



VERMONT'S CAPTIVE LEGISLATION AMENDED

For the first time in recent memory, a bill containing amendments to Vermont's captive laws passed both chambers and reached the Governor prior to the crossover deadline for policy committees to move their priority bills to the calendars. This should help to further define which bills have a chance of passing prior to adjournment.

While the Legislature is always responsive to captive insurance bills, the speed in which this one was addressed is noteworthy, and in part a reflection of the technical nature of this year's package. H.694 is the consensus product of the Vermont Department of Financial Regulation ("DFR") and the captive industry, and represents the latest example of continuous tweaking to make sure Vermont's law remains fresh and responsive. Included among the bill's provisions are those that:

- Allow all captives, now including association and sponsored captives, to file their annual reports on March 15, or seventy-five days after year-end for fiscal year filers.
- At the same time, allow captives to pay their premium taxes on March 15 to coincide with the annual reports.
- Clarify that self-insurance portfolio transfers are excluded from the premium tax.
- Authorize a branch captive to designate the commissioner of DFR as its agent for service of process, and also remove the requirement that a branch captive obtain a Certificate of General Good from the Department as no Vermont corporation is formed.
- Further amend governance standards for risk retention groups to require annual certification of director independence.

The Governor signed H.694 into law on March 8 and its provisions became effective as of that date.

The Legislature is also considering proposals aimed at promoting blockchain and financial technology, and perhaps position Vermont as a state where companies may legally form for that purpose. The successes of captive insurance in Vermont is often cited as a model example. While the bill still must wend its way through the legislative process, the current version of S.269 provides a statutory and potential regulatory framework for personal information trust companies. The bill also directs a number of studies to be conducted with reports and recommendations submitted back to the Legislature for further consideration. These include one by DFR to review the potential application of blockchain technology to the provision of insurance and e-banking and consider areas for potential adoption of a comparable program or regulatory changes within Vermont. Another is to direct DFR along with other state agencies and interested parties to organize and hold a FinTech Summit to explore legal and regulatory mechanisms to promote the adoption of financial technology in State government, to explore opportunities to promote financial technology and economic development in the private sector, including in the areas of banking, insurance, retail and service businesses, and cryptocurrency providers and proponents, and to explore opportunities to integrate financial technology into secondary and postsecondary education in Vermont. A bill in some form is expected to pass this session.

In addition, a new tax credit may be available to captive insurance companies and other financial service entities. The Legislature is considering a new program in which municipalities may sell tax credit certificates for a qualified rehabilitation expenditure, defined to mean a construction-related expense for the rehabilitation of a qualified building, including design fees, labor, materials, capital improvements, and the rehabilitation or construction of an accessory housing unit. Captive insurers would be eligible to purchase such certificates for credit against premium tax liability. Areas of continued focus by the Legislature will include the new program in general, and importantly the source of revenue to support it.