AN ACT AUTHORIZING FOREIGN BRANCH CAPTIVE INSURANCE COMPANIES.

SUMMARY

Existing law allows several different types of captive insurance companies to be licensed and operate in Connecticut, including pure captives, sponsored captives, and risk retention groups. This bill creates a new type of captive insurer, called a foreign branch captive, which is (1) not based in the United States, (2) licensed to operate a branch or business unit in Connecticut, and (3) not otherwise licensed to conduct business in Connecticut by the insurance commissioner.

This definition of foreign branch captive appears to exclude foreign insurers (i.e., out-of-state insurers), and includes alien insurers (i.e., out-of-country insurers). Existing law already creates a regulatory framework for alien insurers. It is unclear under the bill which provisions would apply to alien captives (see COMMENT).

Generally, a captive insurer is an insurance company formed to insure or reinsure the risks of its owners or parent or affiliated company.

The bill (1) establishes new licensing, minimum reserve and security, reporting, examination, and premium tax requirements for foreign branch captives, and (2) subjects them to existing laws governing captives (see BACKGROUND).

Under the bill, a foreign branch captive must operate through a business unit that maintains a principal place of business in Connecticut.

The bill also makes technical and conforming changes.
LICENSING

Out-of-State Examinations

By law, the commissioner may license captive insurers that provide information to the commissioner documenting their compliance with state law. However, the bill specifically prohibits the commissioner from licensing a foreign branch captive unless it or its associated alien captive insurer grant him the authority to examine its affairs in the jurisdiction it was formed, operates, or maintains books and records.

Minimum Security

Under the bill, the commissioner may not license a foreign branch captive or allow it to keep its license unless it maintains as security for its liabilities at least $250,000, in addition to reserves on its insurance or reinsurance policies that it issues or assumes through its foreign branch operations. These reserves must include reserves for losses, allocated loss adjustment expenses, incurred but not reported losses, and unearned premiums.

The commissioner may allow a credit against the reserves for any assets (1) the company holds in trust for, or otherwise segregated or controlled by, a ceding insurer that secure the company’s reinsurance obligations to the ceding insurer or (2) a reinsurer holds in trust for, or is otherwise controlled by, the company and secure the reinsurer’s obligations to it.

Under the bill, the security and reserves may be held, with the commissioner’s prior approval, in any combination of (1) a trust formed under a trust agreement and funded by assets the commissioner finds acceptable, or (2) an irrevocable letter of credit issued or confirmed by a bank approved by the commissioner.

The commissioner may exempt a foreign branch captive from these requirements if, in his discretion, he determines the company is financially stable.

REPORTING
Under the bill, a foreign branch captive that is required to submit reports or statements in its domiciled jurisdiction must also submit them to the insurance commissioner. Specifically, it must submit all reports and statements required to be filed in the jurisdiction of the foreign branch captive or the alien captive insurer. The bill requires reports and statements to be verified by the oath of two of the foreign branch captive insurer’s executive officers and submitted on the same day they are filed with the domiciliary jurisdiction.

If the commissioner is not satisfied that an annual report filed by the foreign branch or alien captive in its domiciliary jurisdiction and submitted to the commissioner provides adequate financial information, he may require the foreign branch captive to submit an additional report. It must be in a form and manner he prescribes and contain information on the foreign branch’s financial condition that he finds adequate.

**EXAMINATIONS**

By law, the commissioner must visit and examine each captive insurer at least once every three years. Under the bill, for a foreign branch captive insurer this examination is of the branch operations only, as long as the company (1) annually provides the commissioner with a certificate of compliance or its equivalent issued by, or filed with, another domicile and (2) demonstrates to the commissioner’s satisfaction that the foreign branch captive is operating in sound financial condition and in accordance with all applicable laws and regulations of the domiciliary jurisdiction.

**PREMIUM TAX**

Existing law, unchanged by the bill, establishes the formula by which a captive insurance company’s direct premium receipts tax and assumed reinsurance premium receipts tax are calculated. Existing law also establishes the minimum and maximum aggregate amount of these taxes that must be paid annually. For foreign branch captive insurers, the annual aggregate tax applies only to the foreign branch business of the captive transacted in Connecticut.
BACKGROUND

Captive Insurers

By law, captive insurers are subject to the commissioner’s authority, who may suspend, revoke, or refuse to renew a license and impose a fine up to $10,000 for violating the captive insurer laws (CGS § 38a-91ii). Generally, the laws specify the licensing process, including fees; limitations on the types of policies they can issue; deceptive naming practices; dividend payment restrictions; and governing structures, among other things (CGS § 38a-91aa et seq.).

COMMENT

The bill defines “foreign branch captives” (generally out-of-state companies) as alien insurers (generally, out-of-country companies). As a result, the bill’s definition for foreign branch captives appears to exclude the types of companies generally considered to be foreign branch captives. Additionally, existing law defines branch captives as alien captive insurance companies (CGS § 38a-91aa(7)) and establishes requirements for them. It is unclear whether the existing requirements or those under the bill would apply.

COMMITTEE ACTION

Insurance and Real Estate Committee

Joint Favorable
Yea 20  Nay 0  (03/14/2019)