



General Assembly

January Session, 2021

Raised Bill No. 6388

LCO No. 2810



Referred to Committee on INSURANCE AND REAL ESTATE

Introduced by:
(INS)

***AN ACT CONCERNING THE INSURANCE DEPARTMENT'S
RECOMMENDATIONS REGARDING CAPTIVE INSURANCE
COMPANIES.***

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

1 Section 1. Section 38a-91aa of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective July 1, 2021*):

3 As used in [sections 38a-91aa to 38a-91tt] this section and sections
4 38a-91bb to 38a-91uu, inclusive, [and] as amended by this act, sections
5 38a-91ww and 38a-91xx and section 2 of this act:

6 (1) "Affiliated company" means any company in the same corporate
7 system as a parent, an industrial insured or a member organization by
8 virtue of common ownership, control, operation or management.

9 (2) "Agency captive insurance company" means a captive insurance
10 company that:

11 (A) Is owned or directly or indirectly controlled by one or more
12 insurance agents or insurance producers licensed in accordance with

13 sections 38a-702a to 38a-702r, inclusive;

14 (B) Only insures against risks covered by insurance policies sold,
15 solicited or negotiated through the insurance agents or insurance
16 producers that own or control such captive insurance company; and

17 (C) Does not insure against risks covered by any health insurance
18 policy or plan.

19 (3) "Alien captive insurance company" means any insurance
20 company formed to write insurance business for its parent and affiliated
21 companies and licensed pursuant to the laws of an alien jurisdiction that
22 imposes statutory or regulatory standards on companies transacting the
23 business of insurance in such jurisdiction that the commissioner deems
24 to be acceptable.

25 (4) "Association" means any legal association of individuals,
26 corporations, limited liability companies, partnerships, associations or
27 other entities [that has been in continuous existence for at least one
28 year,] where the association itself or some or all of the member
29 organizations:

30 (A) Directly or indirectly own, control or hold with power to vote all
31 of the outstanding voting securities or other voting interests of an
32 association captive insurance company incorporated as a stock insurer;

33 (B) Have complete voting control over an association captive
34 insurance company incorporated as a mutual corporation or formed as
35 a limited liability company; or

36 (C) Constitute all of the subscribers of an association captive
37 insurance company formed as a reciprocal insurer.

38 (5) "Association captive insurance company" means any company
39 that insures risks of the member organizations of an association, and
40 includes a company that also insures risks of such member
41 organizations' affiliated companies or of the association.

42 (6) "Branch business" means any insurance business transacted in this
43 state by a branch captive insurance company.

44 (7) "Branch captive insurance company" means any alien captive
45 insurance company or foreign captive insurance company licensed by
46 the commissioner to transact the business of insurance in this state
47 through a business unit with a principal place of business in this state.

48 (8) "Branch operations" means any business operations in this state of
49 a branch captive insurance company.

50 (9) "Captive insurance company" means any (A) pure captive
51 insurance company, agency captive insurance company, association
52 captive insurance company, industrial insured captive insurance
53 company, risk retention group, sponsored captive insurance company
54 or special purpose financial captive insurance company that is
55 domiciled in this state and formed or licensed under the provisions of
56 [sections 38a-91aa] this section and sections 38a-91bb to 38a-91tt,
57 inclusive, or (B) branch captive insurance company.

58 (10) "Ceding insurer" means an insurance company, approved by the
59 commissioner and licensed or otherwise authorized to transact the
60 business of insurance or reinsurance in its state or country of domicile,
61 that cedes risk to a special purpose financial captive insurance company
62 pursuant to a reinsurance contract.

63 (11) "Commissioner" means the Insurance Commissioner.

64 (12) "Controlled unaffiliated business" means any person:

65 (A) Who, (i) in the case of a pure captive insurance company, is not
66 in the corporate system of a parent and the parent's affiliated companies,
67 [or] (ii) in the case of an industrial insured captive insurance company,
68 is not in the corporate system of an industrial insured and the industrial
69 insured's affiliated companies, or (iii) in the case of a sponsored captive
70 insurance company, is not in the corporate system of a participant and
71 the participant's affiliated companies;

72 (B) Who, (i) in the case of a pure captive insurance company, has an
73 existing contractual relationship with a parent or one of the parent's
74 affiliated companies, [or] (ii) in the case of an industrial insured captive
75 insurance company, has an existing contractual relationship with an
76 industrial insured or one of the industrial insured's affiliated companies,
77 or (iii) in the case of a sponsored captive insurance company, has an
78 existing contractual relationship with a participant or one of the
79 participant's affiliated companies; and

80 (C) Whose risks are managed by a pure captive insurance company,
81 [or] an industrial insured captive insurance company or a sponsored
82 captive insurance company, as applicable, in accordance with section
83 38a-91qq, as amended by this act.

84 (13) "Excess workers' compensation insurance" means, in the case of
85 an employer that has insured or self-insured its workers' compensation
86 risks in accordance with applicable state or federal law, insurance in
87 excess of a specified per-incident or aggregate limit established by the
88 commissioner.

89 (14) "Foreign captive insurance company" means any insurance
90 company formed to write insurance business for its parent and affiliated
91 companies and licensed pursuant to the laws of a foreign jurisdiction
92 that imposes statutory or regulatory standards on companies
93 transacting the business of insurance in such jurisdiction that the
94 commissioner deems to be acceptable.

95 ~~[(14)]~~ (15) "Incorporated protected cell" means a protected cell that is
96 established as a corporation or a limited liability company, separate
97 from the sponsored captive insurance company with which it has
98 entered into a participant contract.

99 ~~[(15)]~~ (16) "Industrial insured" means an insured:

100 (A) Who procures the insurance of any risk or risks by use of the
101 services of a full-time employee acting as an insurance manager or
102 buyer;

103 (B) Whose aggregate annual premiums for insurance on all risks total
104 at least twenty-five thousand dollars; and

105 (C) Who has at least twenty-five full-time employees.

106 [(16)] (17) "Industrial insured captive insurance company" means any
107 company that insures risks of the industrial insureds that comprise an
108 industrial insured group, and includes a company that also insures risks
109 of such industrial insureds' affiliated companies.

110 [(17)] (18) "Industrial insured group" means any group of industrial
111 insureds that collectively:

112 (A) Directly or indirectly own, control or hold with power to vote all
113 of the outstanding voting securities or other voting interests of an
114 industrial insured captive insurance company incorporated as a stock
115 insurer;

116 (B) Have complete voting control over an industrial insured captive
117 insurance company incorporated as a mutual corporation or formed as
118 a limited liability company; or

119 (C) Constitute all of the subscribers of an industrial insured captive
120 insurance company formed as a reciprocal insurer.

121 [(18)] (19) "Insurance securitization" or "securitization" means a
122 transaction or a group of related transactions, which may include capital
123 market offerings, that are effected through related risk transfer
124 instruments and facilitating administrative agreements, in which all or
125 part of the result of such transaction is used to fund a special purpose
126 financial captive insurance company's obligations under a reinsurance
127 contract with a ceding insurer and by which:

128 (A) A special purpose financial captive insurance company directly
129 or indirectly obtains proceeds through the issuance of securities by such
130 company or any other person; or

131 (B) A person provides, for the benefit of a special purpose financial

132 captive insurance company, one or more letters of credit or other assets
133 that the commissioner has authorized such company to treat as
134 admitted assets for purposes of its annual report. "Insurance
135 securitization" or "securitization" does not include the issuance of a
136 letter of credit for the benefit of the commissioner to satisfy all or part of
137 a special purpose financial captive insurance company's capital and
138 surplus requirements under section 38a-91dd, as amended by this act.

139 [(19)] (20) "Member organization" means any individual, corporation,
140 limited liability company, partnership, association or other entity that
141 belongs to an association.

142 [(20)] (21) "Mutual corporation" means a corporation organized
143 without stockholders and includes a nonprofit corporation with
144 members.

145 [(21)] (22) "Parent" means any individual, corporation, limited
146 liability company, partnership or other entity that directly or indirectly
147 owns, controls or holds with power to vote more than fifty per cent of
148 the outstanding voting:

149 (A) Securities of a pure captive insurance company organized as a
150 stock insurer; or

151 (B) Membership interests of a pure captive insurance company
152 organized as a nonprofit corporation or as a limited liability company.

153 [(22)] (23) "Participant" means any association, corporation, limited
154 liability company, partnership, trust or other entity, and any affiliated
155 company or controlled unaffiliated business thereof, that is insured by
156 a sponsored captive insurance company pursuant to a participant
157 contract.

158 [(23)] (24) "Participant contract" means a contract entered into by a
159 sponsored captive insurance company and a participant by which the
160 sponsored captive insurance company insures the risks of the
161 participant and limits the losses of each such participant to its pro rata

162 share of the assets of one or more protected cells identified in such
163 participant contract.

164 [(24)] (25) "Protected cell" means a separate account established by a
165 sponsored captive insurance company, in which assets are maintained
166 for one or more participants in accordance with the terms of one or more
167 participant contracts to fund the liability of the sponsored captive
168 insurance company assumed on behalf of such participants as set forth
169 in such participant contracts.

170 [(25)] (26) "Pure captive insurance company" means any company
171 that insures risks of its parent and affiliated companies or controlled
172 unaffiliated business.

173 [(26)] (27) "Reinsurance contract" means a contract entered into by a
174 special purpose financial captive insurance company and a ceding
175 insurer by which the special purpose financial captive insurance
176 company agrees to provide reinsurance to the ceding insurer for risks
177 associated with the ceding insurer's insurance or reinsurance business.

178 [(27)] (28) "Risk retention group" means a captive insurance company
179 organized under the laws of this state pursuant to the federal Liability
180 Risk Retention Act of 1986, 15 USC 3901 et seq., as amended from time
181 to time, as a stock insurer or mutual corporation, a reciprocal or other
182 limited liability entity.

183 [(28)] (29) "Security" has the same meaning as provided in section
184 36b-3 and includes any form of debt obligation, equity, surplus
185 certificate, surplus note, funding agreement, derivative or other
186 financial instrument that the commissioner designates as a security for
187 purposes of [sections 38a-91aa] this section and sections 38a-91bb to 38a-
188 91tt, inclusive.

189 [(29)] (30) "Special purpose financial captive insurance company"
190 means a company that is licensed by the commissioner in accordance
191 with section 38a-91bb, as amended by this act.

192 [(30)] (31) "Special purpose financial captive insurance company
193 security" means a security issued by (A) a special purpose financial
194 captive insurance company, or (B) a third party, the proceeds of which
195 are obtained directly or indirectly by a special purpose financial captive
196 insurance company.

197 [(31)] (32) "Sponsor" means any association, corporation, limited
198 liability company, partnership, trust or other entity that is approved by
199 the commissioner to organize and operate a sponsored captive
200 insurance company and to provide all or part of the required
201 unimpaired paid-in capital and surplus.

202 [(32)] (33) "Sponsored captive insurance company" means a captive
203 insurance company:

204 (A) In which the minimum required unimpaired paid-in capital and
205 surplus are provided by one or more sponsors;

206 (B) That insures risks of its participants only through separate
207 participant contracts; and

208 (C) That funds its liability to each participant through one or more
209 protected cells and segregates the assets of each protected cell from the
210 assets of other protected cells and from the assets of the sponsored
211 captive insurance company's general account.

212 [(33)] (34) "Surplus note" means an unsecured subordinated debt
213 obligation possessing characteristics consistent with the National
214 Association of Insurance Commissioners Statement of Statutory
215 Accounting Principles No. 41, as amended from time to time, and as
216 modified or supplemented by the commissioner.

217 Sec. 2. (NEW) (*Effective July 1, 2021*) (a) The Commissioner of Revenue
218 Services shall waive any and all penalties that would otherwise be due
219 under section 38a-277 of the general statutes for any taxable period
220 beginning on or after July 1, 2018, and ending before July 1, 2021, if, not
221 later than June 30, 2022, the insured:

222 (1) Establishes a branch captive insurance company in this state or
223 transfers the domicile of its alien captive insurance company or foreign
224 captive insurance company to this state in accordance with the
225 provisions of section 38a-58a of the general statutes; and

226 (2) Pays all taxes and interest due and outstanding under section 38a-
227 277 of the general statutes for all taxable periods ending on or after July
228 1, 2018, but before July 1, 2021.

229 (b) Any insured that satisfies the provisions of subsection (a) of this
230 section shall not be liable for any taxes, interest and penalties that would
231 otherwise be due under section 38a-277 of the general statutes for any
232 taxable period ending before July 1, 2018.

233 Sec. 3. Section 38a-91bb of the general statutes is repealed and the
234 following is substituted in lieu thereof (*Effective July 1, 2021*):

235 (a) Any captive insurance company, when permitted by its articles of
236 association, charter or other organizational document, may apply to the
237 [Insurance Commissioner] commissioner for a license to do the business
238 of insurance against any kind of loss, damage or liability properly a
239 subject of insurance, if such insurance is not prohibited by law or [is not]
240 disapproved by the commissioner as being contrary to public policy,
241 including life insurance, annuities, health insurance, as defined in
242 section 38a-469, and commercial risk insurance, as defined in section
243 38a-663, provided:

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

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

250 (3) No industrial insured captive insurance company may insure any
251 risks other than those of (A) the industrial insureds that comprise the

252 industrial insured group, (B) the industrial insureds' affiliated
253 companies, or (C) the industrial insureds' controlled unaffiliated
254 businesses;

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

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

260 (6) No captive insurance company may accept or cede reinsurance
261 except as provided in section 38a-91kk, as amended by this act;

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

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

271 (b) No captive insurance company shall do any insurance business in
272 this state unless:

273 (1) [It] The captive insurance company first obtains from the
274 [Insurance Commissioner] commissioner a license authorizing [it] the
275 captive insurance company to do insurance business in this state;

276 (2) [Its] The captive insurance company's board of directors or
277 committee of managers or, in the case of a reciprocal insurer, its
278 subscribers' advisory committee holds at least one meeting each year in
279 this state;

280 (3) [It] The captive insurance company maintains its principal place

281 of business in this state; and

282 (4) [It] The captive insurance company appoints a registered agent to
283 accept service of process and to otherwise act on its behalf in this state.
284 Whenever such registered agent cannot with reasonable diligence be
285 found at the registered office of the captive insurance company, the
286 [Insurance Commissioner] commissioner shall be an agent of [such] the
287 captive insurance company upon whom any process, notice or demand
288 may be served.

289 (c) (1) To be considered for a license, a captive insurance company
290 shall:

291 (A) File with the commissioner a certified copy of its organizational
292 documents, a statement under oath of its president and secretary
293 showing its financial condition, and any other statements or documents
294 required by the commissioner; and

295 (B) Submit to the commissioner for approval a description of the
296 coverages, deductibles, coverage limits and rates and such additional
297 information as the commissioner may require. In the event of any
298 subsequent material change in any item in such description, the captive
299 insurance company shall submit to the commissioner for approval an
300 appropriate revision and shall not offer any additional kinds of
301 insurance until a revision of such description is approved by the
302 commissioner. The captive insurance company shall inform the
303 commissioner of any material change in rates not later than thirty days
304 after the adoption of such change.

305 (2) Each applicant captive insurance company shall also file with the
306 commissioner evidence of the following:

307 (A) The amount and liquidity of the company's assets relative to the
308 risks to be assumed;

309 (B) The adequacy of the expertise, experience and character of the
310 persons who will manage the company;

311 (C) The overall soundness of the company's plan of operation;

312 (D) The adequacy of the loss prevention programs of the company's
313 insureds; and

314 (E) Such other factors deemed relevant by the commissioner in
315 ascertaining whether the proposed captive insurance company will be
316 able to meet its policy obligations.

317 (3) Each applicant sponsored captive insurance company shall also
318 file with the commissioner:

319 (A) Materials demonstrating how the applicant will account for the
320 loss and expense experience of each protected cell at a level of detail
321 deemed sufficient by the commissioner, and how [it] such applicant will
322 report such experience to the commissioner;

323 (B) A statement acknowledging that all financial records of the
324 sponsored captive insurance company, including records pertaining to
325 any protected cells, shall be made available for examination or
326 inspection or by the commissioner or the commissioner's designee;

327 (C) All contracts or sample contracts between the sponsored captive
328 insurance company and any participants; and

329 (D) Evidence that expenses shall be allocated to each protected cell in
330 a fair and equitable manner.

331 (4) Each applicant special purpose financial captive insurance
332 company shall also:

333 (A) Include with its plan of operation:

334 (i) A complete description of all significant transactions, including
335 reinsurance, reinsurance security arrangements, securitizations, related
336 transactions or arrangements, and to the extent not included in the
337 transactions listed in this clause, a complete description of all parties
338 other than the special purpose financial captive insurance company and

339 the ceding insurer that will be involved in the issuance of special
340 purpose financial captive insurance company securities and a
341 description of any pledge, hypothecation or grant of a security interest
342 in any of the special purpose financial captive insurance company's
343 assets and in any stock or limited liability company interest in the
344 special purpose financial captive insurance company;

345 (ii) The source and form of the special purpose financial captive
346 insurance company's capital and surplus;

347 (iii) The proposed investment policy of the special purpose financial
348 captive insurance company;

349 (iv) A description of the underwriting, reporting and claims payment
350 methods by which losses covered by the reinsurance contract will be
351 reported, accounted for and settled;

352 (v) Pro forma balance sheets and income statements illustrating one
353 or more adverse case scenarios, as determined under criteria required
354 by the commissioner, for the performance of the special purpose
355 financial captive insurance company under all reinsurance contracts;
356 and

357 (vi) The proposed rate and method for discounting reserves, if the
358 special purpose financial captive insurance company is requesting
359 authority to discount its reserves;

360 (B) Submit an affidavit of its president, a vice president, its treasurer
361 or its chief financial officer that includes the following statements, that
362 to the best of such person's knowledge and belief after reasonable
363 inquiry:

364 (i) The proposed organization and operation of the special purpose
365 financial captive insurance company comply with all applicable
366 provisions of this chapter;

367 (ii) The special purpose financial captive insurance company's
368 investment policy reflects and takes into account the liquidity of assets

369 and the reasonable preservation, administration and management of
370 such assets with respect to the risks associated with the reinsurance
371 contract and the insurance securitization transaction. With respect to a
372 special purpose financial captive insurance company, "management"
373 means the board of directors, managing board or other individual or
374 individuals vested with overall responsibility for the management of the
375 affairs of such company, including, but not limited to, officers or other
376 agents elected or appointed to act on behalf of such company; and

377 (iii) The reinsurance contract and any arrangement for securing the
378 special purpose financial captive insurance company's obligations
379 under such reinsurance contract, including, but not limited to, any
380 agreements or other documentation to implement such arrangement,
381 comply with the provisions of this chapter; and

382 (C) Include with its application:

383 (i) Copies of all agreements and documentation described in
384 subparagraph (A) of this subdivision unless otherwise approved by the
385 commissioner, and any other statements or documents required by the
386 commissioner to evaluate the special purpose financial captive
387 insurance company's application for licensure; and

388 (ii) An opinion of qualified legal counsel, in a form acceptable to the
389 commissioner, that the offer and sale of any special purpose financial
390 captive insurance company securities complies with all applicable
391 registration requirements or applicable exemptions from or exceptions
392 to such requirements of the federal securities laws and that the offer and
393 sale of securities by the special purpose financial captive insurance
394 company itself comply with all registration requirements or applicable
395 exemptions from or exceptions to such requirements of the securities
396 laws of this state. Such opinion shall not be required as part of the
397 application if the special purpose financial captive insurance company
398 includes a specific statement in its plan of operation that such opinions
399 will be provided to the commissioner in advance of the offer or sale of
400 any special purpose financial captive insurance company securities.

401 (5) A sponsored captive insurance company may apply to be licensed
402 as a special purpose financial captive insurance company. Such
403 company shall be subject to the provisions of sections 38a-91aa to 38a-
404 91tt, inclusive, as amended by this act, applicable to a sponsored captive
405 insurance company and to a special purpose financial captive insurance
406 company. In the event of conflict between such provisions applicable to
407 a sponsored captive insurance company and to a special purpose
408 financial captive insurance company, the provisions applicable to a
409 special purpose financial captive insurance company shall control.

410 (6) Information submitted pursuant to this subsection shall be and
411 shall remain confidential and shall not be made public by the
412 commissioner or an employee or agent of the commissioner without the
413 written consent of the company, except that:

414 (A) Such information may be discoverable by a party in a civil action
415 or contested case to which the captive insurance company that
416 submitted such information is a party upon a showing by the party
417 seeking to discover such information that:

418 (i) The information sought is relevant to and necessary for the
419 furtherance of such action or case;

420 (ii) The information sought is unavailable from other nonconfidential
421 sources; and

422 (iii) A subpoena issued by a judicial or administrative officer of
423 competent jurisdiction has been submitted to the commissioner,
424 provided such submission requirement shall not apply to a risk
425 retention group; and

426 (B) The commissioner may, in the commissioner's discretion, disclose
427 such information to a public official having jurisdiction over the
428 regulation of insurance in another state, provided:

429 (i) Such public official agrees, in writing, to maintain the
430 confidentiality of such information; and

431 (ii) The laws of the state in which such public official serves require
432 such information to be and [to] remain confidential.

433 (d) (1) Each captive insurance company shall pay to the commissioner
434 a nonrefundable fee of eight hundred dollars for examining,
435 investigating and processing its application for a license. The
436 commissioner may retain legal, financial and examination services from
437 outside the department for the licensing and financial oversight of a
438 captive insurance company, the reasonable cost of which may be
439 charged against such company. The provisions of subdivisions (2) to (5),
440 inclusive, of subsection (k) of section 38a-14 shall apply to this
441 subdivision.

442 (2) Each captive insurance company shall pay a license fee for the first
443 year of licensure and a renewal fee for each year thereafter as set forth
444 in section 38a-11.

445 (e) (1) If the commissioner finds that the documents and statements
446 that a captive insurance company, other than a special purpose financial
447 captive insurance company, has filed comply with the provisions of
448 sections 38a-91aa to 38a-91tt, inclusive, as amended by this act, the
449 commissioner may grant a license authorizing the company to do
450 insurance business in this state until April first thereafter. The captive
451 insurance company may apply to renew such license on such forms as
452 the commissioner prescribes.

453 (2) (A) The commissioner may grant a license authorizing a special
454 purpose financial captive insurance company to do reinsurance
455 business in this state until April first thereafter upon the commissioner's
456 finding that (i) the proposed plan of operation provides for a reasonable
457 and expected successful operation, (ii) the terms of the reinsurance
458 contract and related transactions comply with sections 38a-91aa to 38a-
459 91tt, inclusive, as amended by this act, (iii) the proposed plan of
460 operation is not hazardous to any ceding insurer, and (iv) the insurance
461 regulator of the state of domicile of each ceding insurer has notified the
462 commissioner in writing or has otherwise provided assurance

463 satisfactory to the commissioner that such regulator has approved or
464 has not disapproved the transaction, provided the commissioner shall
465 not be precluded from issuing a license to a special purpose financial
466 captive insurance company if such regulator has not responded with
467 respect to all or any part of the transaction.

468 (B) In conjunction with granting such license, the commissioner may
469 issue an order to the special purpose financial captive insurance
470 company of any additional provisions, terms or conditions regarding
471 the organization, licensing or operation of such company that are not
472 inconsistent with the provisions of this chapter and are deemed
473 appropriate by the commissioner.

474 (3) The commissioner shall not grant a license to a branch captive
475 insurance company unless the alien captive insurance company or
476 foreign captive insurance company grants the commissioner authority
477 to examine the alien captive insurance company or foreign captive
478 insurance company in the jurisdiction in which the alien captive
479 insurance company or foreign captive insurance company is formed,
480 operates or maintains books and records.

481 Sec. 4. Section 38a-91dd of the general statutes is repealed and the
482 following is substituted in lieu thereof (*Effective July 1, 2021*):

483 (a) (1) [The Insurance Commissioner] Except as provided in
484 subdivision (3) of this subsection, the commissioner shall not issue a
485 license to a captive insurance company or allow the company to retain
486 such license unless the company has and maintains unimpaired paid-in
487 capital and surplus of:

488 (A) In the case of a pure captive insurance company, not less than the
489 greater of:

490 (i) [two hundred fifty] Fifty thousand dollars; or

491 (ii) An amount that the commissioner determines is necessary for the
492 pure captive insurance company to meet such pure captive insurance

493 company's policy obligations;

494 (B) In the case of an association captive insurance company, not less
495 than the greater of:

496 (i) [five hundred] Two hundred fifty thousand dollars; or

497 (ii) An amount that the commissioner determines is necessary for the
498 association captive insurance company to meet such association captive
499 insurance company's policy obligations;

500 (C) In the case of an industrial insured captive insurance company,
501 not less than the greater of:

502 (i) [five hundred] Two hundred fifty thousand dollars; or

503 (ii) An amount that the commissioner determines is necessary for the
504 industrial insured captive insurance company to meet such industrial
505 insured captive insurance company's policy obligations;

506 (D) In the case of a risk retention group, not less than one million
507 dollars;

508 (E) In the case of a sponsored captive insurance company, not less
509 than the greater of:

510 (i) [two hundred twenty-five] Seventy-five thousand dollars; or

511 (ii) An amount that the commissioner determines is necessary for the
512 sponsored captive insurance company to meet such sponsored captive
513 insurance company's policy obligations;

514 (F) In the case of a special purpose financial captive insurance
515 company, not less than the greater of:

516 (i) [two] Two hundred fifty thousand dollars; or

517 (ii) An amount that the commissioner determines is necessary for the
518 special purpose financial captive insurance company to meet such

519 special purpose financial captive insurance company's policy
520 obligations;

521 (G) In the case of a sponsored captive insurance company licensed as
522 a special purpose financial captive insurance company, not less than the
523 greater of:

524 (i) [five hundred] Two hundred fifty thousand dollars; or

525 (ii) An amount that the commissioner determines is necessary for
526 such captive insurance company to meet such captive insurance
527 company's policy obligations; and

528 (H) In the case of an agency captive insurance company, not less than
529 the greater of:

530 (i) [five hundred] Two hundred fifty thousand dollars; or

531 (ii) An amount that the commissioner determines is necessary for the
532 agency captive insurance company to meet such agency captive
533 insurance company's policy obligations.

534 (2) (A) The [Insurance Commissioner] commissioner shall not issue a
535 license to a branch captive insurance company or allow the branch
536 captive insurance company to retain such license unless the branch
537 captive insurance company has and maintains, as security for the
538 payment of liabilities attributable to the branch operations:

539 (i) Not less than the greater of:

540 (I) [two hundred fifty] Fifty thousand dollars; or

541 (II) An amount that the commissioner determines is necessary to
542 secure the payment of liabilities attributable to the branch captive
543 insurance company's operations; and

544 (ii) Reserves on such insurance policies or such reinsurance contracts
545 as may be issued or assumed by the branch captive insurance company
546 through its branch operations, including reserves for losses, allocated

547 loss adjustment expenses, incurred but not reported losses and
548 unearned premiums with regard to business written through the branch
549 operations. The commissioner may permit a branch captive insurance
550 company to credit against any such reserves any [security for loss
551 reserves that the branch captive insurance company posts with a ceding
552 insurer or is posted by a reinsurer with the branch captive insurance
553 company, so long as such security remains posted.] assets belonging to:

554 (I) The branch captive insurance company that are held in trust for,
555 or otherwise segregated or controlled by, a ceding insurer that secure
556 the branch captive insurance company's reinsurance obligations to the
557 ceding insurer; or

558 (II) A reinsurer that are held in trust for, or otherwise under the
559 control of, the branch captive insurance company and secure the
560 reinsurer's reinsurance obligations to the branch captive insurance
561 company.

562 (B) The amounts required under subparagraph (A) of this
563 subdivision may be held, with the prior approval of the commissioner,
564 in the form of:

565 (i) [a] A trust formed under a trust agreement and funded by assets
566 acceptable to the commissioner; [.]

567 (ii) [an] An irrevocable letter of credit issued or confirmed by a bank
568 approved by the commissioner; [.]

569 (iii) [with] With respect to the amount required under subparagraph
570 (A)(i) of this subdivision only, cash on deposit with the commissioner;
571 [.] or

572 (iv) [any] Any combination [thereof] of the forms described in
573 subparagraphs (B)(i) to (B)(iii), inclusive, of this subdivision.

574 (3) The commissioner may exempt a branch captive insurance
575 company from the provisions of subdivisions (1) and (2) of this
576 subsection if the branch captive insurance company is a foreign captive

577 insurance company and the commissioner, in the commissioner's
578 discretion, determines that the branch captive insurance company is
579 financially stable.

580 [(b) The commissioner may adopt regulations, in accordance with
581 chapter 54, to establish additional capital and surplus requirements
582 based upon the type, volume and nature of insurance business
583 transacted.]

584 [(c)] (b) Notwithstanding any other provision of this section, the
585 commissioner shall have the discretion to allow a captive insurance
586 company, other than a captive insurance company organized as a risk
587 retention group, to maintain less than the required unimpaired paid-in
588 capital and surplus set forth in subsection (a) of this section. The
589 commissioner shall consider the type, volume and nature of the
590 insurance or reinsurance business transacted by such a captive
591 insurance company in establishing the amount of unimpaired paid-in
592 capital and surplus the company is required to maintain.

593 [(d)] (c) Except as specified in subdivision (2) of subsection (a) of this
594 section, capital and surplus may be in the form of cash or an irrevocable
595 letter of credit issued by a bank approved by the commissioner.

596 (d) The commissioner may adopt regulations, in accordance with
597 chapter 54, to establish additional capital and surplus requirements
598 based upon the type, volume and nature of insurance business
599 transacted.

600 Sec. 5. Subsection (h) of section 38a-91ff of the general statutes is
601 repealed and the following is substituted in lieu thereof (*Effective July 1,*
602 *2021*):

603 (h) In the case of a captive insurance company licensed as a branch
604 captive insurance company, the alien captive insurance company or
605 foreign captive insurance company shall petition the commissioner to
606 issue a certificate setting forth the commissioner's finding that, after
607 considering the character, reputation, financial responsibility, insurance

608 experience, and business qualifications of the officers and directors of
609 the alien captive insurance company or foreign captive insurance
610 company, the licensing and maintenance of the branch operations will
611 promote the general good of the state. The alien captive insurance
612 company or foreign captive insurance company may register to do
613 business in this state after the commissioner's certificate is issued.

614 Sec. 6. Subdivision (1) of subsection (b) of section 38a-91gg of the
615 general statutes is repealed and the following is substituted in lieu
616 thereof (*Effective July 1, 2021*):

617 (b) (1) (A) [Prior] Except as provided in subparagraph (B) of this
618 subdivision, prior to March first of each year and, in the case of pure
619 captive insurance companies and industrial insured captive insurance
620 companies, prior to March fifteenth of each year, each captive insurance
621 company [other than a branch captive insurance company shall submit
622 to] shall file with the [Insurance Commissioner] commissioner a report
623 of [its] the captive insurance company's financial condition verified by
624 oath of two [of its] executive officers of the captive insurance company.
625 The commissioner shall establish the form and content of the annual
626 report to be filed by special purpose captive insurance companies.

627 (B) [In the case of branch captive insurance companies, prior to March
628 first of each year, each such company] Each branch captive insurance
629 company shall [submit to] file with the commissioner a copy of all
630 reports and statements required to be filed under the laws of the
631 jurisdiction in which the alien captive insurance company or foreign
632 captive insurance company is formed. Such reports and statements shall
633 be verified by oath of two [of its] executive officers of the branch captive
634 insurance company and filed with the commissioner on the same day
635 that such reports and statements must be filed in the domiciliary
636 jurisdiction of the alien captive insurance company or foreign captive
637 insurance company. If the commissioner is satisfied that the annual
638 report filed by the alien captive insurance company or foreign captive
639 insurance company in [its] the domiciliary jurisdiction of the alien
640 captive insurance company or foreign captive insurance company

641 provides adequate information concerning the financial condition of the
642 alien captive insurance company or foreign captive insurance company,
643 the commissioner may waive the requirement for completion of the
644 [captive annual statement for business written in the alien jurisdiction.]
645 annual report required under subparagraph (A) of this subdivision. If
646 the commissioner is not satisfied with such reports and statements, or if
647 the branch captive insurance company is not required to file such
648 reports and statements in the domiciliary jurisdiction of the alien captive
649 insurance company or foreign captive insurance company, the branch
650 captive insurance company shall file a report, at a time and in a form
651 and manner prescribed by the commissioner, that provides the
652 commissioner with adequate information concerning the financial
653 condition of the alien captive insurance company or foreign captive
654 insurance company.

655 Sec. 7. Subsection (a) of section 38a-91hh of the general statutes is
656 repealed and the following is substituted in lieu thereof (*Effective July 1,*
657 *2021*):

658 (a) (1) [At least once every three years, and additionally whenever]
659 Except as provided in subdivision (3) of this subsection, the [Insurance
660 Commissioner] commissioner or the commissioner's designee shall,
661 whenever the commissioner determines it to be prudent, [the
662 commissioner or the commissioner's designee shall visit each captive
663 insurance company and thoroughly] but not less frequently than once
664 every five years, inspect and examine [its] each captive insurance
665 company's affairs to ascertain [its] the captive insurance company's
666 financial condition, [its] the captive insurance company's ability to fulfill
667 its obligations and whether [it] the captive insurance company has
668 complied with the provisions of sections 38a-91aa to 38a-91tt, inclusive,
669 as amended by this act, and any other applicable provisions of this title.
670 [The commissioner may extend the three-year period to five years,
671 provided a captive insurance company is subject to a comprehensive
672 annual audit during such period by independent auditors approved by
673 the commissioner and of a scope satisfactory to the commissioner.]

674 (2) The examination of a branch captive insurance company pursuant
675 to this section shall be of branch business and branch operations only,
676 as long as the branch captive insurance company provides annually to
677 the commissioner a certificate of compliance or its equivalent, issued by
678 or filed with the licensing authority of the jurisdiction in which the
679 branch captive insurance company is formed, and demonstrates to the
680 commissioner's satisfaction that [it] such branch captive insurance
681 company is operating in sound financial condition in accordance with
682 all applicable laws and regulations of such jurisdiction.

683 (3) The commissioner may waive the requirement that the
684 commissioner or the commissioner's designee inspect and examine a
685 captive insurance company's affairs pursuant to this subsection if the
686 captive insurance company is a pure captive insurance company.

687 Sec. 8. Subsection (a) of section 38a-91ii of the general statutes is
688 repealed and the following is substituted in lieu thereof (*Effective July 1,*
689 *2021*):

690 (a) (1) The commissioner may, at any time, for cause, suspend, revoke
691 or refuse to renew any license of a captive insurance company, or in lieu
692 of or in addition to suspension or revocation of such license, the
693 commissioner, after reasonable notice to and hearing of any holder of
694 such license, may impose a fine not to exceed ten thousand dollars. Such
695 hearings may be held by the commissioner or any person designated by
696 the commissioner. For purposes of this subsection, cause for such
697 administrative action shall include, but not be limited to, the following
698 reasons: (A) Insolvency or impairment of capital or surplus; (B) failure
699 to meet the requirements of section 38a-91dd, as amended by this act;
700 (C) refusal or failure to [submit] file an annual report, as required by
701 section 38a-91gg, as amended by this act, or any other report or
702 statement required by law or by lawful order of the commissioner; (D)
703 failure to comply with the provisions of its own charter, bylaws or other
704 organizational document; (E) failure to submit to or pay the cost of
705 examination or any legal obligation relative thereto; (F) use of methods
706 that, although not otherwise specifically prohibited by law, nevertheless

707 render its operation detrimental or its condition unsound with respect
708 to the public or to its policyholders; or (G) failure otherwise to comply
709 with the laws of this state.

710 (2) Any captive insurance company aggrieved by the action of the
711 commissioner in suspending, revoking or refusing to renew a license or
712 in imposing a fine may appeal therefrom, in accordance with the
713 provisions of section 4-183, except venue for such appeal shall be in the
714 judicial district of New Britain. Appeals under this section shall be
715 privileged in respect to the order of trial assignment.

716 Sec. 9. Subsection (a) of section 38a-91kk of the general statutes is
717 repealed and the following is substituted in lieu thereof (*Effective July 1,*
718 *2021*):

719 (a) Any captive insurance company may assume reinsurance from
720 any other insurer. [only on risks that such company is authorized to
721 write directly.]

722 Sec. 10. Section 38a-91qq of the general statutes is repealed and the
723 following is substituted in lieu thereof (*Effective July 1, 2021*):

724 The Insurance Commissioner may adopt regulations, in accordance
725 with chapter 54, as are necessary to carry out the provisions of sections
726 38a-91aa to [38a-91tt] 38a-91uu, inclusive, as amended by this act,
727 sections 38a-91ww and 38a-91xx and section 2 of this act and to establish
728 standards to ensure that a parent or affiliated company is able to exercise
729 control of the risk management function of any controlled unaffiliated
730 business to be insured by a pure captive insurance company, industrial
731 insured captive insurance company or sponsored captive insurance
732 company, except that until such regulations are approved, the
733 commissioner may approve the coverage of such risks by a pure captive
734 insurance company, industrial insured captive insurance company or
735 sponsored captive insurance company.

736 Sec. 11. Subparagraph (A) of subdivision (2) of subsection (g) of
737 section 38a-91ss of the general statutes is repealed and the following is

738 substituted in lieu thereof (*Effective July 1, 2021*):

739 (A) Proceeds from a special purpose financial captive insurance
740 company securitization or letters of credit or other assets described in
741 subdivision [(18)] (19) of section 38a-91aa, as amended by this act;

742 Sec. 12. Subsections (b) and (c) of section 38a-91uu of the general
743 statutes are repealed and the following is substituted in lieu thereof
744 (*Effective July 1, 2021*):

745 (b) A dormant captive insurance company that is domiciled in this
746 state may apply to the Insurance Commissioner for a certificate of
747 dormancy. The certificate of dormancy shall be subject to renewal once
748 every [two] five years, and shall be forfeited if the dormant captive
749 insurance company commences transacting insurance business or fails
750 to timely renew such certificate.

751 (c) A dormant captive insurance company that has been issued a
752 certificate of dormancy shall:

753 (1) Possess and maintain unimpaired, paid-in capital and surplus of
754 not less than [twenty-five] fifteen thousand dollars, provided such
755 dormant captive insurance company shall not be required to add capital
756 upon entering dormancy if such dormant captive insurance company
757 had never been capitalized;

758 (2) Not later than March [15, 2018,] fifteenth, annually, submit to the
759 commissioner a report on the financial condition of such company,
760 verified by oath of two executive officers of such company, in such form
761 as the commissioner prescribes; and

762 (3) Pay the license renewal fee specified in section 38a-11 for a captive
763 insurance company.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>July 1, 2021</i>	38a-91aa

Sec. 2	<i>July 1, 2021</i>	New section
Sec. 3	<i>July 1, 2021</i>	38a-91bb
Sec. 4	<i>July 1, 2021</i>	38a-91dd
Sec. 5	<i>July 1, 2021</i>	38a-91ff(h)
Sec. 6	<i>July 1, 2021</i>	38a-91gg(b)(1)
Sec. 7	<i>July 1, 2021</i>	38a-91hh(a)
Sec. 8	<i>July 1, 2021</i>	38a-91ii(a)
Sec. 9	<i>July 1, 2021</i>	38a-91kk(a)
Sec. 10	<i>July 1, 2021</i>	38a-91qq
Sec. 11	<i>July 1, 2021</i>	38a-91ss(g)(2)(A)
Sec. 12	<i>July 1, 2021</i>	38a-91uu(b) and (c)

Statement of Purpose:

To: (1) Amend certain definitions concerning captive insurance companies; (2) provide tax amnesty to an insured that establishes a branch captive insurance company in, or transfers the domicile of its alien captive insurance company or foreign captive insurance company to, this state; (3) modify the licensing requirements for certain captive insurance companies; (4) modify the capitalization requirements for certain captive insurance companies; (5) authorize the commissioner to exempt certain branch captive insurance companies from minimum capitalization requirements; (6) authorize foreign captive insurance companies to register to do business in this state; (7) modify the annual financial reporting requirements applicable to captive insurance companies; (8) authorize the commissioner to (A) waive the annual financial reporting requirement for certain alien captive insurance companies and foreign captive insurance companies, (B) less frequently examine the financial condition of captive insurance companies, (C) waive the periodic financial examination of pure captive insurance companies, and (D) adopt additional regulations concerning certain captive insurance companies; (9) provide that a captive insurance company may assume reinsurance from any other insurer regardless of whether such reinsurance is for risks that the captive insurance company is authorized to write directly; and (10) extend the term of certificates of dormancy issued to captive insurance companies and modify the requirements applicable to dormant captive insurance companies.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]