statutes.

687 Sec. 516. (NEW) (*Effective January 1, 2009*) (a) An association captive
688 insurance company, risk retention group or industrial insured captive
689 insurance company formed as a stock or mutual corporation may be

690 converted to or merged with and into a reciprocal insurer in
691 accordance with a plan for such conversion or merger and the
692 provisions of this section.

693 (b) Any plan for such conversion or merger shall provide a fair and
694 equitable plan for purchasing, retiring or otherwise extinguishing the
695 interests of the stockholders and policyholders of a stock insurer, and
696 the members and policyholders of a mutual insurer, including a fair
697 and equitable provision for the rights and remedies of dissenting
698 stockholders, members or policyholders.

699 (c) In the case of a conversion authorized under subsection (a) of
700 this section:

701 (1) Such conversion shall be accomplished under such reasonable
702 plan and procedure as may be approved by the commissioner, except
703 that the Insurance Commissioner shall not approve any such plan of
704 conversion unless such plan:

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

706 (B) Provides for a hearing, of which notice is given or to be given to
707 the captive insurance company, its directors, officers and
708 policyholders, and in the case of a stock insurer, its stockholders, and
709 in the case of a mutual insurer, its members, all of which persons shall
710 be entitled to attend and appear at such hearing, except that if notice of
711 a hearing is given and no director, officer, policyholder, member or
712 stockholder requests a hearing, the commissioner may cancel such
713 hearing;

714 (C) Provides a fair and equitable plan for the conversion of
715 stockholder, member or policyholder interests into subscriber interests
716 in the resulting reciprocal insurer, substantially proportionate to the
717 corresponding interests in the stock or mutual insurer, except that such
718 plan shall not preclude the resulting reciprocal insurer from applying
719 underwriting criteria that could affect ongoing ownership interests;
720 and

721 (D) Is approved:

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

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

728 (2) The commissioner shall approve such plan of conversion if the
729 commissioner finds that the conversion will promote the general good
730 of the state in conformity with those standards set forth in subdivision
731 (2) of subsection (d) of section 506 of this act;

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

736 (4) The conversion shall be effective upon the issuance of an
737 amended certificate of authority of a reciprocal insurer by the
738 commissioner; and

739 (5) Upon the effective date of such conversion the corporate
740 existence of the converting insurer shall cease and the resulting
741 reciprocal insurer shall notify the Secretary of the State of such
742 conversion.

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

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

749 (2) The subscribers' advisory committee of a reciprocal insurer shall

750 be equivalent to the board of directors of a stock or mutual insurance
751 company;

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

754 (4) If a subscribers' advisory committee does not have a president or
755 secretary, the officers of such committee having substantially
756 equivalent duties shall be deemed the president or secretary of such
757 committee;

758 (5) The commissioner shall approve the articles of merger if the
759 commissioner finds that the merger will promote the general good of
760 the state in conformity with those standards set forth in subdivision (2)
761 of subsection (d) of section 506 of this act. If the commissioner
762 approves the articles of merger, the commissioner shall endorse the
763 commissioner's approval thereon and the surviving insurer shall
764 present the articles of merger to the Secretary of the State at the
765 Secretary of the State's office;

766 (6) Notwithstanding section 504 of this act, the commissioner may
767 permit the formation, without surplus, of a captive insurance company
768 organized as a reciprocal insurer, into which an existing captive
769 insurance company may be merged for the purpose of facilitating a
770 transaction under this section, except that there shall be no more than
771 one authorized insurance company surviving such merger; and

772 (7) An alien insurer may be a party to a merger authorized under
773 subsection (a) of this section, except that the requirements for a merger
774 between a domestic and a foreign insurer under chapter 698 of the
775 general statutes shall apply to a merger between a domestic and an
776 alien insurer under this subsection. Such alien insurer shall be treated
777 as a foreign insurer under chapter 698 of the general statutes and such
778 other jurisdictions shall be the equivalent of a state for purposes of
779 chapter 698 of the general statutes.

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

781 of conversion or merger set forth in chapter 698 of the general statutes
782 to the extent such effects are not inconsistent with the provisions of
783 sections 501 to 517, inclusive, of this act.

784 Sec. 517. (NEW) (*Effective January 1, 2009*) The Insurance
785 Commissioner may adopt regulations, in accordance with chapter 54
786 of the general statutes, to establish standards to ensure that a parent or
787 affiliated company is able to exercise control of the risk management
788 function of any controlled unaffiliated business to be insured by the
789 pure captive insurance company, except that until such regulations are
790 approved, the commissioner may approve the coverage of such risks
791 by a pure captive insurance company.

792 Sec. 518. Subsection (a) of section 38a-11 of the general statutes is
793 repealed and the following is substituted in lieu thereof (*Effective*
794 *January 1, 2009*):

795 (a) The commissioner shall demand and receive the following fees:
796 (1) For the annual fee for each license issued to a domestic insurance
797 company, one hundred dollars; (2) for receiving and filing annual
798 reports of domestic insurance companies, twenty-five dollars; (3) for
799 filing all documents prerequisite to the issuance of a license to an
800 insurance company, one hundred seventy-five dollars, except that the
801 fee for such filings by any health care center, as defined in section 38a-
802 175, shall be one thousand one hundred dollars; (4) for filing any
803 additional paper required by law, fifteen dollars; (5) for each certificate
804 of valuation, organization, reciprocity or compliance, twenty dollars;
805 (6) for each certified copy of a license to a company, twenty dollars; (7)
806 for each certified copy of a report or certificate of condition of a
807 company to be filed in any other state, twenty dollars; (8) for
808 amending a certificate of authority, one hundred dollars; (9) for each
809 license issued to a rating organization, one hundred dollars. In
810 addition, insurance companies shall pay any fees imposed under
811 section 12-211; (10) a filing fee of twenty-five dollars for each initial
812 application for a license made pursuant to section 38a-769; (11) with
813 respect to insurance agents' appointments: (A) A filing fee of twenty-

814 five dollars for each request for any agent appointment, except that no
815 filing fee shall be payable for a request for agent appointment by an
816 insurance company domiciled in a state or foreign country which does
817 not require any filing fee for a request for agent appointment for a
818 Connecticut insurance company; (B) a fee of forty dollars for each
819 appointment issued to an agent of a domestic insurance company or
820 for each appointment continued; and (C) a fee of twenty dollars for
821 each appointment issued to an agent of any other insurance company
822 or for each appointment continued, except that no fee shall be payable
823 for an appointment issued to an agent of an insurance company
824 domiciled in a state or foreign country which does not require any fee
825 for an appointment issued to an agent of a Connecticut insurance
826 company; (12) with respect to insurance producers: (A) An
827 examination fee of seven dollars for each examination taken, except
828 when a testing service is used, the testing service shall pay a fee of
829 seven dollars to the commissioner for each examination taken by an
830 applicant; (B) a fee of forty dollars for each license issued; (C) a fee of
831 forty dollars per year, or any portion thereof, for each license renewed;
832 and (D) a fee of forty dollars for any license renewed under the
833 transitional process established in section 38a-784; (13) with respect to
834 public adjusters: (A) An examination fee of seven dollars for each
835 examination taken, except when a testing service is used, the testing
836 service shall pay a fee of seven dollars to the commissioner for each
837 examination taken by an applicant; and (B) a fee of one hundred
838 twenty-five dollars for each license issued or renewed; (14) with
839 respect to casualty adjusters: (A) An examination fee of ten dollars for
840 each examination taken, except when a testing service is used, the
841 testing service shall pay a fee of ten dollars to the commissioner for
842 each examination taken by an applicant; (B) a fee of forty dollars for
843 each license issued or renewed; and (C) the expense of any
844 examination administered outside the state shall be the responsibility
845 of the entity making the request and such entity shall pay to the
846 commissioner one hundred dollars for such examination and the
847 actual traveling expenses of the examination administrator to
848 administer such examination; (15) with respect to motor vehicle

849 physical damage appraisers: (A) An examination fee of forty dollars
850 for each examination taken, except when a testing service is used, the
851 testing service shall pay a fee of forty dollars to the commissioner for
852 each examination taken by an applicant; (B) a fee of forty dollars for
853 each license issued or renewed; and (C) the expense of any
854 examination administered outside the state shall be the responsibility
855 of the entity making the request and such entity shall pay to the
856 commissioner one hundred dollars for such examination and the
857 actual traveling expenses of the examination administrator to
858 administer such examination; (16) with respect to certified insurance
859 consultants: (A) An examination fee of thirteen dollars for each
860 examination taken, except when a testing service is used, the testing
861 service shall pay a fee of thirteen dollars to the commissioner for each
862 examination taken by an applicant; (B) a fee of two hundred dollars for
863 each license issued; and (C) a fee of one hundred twenty-five dollars
864 for each license renewed; (17) with respect to surplus lines brokers: (A)
865 An examination fee of ten dollars for each examination taken, except
866 when a testing service is used, the testing service shall pay a fee of ten
867 dollars to the commissioner for each examination taken by an
868 applicant; and (B) a fee of five hundred dollars for each license issued
869 or renewed; (18) with respect to fraternal agents, a fee of forty dollars
870 for each license issued or renewed; (19) a fee of thirteen dollars for
871 each license certificate requested, whether or not a license has been
872 issued; (20) with respect to domestic and foreign benefit societies shall
873 pay: (A) For service of process, twenty-five dollars for each person or
874 insurer to be served; (B) for filing a certified copy of its charter or
875 articles of association, five dollars; (C) for filing the annual report, ten
876 dollars; and (D) for filing any additional paper required by law, three
877 dollars; (21) with respect to foreign benefit societies: (A) For each
878 certificate of organization or compliance, four dollars; (B) for each
879 certified copy of permit, two dollars; and (C) for each copy of a report
880 or certificate of condition of a society to be filed in any other state, four
881 dollars; (22) with respect to reinsurance intermediaries: A fee of five
882 hundred dollars for each license issued or renewed; (23) with respect
883 to viatical settlement providers: (A) A filing fee of thirteen dollars for

884 each initial application for a license made pursuant to section 38a-465a;
885 and (B) a fee of twenty dollars for each license issued or renewed; (24)
886 with respect to viatical settlement brokers: (A) A filing fee of thirteen
887 dollars for each initial application for a license made pursuant to
888 section 38a-465a; and (B) a fee of twenty dollars for each license issued
889 or renewed; (25) with respect to viatical settlement investment agents:
890 (A) A filing fee of thirteen dollars for each initial application for a
891 license made pursuant to section 38a-465a; and (B) a fee of twenty
892 dollars for each license issued or renewed; (26) with respect to
893 preferred provider networks, a fee of two thousand five hundred
894 dollars for each license issued or renewed; (27) with respect to rental
895 companies, as defined in section 38a-799, a fee of forty dollars for each
896 permit issued or renewed; (28) with respect to medical discount plan
897 organizations licensed under section 38a-479rr, a fee of five hundred
898 dollars for each license issued or renewed; (29) with respect to captive
899 insurance companies, as defined in section 501 of this act, a fee of three
900 hundred dollars for each license issued or renewed; and [(29)] (30)
901 with respect to each duplicate license issued a fee of twenty-five
902 dollars for each license issued.

903 Sec. 519. Section 38a-254 of the general statutes is repealed and the
904 following is substituted in lieu thereof (*Effective January 1, 2009*):

905 All premiums paid for coverages within this state to a risk retention
906 [groups and insurers] group or insurer, other than a captive insurance
907 company, as defined in section 501 of this act, or a licensed or eligible
908 surplus lines [insurers] insurer, shall be subject to taxation as provided
909 in section 38a-277."