



## Vermont Regulators: Updated Law Offers ‘Welcome Option’ for Inactive Captives

Vermont’s updated captive insurance law now offers inactive captives in the state a chance to apply for a “dormant” status. Vermont regulators said [this latest modification](#) reflects the state’s ongoing effort to introduce new prudent legislation for the captive industry.

“Making modifications to our captive law is an annual tradition in Vermont,” said Dan Towle, Vermont’s director of financial services.

“We are constantly looking for ways to introduce new prudent legislation that puts Vermont at the forefront of captive insurance legislation,” he said. “Every year we take input from the industry and see what makes sense to consider for changes. This year’s modification continues with that tradition.”

The updated captive law, H.563, (“An act Relating to Captive Insurance Laws and Accreditation Standards”) was signed by Vermont’s Gov. Peter Shumlin last week and is now in effect. Regulators said the law establishes an efficient mechanism for captives that have ceased insurance operations to cost-effectively retain their licenses in case they decide to restart operations in the future.

Under the new law, a pure captive insurance company domiciled in Vermont may apply to the insurance commissioner for a certificate of dormancy if it meets certain criteria. The law requires that a captive applying for the dormancy status must have ceased transacting the insurance business, including the issuance of insurance policies, and that there should be no remaining liabilities associated with insurance business transactions or policies issued prior to filing its dormancy application.

Regulators said there are only a few captives in Vermont that could be considered inactive, which means the new dormant status would be used only rarely.

“Our inactive captives would make up a very small percentage of our existing captives,” said David Provost, deputy commissioner of Vermont’s captive division. There are currently 588 captives in Vermont, and among them, regulators have identified fewer than a dozen captives that currently could qualify as inactive captives. Regulators are expecting that the law will be used only rarely going forward. “But for those that choose to take advantage of the law, it will be a welcome option,” Provost said.

Provost said that previously, inactive captives had to either stay open and continue to pay the minimum annual tax and continue to operate as an active captive or be dissolved by the parent company. “The new law creates an efficient way to put them into a true dormant status,” Provost said. Vermont regulators said they are not aware of any other domicile with a similar law.

The updated captive law also amended the reciprocal insurer section and its assessment rules. Regulators said updates to the reciprocal law would make it more attractive for educational institutions, health care providers and other nonprofit organizations to domicile in Vermont.

Provost said the reciprocal form of insurer has its basis in pre-captive days. And because the original reciprocal concept was based on post-occurrence funding of losses, and relied heavily on member assessments, the law contained some very prescriptive rules for assessment levied on members.

“Captive reciprocals are operated as insurance companies, i.e. they are pre-funded with capital and premium, so the assessment rules did not need to be applied,” Provost said. The new law grants the insurance commissioner the express authority to waive the assessment rules, he said, so that the captive reciprocal can operate in accordance with its approved business plan.