

Insurance and Real Estate Committee

SENATE FAVORABLE REPORT

Bill No.: SB-339

AN ACT CONCERNING THE INSURANCE DEPARTMENT'S

Title: RECOMMENDATIONS REGARDING CAPTIVE INSURANCE COMPANIES.

Vote Date: 3/10/2020

Vote Action: Joint Favorable

PH Date: 3/10/2020

File No.:

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SPONSORS OF BILL:

Insurance and Real Estate Committee

REASONS FOR BILL:

This bill will (1) Amend certain captive insurance company definitions; (2) provide tax amnesty to an insured that establishes a branch captive insurance company in, or transfers domicile of its alien captive insurance company or foreign captive insurance company to, this state; (3) modify licensing requirements; (4) authorize the Insurance Commissioner to license foreign captive insurance companies, and issue unlicensed captive insurance companies a conditional certificate of authority; (5) reduce capitalization requirements for pure captive and branch captive insurance companies; (6) authorize the commissioner to exempt foreign branch captive insurance companies from minimum capitalization requirements; (7) authorize foreign captive insurance companies to register to do business in this state; and (8) authorize the commissioner to waive the requirement that (A) alien captive insurance companies and foreign captive insurance companies file an annual report concerning their financial condition; and (B) the commissioner periodically examine the financial condition of pure captive insurance companies.

RESPONSE FROM ADMINISTRATION/AGENCY:

State of Ct Department of Insurance feels there are currently only seventeen captive insurance companies domiciled in Connecticut and many others are either domiciled in other states or abroad. This bill seeks to make Connecticut more attractive to companies contemplating the formation of a captive insurer to allow for greater economic growth and development within the captive industry. Under this bill, the significant changes to Connecticut's captive insurance laws, will include the use of foreign branch captives to allow multi-state organizations to better manage their risks in Connecticut. The bill will also make

capital standards more reasonable with the intent of businesses to expand the use of branch captives to their risk-based approach. This bill amends definitions and makes technical changes to remove barriers to establish a branch captive in the state and streamline the licensing process. This bill also permits three year look-back for insureds that establish a branch captive insurance company or transfer the domicile of its alien captive insurance company or foreign captive insurance company to Connecticut. All penalties on outstanding liabilities for Connecticut insureds that have not paid the independently procured insurance premium tax would be waived - however the premium tax and interest would be collected. Additionally, this bill will give the Commissioner the authority to license foreign branch captive insurance companies, issue a conditional license to unlicensed captive insurance companies, and reduce the minimum capital requirement for companies while still providing the Commissioner with the discretion to review captive insurance company minimum capital and surplus on an individual risk basis if needed.

NATURE AND SOURCES OF SUPPORT:

Ryan Deming, Audit Senior Manager, Crowe LLP Board Member of CT Captive Insurance Association states this bill will help to modernize the captive insurance statutes in the State of Connecticut and keep Connecticut competitive in the captive insurance marketplace. In addition, I believe Senate Bill number 339 will provide the following benefits:

- Will increase captive formations and speed-to-market in Connecticut by reducing the need for unnecessary start-up cash on hand, reducing on-going administrative costs, and providing captive owners relief from the tax on premiums placed directly with unauthorized insurers.
- Will produce a positive economic benefit to Connecticut via increased captive formations and premium writings in the state. Which will bring revenue back to Connecticut from other states which collect premium taxes on current Connecticut-based companies' risks.
- Will serve to modernize the captive insurance statutes and will help to update and improve the regulatory framework to better reflect the changes in insurance, tax and accounting that have occurred since Connecticut adopted its captive insurance statute in 2011.

Stephen DeCenso, President, CT Captive Insurance Association testimony stated this legislation test is critically important for Connecticut to adopt because it is truly innovative in its approach. It has two primary objectives: 1) First - to transition the captive regulatory process into a more "risk-based" approach. The legislation seeks to reduce up-front capital requirements for single-parent pure/branch captives from \$250,000 to \$50,000, where the captive has the full backing of its parent; it also allows the commissioner more discretion in regulating these captives, including granting a conditional certificate of authority, and/or waiving the financial examination of such captive. It also amends the definition of "association captives" to make them more attractive to form in our state, and makes other technical changes. 2) Second – it will help bring back revenue to Connecticut from other states which collect premium taxes on these Connecticut-based companies' risks. Captive insurance companies that insure Connecticut risks in other domiciles leave the owners liable for both premium tax in the captive domicile and self procurement tax in Connecticut. Recent tax decisions have highlighted this issue, and this new law will provide a unique opportunity to insure risks efficiently in Connecticut through a Foreign Branch Captive, and therefore eliminate the company's potential self-procurement tax liability.

Dawn Ware, CEO of Ware Consulting LLC feels this bill is important for Connecticut to adopt because it will help to bring back revenue to Connecticut from other states that collect premium taxes on these Connecticut-based companies' risks. Captive insurance companies whose home state is Connecticut that insure their risks directly with captives in other domiciles leave the owners liable for both premium tax in the captive domicile and a tax in Connecticut on premiums placed directly with unauthorized insurers. Recent tax decisions in other states have highlighted this issue. This new law will provide an opportunity to easily open a branch of an existing captive located in another domicile and begin paying premium taxes to the State of Connecticut.

NATURE AND SOURCES OF OPPOSITION:

None Expressed

Reported by: Diane Kubeck

Date: March 27, 2020