



STATE OF CONNECTICUT

INSURANCE DEPARTMENT

Testimony

Insurance and Real Estate Committee

March 12, 2013

Senate Bill No. 1093 (Raised) An Act Concerning Revisions To The Insurance Statutes.

Senator Crisco, Representative Megna, and members of the Insurance and Real Estate Committee, the Insurance Department thanks the Committee for raising, S.B. 1093 An Act Concerning Revisions To The Insurance Statutes, at the Department's request and appreciate the opportunity to provide testimony. This bill makes a number of improvements to the Department's existing Captives statutes in order to maintain Connecticut's status as a burgeoning captives market. Additionally, this bill proposes a number of meaningful consumer orientated improvements to our statutes.

There is a strong linkage between Connecticut's captive insurance industry and the economic health of the state. Captive insurance companies function as an important alternative to the traditional insurance market in the domicile. They often fill a risk financing need that the commercial insurance market is unable or unwilling to provide. Without risk financing, certain businesses are unable to function effectively and adverse economic consequences may evolve. Maintaining Connecticut as a viable captive insurance domicile adds significant value and a competitive advantage to this state as the Insurance Capital of the Nation, facilitating economic development in the financial services arena, as well as providing the implementation of risk solutions that enhance the competitive position of Connecticut-based industries and companies.

With the Insurance Committee's leadership, Connecticut made a commitment to an important and growing business segment. The Committee's enabling legislation was the starting point to make Connecticut a domicile of choice for captives; now it is time to move to the next phase and demonstrate responsiveness and leadership.

The needs of businesses utilizing captives and the programs they designed continue to evolve. Statutes need to be reviewed and updated to keep pace with these changes and to facilitate sound business transactions. Regulatory oversight needs to reflect knowledge of the industry and allow for the flexibility needed to oversee this ever evolving industry. The selection process for a captive domicile, by prospective owners, is almost always facilitated by an external third party (consultant). When alternative domiciles are evaluated there are a number of key criteria considers. Those considerations include; a legislative commitment to fostering captive growth as demonstrated by a willingness to make appropriate modifications to the statutory and regulatory framework; maintaining low premium tax rates and reasonable capitalization requirements; finally a sophisticated and responsive insurance department regulation.

The Captive Insurance Company Proposed Statutory Amendments (§4 -§9), Include:

- §38a-91bb Personal Lines Limitation

- The intent of the statutes appears to be to prohibit the proviso of personal lines insurance by captive insurance companies. Most corporate owned captive insurance programs desire to include the private passenger automobiles that are an integral part of their corporate motor fleets.
- **§38a-91ff, §38a-91oo and §38a-58a Transfer of Domicile**
 - Many corporate entities have established captive insurance subsidiary companies in other domiciliary jurisdictions. It is the intent of the Connecticut captive insurance statutes to encourage the transfer of domicile or “re-domestication” of these entities when they meet Connecticut regulatory standards.
 - There are key advantages to corporate captive insurance owners for having their insurance subsidiary domiciled in Connecticut, such as enhanced management and control, operational cost savings in captive insurance company management, and the ability to offer additional insurance programs, such as employee benefits, to their employees.
 - A captive insurance company domiciled in the State of Connecticut pays licensing fees and premium taxes to the State of Connecticut, as well as potentially stimulating the creation of additional financial service employment, related to the management and financial services for the captive insurance entity.
 - The proposed legislative changes would extend the same flexibility that the General Insurance statutes offers to traditional insurance companies, when relocating (re-domestication) to Connecticut, and provides the potential for tax revenue and economic growth opportunities for the State of Connecticut.
- **§38a-91kk Credit for Reinsurance**
 - Provides commissioner discretion in approving “credit for reinsurance”, should a transaction meet regulatory review, but not NAIC qualifications.
- **§38a-91oo Captive Exemptions from Other Insurance Laws**
 - This set of amendments is intended to clarify the intent of application of the components of the Insurance Holding Company Statutes (updated in 2012).
 - As adopted, the requirements of the Insurance Holding Company Act in Connecticut currently applies to ALL domestic insurance companies, including all domestic captive insurers. Some of these requirements, while valuable in the financial oversight of traditional insurers, such as in mergers, acquisitions, and material transactions generally provide little to no value for certain types of captive insurance companies, especially pure captives owned by large Fortune 500 corporations.
 - NAIC Accreditation mandates that the Insurance Holding Company Statutes apply to all Risk Retention Groups (RRG), many of which are formed as captive insurance entities. This proviso and application would be retained.
 - Most captive domiciles have exempted captive insurance entities, other than RRG’s from compliance. (e.g. Vermont)
 - The proposed language of this revision exempts captive insurance companies (non-RRGs) in Connecticut from the burdens of compliance, but retains the Commissioner’s discretionary authority to apply the Insurance Holding Company Act requirements, if appropriate.
 - Demonstrates strong commitment to corporate governance, yet provides appropriate regulatory flexibility.

- **§38a-91ff Limitation on Branch Captives**
 - The Connecticut captive insurance statutes limit the formation of a “branch” captive insurance company to the sole purpose of providing employee benefits insurance and programs.
 - It appears that there is a significant opportunity to permitting the expanded use of branch captive insurance companies to other areas of risk.
 - By doing so, Connecticut will be able to attract new branch captive entities from other domiciles – U.S. or non-U.S. to provide risk and insurance programs in the State, and potentially, on a national basis.
 - While it would be most beneficial to have the entire captive insurance entity re-domicile of all of operations to this State, this may not be possible.
 - A branch captive would however, pay licensing fees, and applicable premium taxes, and potentially require professional financial support services.

The remaining sections of this bill also contain a number of non-captive industry related enhancements designed to protect consumers in the following ways:

- (1) This bill, if enacted, would amend section 38a-436 to require life insurers to retain proof of the date and manner of the policy to their individual policyholders, for 7 years. The Department has had complaints from consumers (a) about not receiving the policy at all, sometimes years later, and (b) complaints about the exact day of delivery which starts the running of the 10 day free look period under the existing language of section 38a-436 .We want to ensure that life insurers maintain adequate proof in these areas.
- (2) This bill would also amend section 38a-702k concerning disciplinary actions involving producers and give the Commissioner the authority to order the producer to make restitution in specified situations to the individual harmed by the producer’s fraudulent or other improper activity. The Department currently has the authority to assess fines, as the Committee knows, but wants the ability to order the producer to make restitution to the consumer (to reimburse the consumer for the amount of the consumer’s loss due to the producer’s fraudulent or other misconduct) in limited appropriate specified situations.
- (3) Furthermore, we are seeking to clarify the rules for payment of interest on health claims which are not paid on a timely basis. Section 38a-816(15) is clear on the rules for medical providers to follow and section 38a-477 referenced also provides clear requirements for medical providers. But we believe the rules are less clear where the claimant is submitting the claim, for instance, on short and long term disability claims, and where the medical provider forms specified in section 38a-477 do not apply. We want to ensure that claimants get the full benefit of interest on late payments, on the same basis as medical providers.
- (4) Lastly, the Department recommends a new statute prohibiting the use of discretionary clauses in health insurance policies. These clauses have been misused in other states to improperly deny claims payment. We want to be proactive and prevent a problem from developing here.

The Department appreciates the opportunity to submit these comments today. We strongly urge passage of Senate Bill 1098. Thank you.

