OLR Bill Analysis
SB 1038

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. The law allows several different types of captive insurers to be licensed and operate in the state.

This bill allows all captive insurers to accept or transfer risk through parametric contracts (i.e., any agreement to make a payment based on a specified triggering event rather than the value of the loss). It also expressly requires captive insurers that use these contracts to comply with applicable state and federal laws and regulations.

A sponsored captive is a captive 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 the assets of other cells and the captive insurer as a whole. The bill allows these protected cells to, with the insurance commissioner's prior written approval, establish separate accounts and allocate assets to them, subject to certain requirements.

Lastly, the bill exempts dormant captive insurers from captive insurance premium taxes. Captives 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 is generally $7,500. By law, pure, sponsored, and industrial captive insurers that have stopped doing business and have no more liabilities can apply to the insurance commissioner for a certificate of dormancy.

Dormant captive insurers have lower statutory minimum capital and surplus requirements.

EFFECTIVE DATE: October 1, 2023

SPONSORED CAPTIVE PROTECTED CELL SEPARATE ACCOUNTS

Under the bill, a sponsored captive's protected cells can establish separate accounts and allocate assets to them to insure the risks of participants or participants' controlled unaffiliated business. The bill establishes several requirements that generally maintain the accounts' independence from other accounts and protected cells. Under the bill:

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 protected cell must be valued based on the rules 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).

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

Governance

A protected cell, if needed to comply with state or federal law, may 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 selecting (1) independent public accountants and (2) a committee to manage the account's business. (The bill specifies that these committee members do not need to be affiliated with the protected cell.)

COMMITTEE ACTION

Insurance and Real Estate Committee

Joint Favorable
Yea 12 Nay 0 (03/16/2023)