PA 23-15—SB 1038
Insurance and Real Estate Committee
Finance, Revenue and Bonding Committee

AN ACT CONCERNING CAPTIVE INSURANCE COMPANIES

SUMMARY: Generally, a captive insurer is an insurance company formed to insure or reinsure the risks of its owners, parent company, or affiliated company. This act allows captive insurers to accept or transfer risk through parametric contracts (i.e., any agreement to make a payment based on a specified triggering event without proof of a loss or obligation to indemnify). It also expressly requires captive insurers that use these contracts to comply with applicable state and federal laws and regulations.

Existing law allows several different types of captive insurers to be licensed and operate in the state. One type, a sponsored captive insurer, is an insurance company (1) in which the minimum paid-in capital and surplus is provided by one or more sponsors, (2) that insures its participants through separate participant contracts, and (3) that funds its liability to each participant through protected cells and separates each cell's assets from that of other cells and the captive insurer as a whole. The act allows these protected cells to establish, with the insurance commissioner's prior written approval, separate accounts and allocate assets to them, subject to certain requirements.

Lastly, the act exempts dormant captive insurers from captive insurance premium taxes. Captive insurers must pay taxes on direct premiums and reinsurance premiums collected or contracted, with a varying rate based on the amount of premiums. The annual minimum aggregate tax under existing law is generally $7,500. By law, pure, sponsored, and industrial captive insurers that have stopped doing business and have no more liabilities may apply to the insurance commissioner for a certificate of dormancy, which allows them to meet lower capital and surplus requirements.

EFFECTIVE DATE: October 1, 2023

SEPARATE ACCOUNTS FOR A SPONSORED CAPTIVE INSURER'S PROTECTED CELL

Conditions for Establishing Separate Accounts

Under the act, with the commissioner's prior written approval, a sponsored captive insurer's protected cell can establish separate accounts and allocate assets to them to insure the risks of participants or their controlled unaffiliated business under the following conditions:

1. the income and gains and losses (realized or unrealized) from assets allocated to a separate account must be credited to or charged against the

account, without regard to the protected cell's other income, gains, or losses;
2. the protected cell owns the allocations to a separate account, and it cannot be (or hold itself out to be) a trustee of them;
3. assets allocated to a separate account must be valued based on the Connecticut laws and regulations otherwise applicable to the protected cell's assets unless otherwise approved by the insurance commissioner; and
4. the portion of assets in any protected cell equal to the reserves and other contract liabilities of a particular account cannot be charged against liabilities from any of the protected cell's other business (pursuant to applicable contracts).

Sale, Exchange, or Transfer of Assets Between Separate Accounts

The act prohibits selling, exchanging, or transferring assets between any of the protected cell's separate accounts or between any other investment account and the protected cell's separate accounts, unless the transfer is made (1) into a separate account to establish it or support the operation of its contracts and (2) whether into or from a separate account, in cash or by a transfer of securities that has a readily determinable market value and is approved by the commissioner.

The act allows the commissioner to approve other transfers if he determines they are equitable.

Governance

If needed to comply with state or federal law, the act permits a protected cell to allow people with interests in separate accounts (including an account that is a management investment company or unit investment trust) appropriate voting and other rights needed to conduct the account's business. This includes special rights and procedures on investment policy, investment advisory services, and the selection of independent public accountants and a committee to manage the account's business. (The act specifies that these committee members do not need to be affiliated with the protected cell.)