



General Assembly

January Session, 2023

Raised Bill No. 1038

LCO No. 3768



Referred to Committee on INSURANCE AND REAL ESTATE

Introduced by:
(INS)

AN ACT CONCERNING CAPTIVE INSURANCE COMPANIES.

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

1 Section 1. Subsection (a) of section 38a-91bb of the general statutes is
2 repealed and the following is substituted in lieu thereof (*Effective October*
3 *1, 2023*):

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

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

16 (2) No association captive insurance company may insure any risks
17 other than those of its association, the member organizations of its
18 association, and the member organizations' affiliated companies;

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

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

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

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

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

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

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

46 Sec. 2. Subsection (a) of section 38a-91rr of the general statutes is
47 repealed and the following is substituted in lieu thereof (*Effective October*
48 *1, 2023*):

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

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

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

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

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

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

74 (6) (A) Except as otherwise specified, each sponsored captive
75 insurance company shall attribute assets and liabilities to the protected

76 cells and the general account in accordance with the plan of operation
77 approved by the commissioner, and shall not attribute any other assets
78 or liabilities between its general account and any protected cell or
79 between any protected cells. For purposes of this subdivision, "general
80 account" means all assets and liabilities of a sponsored captive insurance
81 company that are not attributable to a protected cell.

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

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

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

100 (9) No participant contract shall take effect without the
101 commissioner's prior written approval. The addition of each new
102 protected cell or the withdrawal of any participant or termination of any
103 existing protected cell shall constitute a change in the sponsored captive
104 insurance company's plan of operation and shall require the
105 commissioner's prior written approval;

106 (10) If required by the commissioner, the business written by a

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

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

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

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

132 (C) Unless otherwise approved by the commissioner, assets allocated
133 to a protected cell shall be valued in accordance with the rules otherwise
134 applicable to the protected cell's assets;

135 (D) If, and to the extent provided under the applicable contracts, such
136 portion of the assets of any such protected cell equal to the reserves and
137 other contract liabilities with respect to such account shall not be

138 chargeable with liabilities arising out of any other business the protected
139 cell may conduct;

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

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

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

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

This act shall take effect as follows and shall amend the following sections:

Section 1	<i>October 1, 2023</i>	38a-91bb(a)
Sec. 2	<i>October 1, 2023</i>	38a-91rr(a)
Sec. 3	<i>October 1, 2023</i>	38a-91uu(d)

INS *Joint Favorable*