



Senate

General Assembly

File No. 60

February Session, 2014

Substitute Senate Bill No. 188

Senate, March 19, 2014

The Committee on Insurance and Real Estate reported through SEN. CRISCO of the 17th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

AN ACT CONCERNING CAPTIVE INSURANCE COMPANIES.

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

1 Section 1. Subdivision (5) of subsection (a) of section 38a-91bb of the
2 general statutes is repealed and the following is substituted in lieu
3 thereof (*Effective October 1, 2014*):

4 (5) No captive insurance company may provide personal risk
5 insurance, as defined in section 38a-663, for private passenger motor
6 vehicle or homeowners insurance coverage or any component thereof;

7 Sec. 2. Subsection (e) of section 38a-91ff of the general statutes is
8 repealed and the following is substituted in lieu thereof (*Effective*
9 *October 1, 2014*):

10 (e) [A branch captive insurance company may be established in this
11 state to write in this state only insurance or reinsurance of the
12 employee benefit business of its parent and affiliated companies that is
13 subject to the Employee Retirement Income Security Act of 1974, as

14 amended from time to time.] No branch captive insurance company
15 shall do any insurance business in this state unless it maintains [the] a
16 principal place of business for its branch operations in this state.

17 Sec. 3. Subsection (n) of section 38a-91ff of the general statutes is
18 repealed and the following is substituted in lieu thereof (*Effective*
19 *October 1, 2014*):

20 (n) The provisions of this chapter pertaining to mergers,
21 consolidations, [and] conversions and transfers of domicile shall apply
22 in determining the procedures to be followed by captive insurance
23 companies in carrying out any of the transactions described in this
24 chapter.

25 Sec. 4. Section 38a-91ff of the general statutes is amended by adding
26 subsection (o) as follows (*Effective October 1, 2014*):

27 (NEW) (o) Any pure captive insurance company, association captive
28 insurance company, industrial insured captive insurance company,
29 risk retention group, sponsored captive insurance company or special
30 purposes financial captive insurance company that is organized
31 pursuant to the laws of another state may become a domestic captive
32 insurance company of the same type by complying with the
33 requirements of sections 38a-91bb to 38a-91tt, inclusive, as amended by
34 this act, relating to the organization and licensing of such type of
35 company and designating its principal place of business at a location in
36 this state.

37 Sec. 5. Subsection (b) of section 38a-91kk of the general statutes is
38 repealed and the following is substituted in lieu thereof (*Effective*
39 *October 1, 2014*):

40 (b) A captive insurance company may only take credit for the
41 reinsurance of [risks or portions of risks] a risk or portion of risk ceded
42 to reinsurers that [complies] comply with the provisions of [section
43 38a-85 or 38a-86] sections 38a-85 to 38a-88, inclusive, unless the
44 commissioner has given prior written approval allowing the captive

45 insurance company to take credit for the reinsurance of a risk or
46 portion of risk ceded to reinsurers that do not comply with the
47 provisions of said sections.

48 Sec. 6. Section 38a-910o of the general statutes is repealed and the
49 following is substituted in lieu thereof (*Effective October 1, 2014*):

50 (a) Unless otherwise provided in sections 38a-91aa to 38a-91tt,
51 inclusive, no provision of this title shall apply to captive insurance
52 companies, unless expressly included therein, except for the following:
53 (1) Sections 38a-8, 38a-16, 38a-17, 38a-54 to [38a-57, inclusive,] 38a-59,
54 inclusive, 38a-69a, [38a-129 to 38a-140, inclusive,] 38a-102h and 38a-250
55 to 38a-266, inclusive, and chapter 704c; and (2) [section] subsection (d)
56 of section 38a-72 and sections 38a-73 and 38a-129 to 38a-140, inclusive,
57 as amended by this act, which shall apply only to captive insurance
58 companies formed as risk retention groups. [, as defined in section 38a-
59 91aa.]

60 (b) (1) The commissioner may require, with notice, any of the
61 following to comply with the provisions of sections 38a-129 to 38a-140,
62 inclusive, as amended by this act:

63 (A) A pure captive insurance company, when (i) the assets of a
64 subsidiary of such company are greater than ten per cent of the assets
65 of the ultimate parent company, or (ii) the pure captive insurance
66 company is owned by an insurance holding company system, as
67 defined in section 38a-129, as amended by this act; or

68 (B) An industrial insured captive insurance company or an
69 association captive insurance company, when (i) any individual
70 member's ownership of such company is greater than ten per cent, or
71 (ii) such company is owned by an insurance holding company system,
72 as defined in section 38a-129, as amended by this act.

73 (2) The commissioner may remove the compliance requirement
74 imposed on a company pursuant to subdivision (1) of this subsection if
75 such company demonstrates to the commissioner that the condition

76 that triggered the imposition of the compliance requirement no longer
77 exists and that no other triggering condition is present.

78 Sec. 7. Section 38a-129 of the general statutes is amended by adding
79 subsection (c) as follows (*Effective October 1, 2014*):

80 (NEW) (c) The provisions of sections 38a-129 to 38a-140, inclusive,
81 shall apply to captive insurance companies, as defined in section 38a-
82 91aa, as specified in section 38a-91oo, as amended by this act.

83 Sec. 8. Section 38a-91 of the general statutes is repealed and the
84 following is substituted in lieu thereof (*Effective October 1, 2014*):

85 As used in sections 38a-91 to 38a-91d, inclusive:

86 (1) "Accredited state" means a state in which the insurance
87 department or regulatory agency has qualified as meeting the
88 minimum financial regulatory standards promulgated and established
89 from time to time by the National Association of Insurance
90 Commissioners.

91 (2) "Captive insurer" means an insurance company owned by
92 another organization whose exclusive purpose is to insure risks of the
93 parent organization and affiliated companies or, in the case of groups
94 and associations, an insurance organization owned by the insureds
95 whose exclusive purpose is to insure risks of member organizations
96 and group members and their affiliates.

97 (3) "Control" or "controlled" has the meaning assigned in section
98 38a-129.

99 (4) "Controlled insurer" means a licensed insurer which is
100 controlled, directly or indirectly, by a producer.

101 (5) "Controlling producer" means a producer who, directly or
102 indirectly, controls an insurer.

103 (6) "Licensed insurer" or "insurer" means any person, firm,
104 association or corporation duly licensed pursuant to section 38a-41 to

105 transact a property casualty insurance business in this state. The terms
 106 "licensed insurer" or "insurer" [shall] does not include any captive
 107 insurer except for a risk retention group, as defined in section 38a-
 108 91aa.

109 (7) "Producer" shall have the same meaning as "insurance producer",
 110 as defined in section 38a-702a.

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2014	38a-91bb(a)(5)
Sec. 2	October 1, 2014	38a-91ff(e)
Sec. 3	October 1, 2014	38a-91ff(n)
Sec. 4	October 1, 2014	38a-91ff
Sec. 5	October 1, 2014	38a-91kk(b)
Sec. 6	October 1, 2014	38a-91oo
Sec. 7	October 1, 2014	38a-129
Sec. 8	October 1, 2014	38a-91

Statement of Legislative Commissioners:

In section 1, "personal" was inserted before "risk insurance" for accuracy and statutory consistency, and the new language in its entirety was moved to before "private passenger" for accuracy.

INS *Joint Favorable Subst.*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact: None

Municipal Impact: None

Explanation

The bill makes several changes to the statutes governing the establishment of captive insurance companies. There is no fiscal impact.

The Out Years

State Impact: None

Municipal Impact: None

OLR Bill Analysis**sSB 188*****AN ACT CONCERNING CAPTIVE INSURANCE COMPANIES.*****SUMMARY:**

This bill updates Connecticut's laws regarding captive insurance companies. A captive insurer is an insurance company or entity formed to insure or reinsure the risks of its owners. The law allows a captive to be licensed and domiciled in Connecticut to transact life insurance, annuity, health insurance, and commercial risk insurance business.

Among other things, the bill:

1. explicitly bars a captive from writing personal risk insurance for private passenger motor vehicle or homeowners' insurance,
2. expands the coverage a branch captive insurer may write,
3. establishes provisions for a captive to follow when relocating to Connecticut, and
4. extends various insurance statutes to captives, including those regarding the acquisition of controlling interest.

EFFECTIVE DATE: October 1, 2014

§ 1 – PERSONAL LINES LIMITATION

Under current law, no captive insurer may write private passenger motor vehicle or homeowners' insurance. The bill narrows this prohibition, stating that no captive may write personal risk insurance for private passenger motor vehicle or homeowners' insurance. Thus, it permits a captive to write commercial risk business, including commercial motor vehicle insurance.

§ 2 – BRANCH CAPTIVE

The bill expands the coverage branch captives may write by eliminating a provision that restricts them to writing only the employee benefits of their parent and affiliated companies.

Under current law, a branch captive cannot do insurance business in Connecticut unless it maintains its only principal place of business here. The bill instead requires that the branch captive maintain one of its principal places of business here.

By law, a branch captive is any alien captive the insurance commissioner licenses to transact business in Connecticut through a business unit with a principal place of business here. An alien captive is formed under the laws of another country.

§§ 3, 4, & 6 – TRANSFER OF DOMICILE

The bill allows captive insurers to transfer their domicile (home state) to Connecticut, as other insurers are permitted to do by applying existing laws concerning redomestication to captive insurers.

It specifically allows any pure captive insurer, association captive insurer, industrial-insured captive insurer, risk retention group, sponsored captive insurer, or special purposes financial captive insurer organized under the laws of another state to become a domestic captive insurer of the same type by complying with Connecticut law regarding the organization and licensing of the company and designating of its principal place of business in Connecticut.

§ 5 – CREDIT FOR REINSURANCE

By law, a captive may reinsure another insurer's risks, but only those risks the captive is authorized to insure directly. It can also take credit as an asset or deduction from liability for ceding risks to certain reinsurers. The bill allows the commissioner to approve, in writing, credit for reinsurance in other circumstances.

§§ 6-8 – APPLICABILITY OF INSURANCE STATUTES

The bill applies certain insurance statutes to captives. For example,

it allows a domestic captive to change its location within the state (CGS § 38a-58).

It requires a domestic captive to adopt policies and procedures to prevent directors, officers, employees, and other people from inappropriately benefiting from a conflict of interest arising from their position in, or special knowledge of, the company (CGS § 38a-102h).

It also requires a captive formed as a risk retention group and licensed here to have (1) its surplus funds bear a reasonable relationship to its liabilities and (2) risk-based capital related to its total adjusted capital that is adequate for the types of business transacted (CGS § 38a-72(d)).

Acquisition of Controlling Interest

The bill applies the laws regarding a proposed acquisition or other change of control to captives formed as risk retention groups (CGS §§ 38a-129 to 140 and 38a-91 to 91d)).

In addition, the bill authorizes the insurance commissioner to require, with notice, certain other captives to comply with CGS §§ 38a-129 to 140. Specifically, he may require a pure captive insurer to comply with these laws when (1) a subsidiary's assets are greater than 10% of the parent company's assets or (2) the pure captive insurer is owned by a holding company system. He may require an industrial-insured captive insurer or an association captive insurer to comply with them when (1) any member's ownership of the company is greater than 10% or (2) the insurer is owned by a holding company system.

Under the bill, the commissioner may remove this compliance requirement on a pure, industrial-insured, or association captive insurer if the company demonstrates to the commissioner that the condition that triggered the compliance requirement no longer exists and no other triggering condition exists.

COMMITTEE ACTION

Insurance and Real Estate Committee

Joint Favorable Substitute

Yea 19 Nay 0 (03/06/2014)