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Vermont Expands Cell Captive Protection

May 20, 2011 | [Subscribe Now](#) By [Caroline McDonald, PropertyCasualty360.com](#)

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Captives in Vermont will enjoy greater protection of their assets now that a bill has been passed by the state legislature that will allow for the separation of risk within a captive cell.

Legislation passed by the 2011 session of the Vermont legislature and signed into law by Governor Peter Shumlin expands Vermont's captive laws. The bill allows cells within a sponsored-cell captive to be formed as incorporated protected cells. This means captives will not have to worry about comingling assets and they can separate risks.

The bill was signed into law before a group of industry supporters on May 11.

"This bill is testimony to our commitment to keep pace with the changing needs of this industry," says Shumlin. "I commend the legislature for their hard work and commitment to keeping Vermont 'the gold standard' for captive domiciles."

Another change in the new captive-insurance law creates greater flexibility within cell structures on business written by a sponsored captive and on who can own a sponsored captive.

David Provost, deputy commissioner of Vermont's Captive Insurance Division tells NU Online News Service that the option to incorporate cells "was something that potential sponsors and cell owners had requested. Since our structure didn't allow incorporated cells, some business that would have considered Vermont as a domicile was forced to go elsewhere. Even though incorporating the cell may add some extra steps and some complications, I saw no material difference from a regulatory perspective, so we supported the change."

While the intent is to give companies wishing to use this type of structure the ability to domicile in Vermont, he notes that some potential cell owners "have expressed concern that the contractual cell structure has not been tested, for that matter neither has the incorporated cell structure, but there is a mountain of corporate law out there that upholds the strength of the corporation itself, so an incorporated cell has that to rely on."

He adds, however, "We made it clear in the law that the provision for an incorporated cell in no way weakens the strength of a contractual cell. There are many users who are quite satisfied with the current cell legislation, this is icing on the cake."

The ICC, he explains, comes with “all the benefits of being a Vermont captive: a developed infrastructure, dedicated captive insurance division, and supportive legislative and executive branches.”

Provost explains that the changes to allow different sponsors will open the door to organizations that might not have previously qualified, but “clearly have the expertise to be a sponsor, such as major insurance brokers. Although our existing statute allowed for anyone the commissioner approved as an exception, it now allows anyone we approve as the rule, and spells out criteria for us to consider.”

Dan Towle, director of financial services, tells NU, “Business is booming. We’ve already had a number of meetings on incorporated protected cells.”

He adds, “A number of companies setting up sponsored captives and looking to have protected cells—whether they be incorporated or not—are doing it with related entities or with customers, and they want to do it in a secure environment. Vermont keeps popping up high on the list for that.”

Vermont currently has 18 sponsored-cell captives with more than 100 individual cells.

The domicile says is off to its [strongest start](#) in years with nine captives licensed so far and five applications in progress. Vermont licensed seven new captives in the first quarter of 2011, according to the State Department of Banking, Insurance, Securities and Health Care Administration (BISHCA).

The state is the largest captive-insurance domicile in the U.S. and the third largest in the world, with \$25 billion in gross written premium in 2010. Vermont also is home to captives formed by 42 of the companies that make up the Fortune 100. And 18 of the companies that make up the Dow 30 have Vermont captives.

The bill also makes permanent the elimination of the first-year minimum tax of \$7,500 for newly licensed captives.

Richard Smith, president of the Vermont Captive Insurance Association (VCIA), notes, “It was a way for the legislature and governor to say thank you to an industry that has been so beneficial to Vermont.”

The VCIA was a strong supporter of this legislation and was a partner with the state in its passage.

After a strong 2010 with the licensing of its 900th captive insurer, the State of Vermont enacted these changes to the captive-insurance law in the state legislature as part of its annual enhancements to its captive statute, BISHCA says.