

Business Insurance

Captives exempt from Nonadmitted and Reinsurance Reform Act: Vt. Officials

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MONTPELIER, Vt.—Reiterating a position taken this week in a white paper distributed by the Vermont Captive Insurance Assn., Vermont captive officials are emphasizing their view that the federal Nonadmitted and Reinsurance Reform Act does not apply to captive insurance.

“Both the language of the legislation itself and the legislative intent are clear that the law was meant to apply only to the surplus lines market—not captive insurance,” David F. Provost, deputy commissioner of the captive insurance division in the Vermont Department of Banking, Insurance, Securities and Health Care Administration, said in a statement setting out the state's position Friday.

The issue stems from some interpretations of NRRRA's nonadmitted insurance provisions and suggestions that the law changed the application of state independently procured insurance laws.

White paper

The VCIA sought to quell any uncertainty by asking the association's federal legislative counsel, James T. McIntyre of McIntyre & Lemon P.L.L.C. in Washington, to examine the issue in the white paper, which finds that NRRRA's nonadmitted insurance provisions do not apply to captive insurance, including those regarding state taxation of nonadmitted insurance.

The white paper suggests, however, that “the captive industry should be aware that some states may attempt to overreach their taxing authority, and some may become more aggressive in pursuing and collecting the taxes on premiums paid for independently procured insurance as a result of the visibility provided by the NRRRA and their increased need for revenue.”

“Some of the messages that are being delivered are doing a huge disservice to the (captive) industry,” said Daniel D. Towle, director of financial services in the Vermont Department of Economic Development. “Having some states trying to tax captive insurance companies is nothing new and I believe some states are being overzealous.”

No legislative fix needed

While the white paper suggests additional congressional action might be necessary to address any confusion arising from NRRRA, Mr. Towle said Vermont officials think there's no need for such action.

"Our belief is when you truly analyze the act and understand the intent, the NRRRA doesn't apply to captive insurance," he said. "I don't believe we need a legislative fix; but if we do, we will pursue that."