

## Captive Insurance Requirements and Statistics in Select States

By: Alex Reger, Legislative Analyst II  
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### Issue

Compare domestic captive insurer requirements and statistics in Arizona, Connecticut, District of Columbia (D.C.), South Carolina, and Vermont across seven specific measures. This report updates and expands [OLR Report 2004-R-0678](#).

### Summary

Generally, captive insurance companies (“captives”) are insurance companies wholly owned by their insureds. A “domestic” captive is a captive admitted by, and formed according to, the laws of the state in which it writes insurance.

There are several types of domestic captives, including pure captives, industrial captives, and risk retention groups. Each type generally has different capital and surplus requirements and may be authorized to provide different types of insurance.

### Measure 1: Number of Captives and Premium Volume

As of 2015, the most recent year for which we could find data on all states and D.C., Vermont had the most domestic captive insurers and the highest captive premium volume. Connecticut had the lowest number of domestic captives and the lowest captive premium volume (see Tables 1 & 2).

**Table 1: State Rank by Number of Domestic Captives, 2015**

| <b>Rank</b> | <b>State</b>   | <b>Captives</b> |
|-------------|----------------|-----------------|
| 1           | Vermont        | 499             |
| 2           | South Carolina | 138             |
| 3           | Arizona        | 99              |
| 4           | D.C.           | 91              |
| 5           | Connecticut    | 10*             |

Source: National Association of Insurance Commissioners (NAIC) [2015 Insurance Department Resources Report](#)

\*As of March 17, 2017, Connecticut has 14 captives, according to the Connecticut Insurance Department.

**Table 2: State Rank by Domestic Captive Premium Volume, 2015**

| <b>Rank</b> | <b>State</b>   | <b>Captives</b> | <b>Direct Written Premiums (DWP)</b> | <b>Reinsurance Assumed</b> | <b>Total Premiums</b>   |
|-------------|----------------|-----------------|--------------------------------------|----------------------------|-------------------------|
| 1           | Vermont        | 499             | \$7,196,055,016                      | \$18,377,633,463           | <b>\$25,573,688,479</b> |
| 2           | Arizona        | 99              | 735,676,819                          | 5,602,009,988              | <b>6,337,686,807</b>    |
| 3           | South Carolina | 138             | 925,189,648                          | 1,446,635,923              | <b>2,371,825,571</b>    |
| 4           | D.C.           | 91              | 248,428,280                          | 169,652,608                | <b>418,080,888</b>      |
| 5           | Connecticut    | 10              | 93,438,589                           | 2,919,354                  | <b>96,357,943*</b>      |

Source: NAIC [2015 Insurance Department Resources Report](#).

\* In 2016, Connecticut captives had \$277,961,994 in total direct and assumed premiums, according to the Connecticut Insurance Department.

## Measure 2: Capital and Surplus Requirements

States authorizing captives to form may require them to meet minimum capital and surplus requirements. Capital and surplus requirements ensure a captive has enough money on hand to safely insure its risks. In general, most states require capital and surplus to be “unimpaired and paid-in,” which generally consists of the paid-in balance of shares plus undivided earnings.

### *Pure Captives*

A pure captive, also called a single-parent captive, is generally owned by a single company and insures the risk of that company. For example, Connecticut law defines a “pure captive” as any company that insures risks of its parent and affiliated companies or controlled unaffiliated business ([CGS § 38a-91aa](#)).

Arizona, Connecticut, D.C. and Vermont require a minimum combined capital and surplus total of \$250,000 for pure captives. Only South Carolina requires less capital and surplus for pure captives.

All four states combine capital and surplus requirements, while D.C. separates the two and requires at least \$100,000 in capital and \$150,000 in surplus. D.C. also authorizes its insurance commissioner to require additional surplus.

**Table 3: Minimum Capital and Surplus Requirements for Pure Captives**

| <i>State</i>   | <i>Minimum Requirements</i>          | <i>Statutory Reference</i>                    |
|----------------|--------------------------------------|---|
| Arizona        | \$250,000                            | <a href="#">Ariz. Rev. Stat. § 20-1098.03</a> |
| Connecticut    | 250,000                              | <a href="#">CGS § 38a-91dd</a>                |
| D.C.           | Capital: 100,000<br>Surplus: 150,000 | <a href="#">D.C. Code § 31-3931.06</a>        |
| South Carolina | 100,000                              | <a href="#">S.C. Code Ann. § 38-90-40</a>     |
| Vermont        | 250,000                              | <a href="#">VT Stat. Ann. 8, § 6004</a>       |

### ***Industrial Insured Captives***

Broadly, industrial captives manage risks within an industry. However, each state defines “industrial captive” or “industry captive” differently.

Connecticut, South Carolina, and Vermont define an industrial insured captive as one that insures “industrial insureds,” which are insureds that (1) use a professional, full-time employee acting as an insurance manager or buyer to insure their risks, (2) pay at least \$25,000 in aggregate insurance premiums, and (3) have at least 25 full-time employees ([CGS § 38a-91aa](#); S.C. Code Ann. § 38-90-10; and VT Stat. Ann. 8, § 6001). Connecticut and Vermont require at least \$500,000 of capital and surplus. South Carolina requires a minimum of \$200,000 of capital and does not have a separate surplus requirement.

Arizona and D.C. do not use the term “industrial insured captive” and do not appear to have an equivalent statutory definition. (Arizona statutes define an “industry group captive” but it does not appear comparable to Connecticut’s definition of “industrial insured.”)

**Table 4: Minimum Capital and Surplus Requirements for Industrial Insured Captives**

| <i>State</i>   | <i>Minimum Requirements</i> | <i>Statutory Reference</i>                |
|----------------|-----------------------------|---|
| Connecticut    | \$500,000                   | <a href="#">CGS § 38a-91dd</a>            |
| South Carolina | 200,000                     | <a href="#">S.C. Code Ann. § 38-90-40</a> |
| Vermont        | 500,000                     | <a href="#">VT Stat. Ann. 8, § 6004</a>   |

## ***Risk Retention Groups (RRGs)***

A risk retention group is a corporation or other limited liability association formed to assume and distribute the risk exposure of its members. In practice, an RRG is formed as a captive. Generally, it must be owned by, and provide insurance only to, its members or an organization comprised solely of its members. Its members must share similar commercial risk, and the insurance it provides is generally limited to that shared risk. Under the federal Liability Risk Retention Act and with certain exceptions, an RRG is primarily regulated by its domiciled state, regardless of whether it also sells insurance in other states.

In Connecticut, an RRG is a captive insurer organized under Connecticut law pursuant to the Liability Risk Retention Act as a stock insurer or mutual corporation, a reciprocal insurer, or other limited liability entity (CGS § 38a-91aa). They are also subject to regulation under Chapter 698c of the general statutes.

D.C. has a minimum requirement of \$300,000 for RRGs incorporated as stock insurers, and \$500,000 for those incorporated as mutual or reciprocal insurers. Vermont includes RRGs in the definition of “association captive insurer.”

**Table 5: Minimum Capital and Surplus Requirements for Risk Retention Groups (RRGs)**

| <b><i>State</i></b> | <b><i>Minimum Requirements</i></b> | <b><i>Statutory Reference</i></b>             |
|---------------------|------------------------------------|---|
| Arizona             | \$500,000                          | <a href="#">Ariz. Rev. Stat. § 20-1098.03</a> |
| Connecticut         | 1,000,000                          | <a href="#">CGS § 38a-91dd</a>                |
| D.C.                | 300,000 - 500,000                  | <a href="#">D.C. Code § 31-3931.06</a>        |
| South Carolina      | 200,000                            | <a href="#">S.C. Code Ann. § 38-90-40</a>     |
| Vermont             | 1,000,000                          | <a href="#">VT Stat. Ann. 8, § 6004</a>       |

## **Measure 3: Lines of Authority**

Captives are generally authorized to offer specific lines of insurance. Below, we describe whether captives are allowed to provide workers’ compensation, employee benefits, property and casualty, and certain other types of insurance, excluding reinsurance.

### ***Arizona***

Arizona generally allows captives to provide life and disability insurance, but prohibits them from providing workers’ compensation or employee liability insurance except in connection with a self-insured program that meets certain requirements. Agency captives are prohibited from insuring life and disability risks. (State law defines an “agency captive insurer” as a captive that is owned by

licensed insurance producers or managing agents and that only insures risks placed through its owners.)

Arizona also explicitly prohibits captives from insuring certain types of insurance businesses, including:

1. hospital service corporations, medical service corporations, dental service corporations, optometric service corporations or hospital, medical, dental, and optometric service corporations;
2. health care services organizations;
3. prepaid dental plan organizations;
4. prepaid legal insurance contracts;
5. business of title insurance;
6. personal motor vehicle or homeowner's insurance coverage; and
7. mortgage guaranty insurance ([Ariz. Rev. Stat. § 20-1098.01](#)).

### ***Connecticut***

State law allows captives to insure against any type of loss, including offering life, health, commercial risk, and annuities policies ([CGS § 38a-91bb](#)). However, captives are prohibited from providing personal risk insurance.

A captive is generally allowed to provide excess workers' compensation insurance to its parent and affiliated companies ([CGS § 38a-91bb](#)).

### ***District of Columbia***

D.C. law allows captive insurers to transact any insurance or annuity business but prohibits them from directly providing personal motor vehicle or homeowner's insurance coverage.

A captive may provide excess workers' compensation to its parent and affiliated companies if it is not prohibited by the laws of the state in which the insurance is transacted. Captives may only write insurance for employee benefit plans subject to the federal Employee Retirement Income Security Act for its parent and affiliated companies.

D.C. law also allows the insurance commissioner to authorize a captive to write any lines a captive may write in any other jurisdiction ([D.C. Code § 31-3931.02](#)).

## ***South Carolina***

Captives may provide any insurance except (1) workers' compensation insurance written on a direct basis and (2) personal motor vehicle or homeowner's insurance written on a direct basis ([S.C. Code Ann. § 38-90-20](#)).

## ***Vermont***

Captives may write life, health, casualty (including vehicle and liability), burglary and theft, personal property, and certain other insurance. They are prohibited from providing personal motor vehicle or homeowner's insurance coverage.

A captive may generally provide excess workers' compensation insurance to its parent and affiliated companies and may reinsure workers' compensation of a qualified self-insured plan of its parent and affiliated companies ([VT Stat. Ann 8, § 6002](#)).

## **Measure 4: Annual Board Meetings**

All four states and D.C. require domestic captives to hold annual board meetings in the state or district.

## **Measure 5: Changing Business Plans**

States generally require insurers, including captive insurers, to file a business plan or plan of operation with the state's lead regulator (e.g., insurance commissioner). In all the jurisdictions we researched, including D.C., the filed information must include a description of rates, deductibles, and coverages. Generally, material changes to these descriptions require the state's lead regulator's prior approval.

We also conducted a Westlaw search of each jurisdiction's statutes for "plan of operation" and "business plan." Some of them include additional requirements specific to certain captive types, notably captives operating as special purpose financial companies.

## ***Arizona***

Arizona requires a captive insurer to receive the insurance director's prior written approval before making any material change to its plan of operations ([Ariz. Rev. Stat. § 20-1098.22](#)).

## ***Connecticut***

Connecticut requires any captive to receive the insurance commissioner's prior approval for any material change in coverages, deductibles, coverage limits, rates, and any other information the commissioner requires. Captives are prohibited from offering any additional types of insurance until they submit the revision to the commissioner and she approves it (CGS § 38a-91bb(c)(B)). Special purpose financial captives must also submit any change in their plan of operation to the commissioner for approval ([CGS § 38a-91ss\(b\)](#)).

## ***District of Columbia***

A captive insurer intending to make any material or substantive changes to its strategic business plan must file a copy of the amended plan with the insurance commissioner for prior written approval ([D.C. Code § 31-3931.09\(f\)](#)). In general, material changes to a special purpose financial captive also require the commissioner's prior approval ([D.C. Code § 31-3932.04\(g\)](#)).

## ***South Carolina***

Reciprocal captives must submit for approval any material changes in coverages, deductibles, coverage limits, rates, and any other information required by the insurance director. They are prohibited from offering any additional kinds of insurance until the revision is approved (S.C. Code Ann. § 38-90-20(c)). (State law does not define "reciprocal insurer," but it is generally a captive insurance company in which members pool funds to insure risks.)

A material change to a special purpose financial captive's plan of operation requires the insurance director's prior approval ([S.C. Code Ann. § 38-90-550\(a\)](#)).

## ***Vermont***

Vermont requires any captive to receive the insurance commissioner's prior approval for any material change in coverages, deductibles, coverage limits, rates, and any other information the commissioner requires. Captives are prohibited from offering any additional types of insurance until the revision is submitted to, and approved by, the commissioner ([VT. Stat. Ann. 8, § 6002\(c\)](#)).

Any change in a special purpose financial insurance company's plan of operation requires the commissioner's prior approval ([VT Stat. Ann. 8, § 6048e](#)).

## Measure 6: Full-Time Resident on the Board

All four states require domestic captives to have a full-time resident appointed to the captive’s board. D.C. does not have such a requirement but requires captives to appoint an agent in the district for service of process ([D.C. Code § 31-3931.11\(c\)](#)).

## Measure 7: Captive Regulation Staff and Budgets

We contacted the insurance departments of the four states and D.C. to determine the personnel, budget, and support received for their captive divisions.

Some of the departments do not have a separate budget or staff specific to working with captives, or include other divisions within the captive unit (e.g., legal divisions). As a result of these differences, it is not clear the extent to which divisional budgets are comparable.

**Table 6: Captive Division Staff, Budgets, and Support**

| <i>State</i>   | <i>Number of Staff Devoted to Captive Approval and Regulation</i>   | <i>Captive Division Budget (in millions)</i>        | <i>Amount Provided to Captive Departments by other State Agencies</i>   |
|----------------|---|---|---|
| Arizona        | 2.7 (This equals two full-time staff and budgeted time for three other staff. Five or six additional staff members, whose time is not budgeted towards captives, also help) | \$ .287200  | None  |
| Connecticut    | 2 (Two certified financial examiners, who cover both captives and RRGs)   | Included in the overall Insurance Department budget | Approximately \$3,000 in grant money from the Department of Economic and Community Development to promote the Connecticut captive industry.       |
| D.C.           | 9   | 2.40  | None  |
| South Carolina | 13  | 1.2   | None  |
| Vermont        | 34  | 4.561   | Approximately \$300,000, but this excludes a larger amount the department pays to other departments, including payments for economic development. |

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