OLR Bill Analysis
SB 1133

AN ACT CONCERNING FOREIGN BRANCH CAPTIVE INSURANCE COMPANIES.

SUMMARY

This bill allows foreign captive insurers to open and operate branches in Connecticut. In doing so, it requires branches of foreign captive insurers to meet the same requirements existing law imposes on branches of alien captive insurers, including the same capital and surplus, annual reporting, premium tax, examination, and incorporation requirements. Generally, a captive insurer is an insurance company formed to insure or reinsure the risks of its parent or affiliated company. A foreign captive is licensed in another state; an alien captive is licensed in another country. Existing law already allows several different types of captives to be licensed and operate in Connecticut, including pure captives, sponsored captives, and risk retention groups.

As with branches of alien captive insurers under existing law, the bill prohibits the insurance commissioner from licensing the Connecticut branch of a foreign captive insurer unless the captive insurer grants him the authority to examine its affairs in its home jurisdiction (§ 4).

The bill also establishes an amnesty program for Connecticut insureds that have not paid the independently procured insurance premium tax. To be eligible, insureds must establish a foreign or alien branch captive in, or redomicile (i.e., transfer) a foreign or alien captive to, Connecticut by July 1, 2020.

Finally, the bill (1) explicitly allows foreign and alien captive insurers to redomicile to Connecticut following procedures set in existing law for foreign insurers and (2) makes conforming changes (§
EFFECTIVE DATE: July 1, 2019

§§ 1, 5 & 6 — FOREIGN BRANCH CAPTIVES

Under the bill, a “foreign captive insurance company” is a captive insurer licensed in a state other than Connecticut that imposes statutory or regulatory standards the insurance commissioner deems acceptable. The bill also adds foreign captive insurers to the current definition of “branch captive insurance company,” thus allowing a foreign captive to open a Connecticut branch. Under the bill, a branch captive includes a foreign captive insurer licensed to transact business in Connecticut through a business unit with a principal place of business in the state. This requires foreign captives to meet the same requirements that existing law requires of alien captives as described below.

Capital and Surplus

By law, captive insurers must maintain certain levels of capital and surplus as security against liabilities. The bill requires foreign branch captive insurers to maintain at least $250,000 and reserves (e.g., for losses), the same amount required of alien branch captive insurers under existing law (CGS § 38a-91dd).

Annual Reporting

By law, alien branch captive insurers must submit to the commissioner, annually by March 1, a copy of all reports and statements that the alien captive insurer is required to submit in its domiciled jurisdiction. The bill also requires foreign branch captive insurers to report this information as it applies to the foreign captive insurer (§ 6). The bill also allows a foreign branch captive to apply to the commissioner to file annual reports at the end of its fiscal year. Under existing law, alien branch captive insurers may already do this.

Premium Tax

By law, the captive insurers must pay an annual tax on direct premiums and reinsurance premiums collected or contracted, with the
tax rate varying based on the amount of premiums (CGS § 38a-91nn). With some exceptions, the minimum aggregate tax is $7,500, and the maximum aggregate tax is $200,000. Under the bill, a foreign branch captive is subject to the tax as it applies to the branch’s business.

**Examinations**

The bill restricts a commissioner’s examination of a foreign branch captive insurer to the branch’s business and operations as long as the captive insurer annually provides a certificate of compliance (or its equivalent) issued by, or filed with, the licensing authority where it was formed. The certificate must demonstrate that the captive insurer is operating in sound financial condition and according to all applicable laws and regulations.

**Incorporation**

The bill requires foreign branch captives to maintain a principal place of business in Connecticut. Additionally, before conducting business in Connecticut, the foreign captive insurer must petition the commissioner, after he considers the insurer’s character, reputation, financial responsibility, and insurance experience, among other things, for a certificate stating that the branch will promote the general good of the state (§ 5).

§ 2 — TAX AMNESTY PROGRAM

By law, insureds that independently procure insurance (i.e., buy insurance directly from a nonadmitted insurer without using a broker) must pay a 4% tax on the gross premiums. The tax applies to insured’s whose “home state” is Connecticut (CGS § 38a-277). (An insured's “home state” is the state (1) where an insured maintains its principal place of business or (2) if the risks are located entirely out-of-state or in the case of an affiliated group covered by a single contract, the state to which the largest percentage of premium is allocated.)

The bill establishes a tax amnesty program for any insured that is liable for the tax (i.e., procures, renews, or continues independently procured insurance and has a home state of Connecticut) for all tax periods ending before July 1, 2019, but who has not paid it within the
statutory timeframe (generally quarterly).

To qualify, insureds must (1) establish a foreign or alien branch captive in, or redomicile a foreign or alien captive to, Connecticut by July 1, 2020, and (2) pay all independently procured insurance premium taxes due on or after July 1, 2019.

Under the bill, the revenue services commissioner must waive payment of all applicable taxes, interest, and penalties once the captive is established or transferred.

§ 3 — REDOMICILE IN CONNECTICUT

By law, a foreign insurer may become a domestic insurer (i.e., an insurer domiciled in Connecticut) by complying with all existing organization and licensing requirements, designating a principal place of business within the state, and providing any documents the insurance commissioner reasonably requires. Once the commissioner is satisfied the insurer will be in compliance with state law and the change is consistent with prospective insureds’ and public interest, he may issue a new license reflecting the domicile change. The bill allows alien captive insurers and foreign captive insurers to become domestic captive insurers following the same procedures.

BACKGROUND

Related Bill

SB 908 (File 373), favorably reported by the Insurance and Real Estate Committee, also establishes and licenses foreign branch captive insurers.

COMMITTEE ACTION

Finance, Revenue and Bonding Committee

Joint Favorable

Yea 50  Nay 0  (05/01/2019)