



**Senate Bill No. 1038**

**Public Act No. 23-15**

***AN ACT CONCERNING CAPTIVE INSURANCE COMPANIES.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

Section 1. Subsection (a) of section 38a-91bb of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2023*):

(a) Any captive insurance company, when permitted by its articles of association, charter or other organizational document, may apply to the commissioner for a license to do the business of insurance against any kind of loss, damage or liability properly a subject of insurance, if such insurance is not prohibited by law or disapproved by the commissioner as being contrary to public policy, including life insurance, annuities, health insurance, as defined in section 38a-469, and commercial risk insurance, as defined in section 38a-663, and may accept or transfer risk by means of a parametric contract, provided:

(1) No pure captive insurance company may insure any risks other than those of its parent and affiliated companies or controlled unaffiliated business;

(2) No association captive insurance company may insure any risks other than those of its association, the member organizations of its

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association, and the member organizations' affiliated companies;

(3) No industrial insured captive insurance company may insure any risks other than those of (A) the industrial insureds that comprise the industrial insured group, (B) the industrial insureds' affiliated companies, or (C) the industrial insureds' controlled unaffiliated businesses;

(4) No risk retention group may insure any risks other than those of its members and owners;

(5) No captive insurance company may provide personal risk insurance, as defined in section 38a-663, for private passenger motor vehicle or homeowners insurance coverage or any component thereof;

(6) No captive insurance company may accept or cede reinsurance except as provided in section 38a-91kk;

(7) Any captive insurance company may provide excess workers' compensation insurance to its parent and affiliated companies, unless prohibited by the laws of the state having jurisdiction over the transaction or by federal law. Any captive insurance company may reinsure a workers' compensation qualified self-insured plan of its parent and affiliated companies, unless prohibited by federal law;

(8) Any captive insurance company that provides life insurance, annuities or health insurance shall comply with all applicable state and federal laws;

(9) Any captive insurance company that transfers risk by means of a parametric contract shall comply with all applicable state and federal laws and regulations. As used in this section, "parametric contract" means any agreement to make a payment upon the occurrence of one or more specified triggering events without proof of loss or obligation to indemnify.

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Sec. 2. Subsection (a) of section 38a-91rr of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2023*):

(a) Each sponsored captive insurance company may establish and maintain one or more protected cells, subject to the following conditions:

(1) The stockholders of a sponsored captive insurance company shall be limited to its participants and sponsors, except that a sponsored captive insurance company may issue nonvoting securities to other persons on terms approved by the commissioner;

(2) Each sponsored captive insurance company shall account separately on the books and records of such company for each protected cell to reflect the financial condition and results of operations of such protected cell, net income or loss, dividends or other distributions to participants and such other factors as may be provided in the participant contract or required by the commissioner;

(3) No liabilities arising out of any other insurance business the sponsored captive insurance company may conduct shall be chargeable against the assets of a protected cell;

(4) No sponsored captive insurance company shall make any sale, exchange or other transfer of assets, dividend or distribution between or among any of its protected cells without the consent of such protected cells;

(5) No protected cell shall make any sale, exchange or other transfer of assets, dividend or distribution to a sponsor or participant without the commissioner's approval. The commissioner shall not approve such sale, exchange or other transfer if it would result in insolvency or impairment with respect to a protected cell;

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(6) (A) Except as otherwise specified, each sponsored captive insurance company shall attribute assets and liabilities to the protected cells and the general account in accordance with the plan of operation approved by the commissioner, and shall not attribute any other assets or liabilities between its general account and any protected cell or between any protected cells. For purposes of this subdivision, "general account" means all assets and liabilities of a sponsored captive insurance company that are not attributable to a protected cell.

(B) Each sponsored captive insurance company shall attribute all insurance obligations, assets and liabilities relating to a reinsurance contract entered into with respect to a protected cell to such protected cell. The performance under such reinsurance contract and any tax benefits, losses, refunds or credits allocated pursuant to a tax allocation agreement to which the sponsored captive insurance company is a party, including any payments made by or due to be made to the sponsored captive insurance company pursuant to the terms of such agreement, shall reflect such obligations, assets and liabilities relating to such reinsurance contract;

(7) Each sponsored captive insurance company shall file annually with the commissioner such financial reports as the commissioner shall require, including, but not limited to, accounting statements detailing the financial experience of each protected cell;

(8) Each sponsored captive insurance company shall notify the commissioner in writing not later than ten business days after any protected cell becomes insolvent or otherwise unable to meet its claim or expense obligations;

(9) No participant contract shall take effect without the commissioner's prior written approval. The addition of each new protected cell or the withdrawal of any participant or termination of any existing protected cell shall constitute a change in the sponsored captive

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insurance company's plan of operation and shall require the commissioner's prior written approval;

(10) If required by the commissioner, the business written by a sponsored captive insurance company with respect to each protected cell shall be (A) fronted by an insurance company licensed under the laws of any state, (B) reinsured by a reinsurer authorized or approved by this state, or (C) secured by a trust fund in the United States for the benefit of policyholders and claimants or funded by an irrevocable letter of credit or other arrangement that is acceptable to the commissioner. The commissioner may require the sponsored captive insurance company to increase the funding of any security arrangement established under this subdivision. If the form of security is a letter of credit, the letter of credit shall be issued or confirmed by a bank approved by the commissioner. A trust maintained pursuant to this subdivision shall be established in a form and upon such terms approved by the commissioner; and

(11) A protected cell of a sponsored captive insurance company may, with the commissioner's prior written approval, establish one or more separate accounts and may allocate assets to such accounts to provide for the insurance risks of one or more participants, or controlled unaffiliated business of such participants, subject to the following:

(A) The income, gains and losses, realized or unrealized, from assets allocated to a separate account shall be credited to or charged against the account, without regard to other income, gains or losses of the protected cell;

(B) Amounts allocated to a separate account pursuant to this subdivision are owned by the protected cell and such protected cell shall not be, nor hold itself out to be, a trustee with respect to such amounts;

(C) Unless otherwise approved by the commissioner, assets allocated

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to a separate account shall be valued in accordance with the laws and regulations of this state otherwise applicable to the protected cell's assets;

(D) To the extent provided under the applicable contracts, such portion of the assets of any such protected cell equal to the reserves and other contract liabilities with respect to such account shall not be chargeable with liabilities arising out of any other business the protected cell may conduct;

(E) No sale, exchange or other transfer of assets may be made by any protected cell between any of such protected cell's separate accounts or between any other investment account and one or more of such protected cell's separate accounts unless, in the case of a transfer into a separate account, such transfer is made solely to establish the account or to support the operation of the contracts with respect to the separate account to which the transfer is made, and unless such transfer, whether into or from a separate account, is made (i) by a transfer of cash, or (ii) by a transfer of securities that has a readily determinable market value, provided such transfer of securities is approved by the commissioner. The commissioner may approve other transfers among such accounts if the commissioner determines such transfers would be equitable; and

(F) To the extent any protected cell deems it necessary for compliance with any applicable federal or state laws, such protected cell, with respect to any separate account, including, but not limited to, any separate account that is a management investment company or a unit investment trust, may provide for persons having an interest therein appropriate voting and other rights and special procedures for the conduct of the business of such account, including, but not limited to, special rights and procedures relating to investment policy, investment advisory services, selection of independent public accountants and the selection of a committee to manage the business of such account. Such committee members are not required to be affiliated with such protected

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cell.

Sec. 3. Section 38a-91uu of the general statutes is amended by adding subsection (d) as follows (*Effective October 1, 2023*):

(NEW) (d) A dormant captive insurance company shall not be subject to or liable for the payment of any tax under section 38a-91nn.

Approved June 7, 2023