



REGULATORY & LEGISLATIVE PLENARY SESSION

North Carolina Captive Insurance
Association

1st Annual Conference

August 25, 2014



Agenda

- Introductions
- Legislative Update
- Marketing & Promotion
- Licensing Process
- Update on Captive Industry in North Carolina
- Other Information
- Q&A



Introductions

REGULATORY & LEGISLATIVE PLENARY SESSION



Captive Insurance Regulatory Team

- **Wayne Goodwin** N.C. Insurance Commissioner
- **Rose Vaughn Williams** Legislative Counsel
- **Raymond Martinez** Senior Deputy Commissioner
- **Jeffrey Trendel** Deputy Commissioner
- **Debra Walker** Director of Captive Insurance
- **Rick Kohan** Associate Actuary
- **Jonathan Stark** Senior Captive Financial Analyst
- **Kevin Brodie** Senior Regulatory Specialist
- **Leane Rafalko** Senior Regulatory Specialist
- **Kathy Hart** Administrative Assistant - Captives



Legislative Update

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North Carolina Captive Insurance Act

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

SESSION LAW 2013-116
HOUSE BILL 473

AN ACT TO ENACT THE NORTH CAROLINA CAPTIVE INSURANCE ACT.

The General Assembly of North Carolina enacts:

SECTION 1. Article 10 of Chapter 58 of the North Carolina General Statutes is amended by adding a new Part to read:

"Part 9. Captive Insurance Companies.

"Subpart 1. General Provisions.

"§ 58-10-335. Purpose.

(a) This Part shall be known and may be cited as the "North Carolina Captive Insurance Act."

(b) The purpose of this Part is to establish the procedures for the organization and regulation of the operations of captive insurance companies transacting insurance business within this State and thereby promote the general welfare of the people of this State.

"§ 58-10-340. Definitions.

The following definitions apply in this Part:

- (1) **Affiliated company.** – Any company in the same corporate system as a parent, an industrial insured, or a member organization by virtue of common ownership, control, operation, or management.
- (2) **Alien.** – An alien company as defined in G.S. 58-1-5.
- (3) **Alien captive insurance company.** – Any insurance company formed to write insurance business for its parents and affiliates and licensed pursuant to the laws of an alien jurisdiction which imposes statutory or regulatory standards in a form acceptable to the Commissioner on companies transacting the business of insurance in such jurisdiction.
- (4) **Association.** – Any legal association of individuals, corporations, limited liability companies, partnerships, associations, or other entities that meets the criteria set forth in either sub-subdivision a. or b. of this subdivision.

- Session Law 2013-116
- Received unanimous support in all committees and both legislative chambers
- Governor signed June 19, 2013
- Effective October 14, 2013



Legislative Amendments

- To remain relevant, North Carolina must be proactive and responsive so that the North Carolina Captive Insurance Act remains competitive.
- It is our intent to review the Act annually and propose changes as needed.
- During the 2014 legislative session, the North Carolina Department of Insurance proposed changes to the Act. With the full support of the North Carolina General Assembly, our changes were adopted and signed into law on July 7, 2014.

House Bill 267

2014 Legislative Amendments

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

SESSION LAW 2014-65
HOUSE BILL 267

AN ACT TO AMEND LAWS GOVERNING CAPTIVE INSURANCE COMPANIES AND RISK RETENTION GROUPS, AS RECOMMENDED BY THE DEPARTMENT OF INSURANCE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 58-10-340 reads as rewritten:

"§ 58-10-340. Definitions.

The following definitions apply in this Part:

- (9) Captive insurance company. – Any pure captive insurance company, association captive insurance company, industrial insured captive insurance company, risk retention group, protected cell captive insurance company, incorporated cell captive insurance company, special purpose captive insurance company, or special purpose financial captive insurance company formed or licensed under this Part.
- (37) Risk retention group. – A captive insurance company organized under the laws of this State pursuant to the Liability Risk Retention Act of 1986, 15 U.S.C. § 3901, et seq., as amended, as a stock or mutual corporation or as a reciprocal or other limited liability entity. Risk retention groups formed under this Part are subject to all applicable insurance laws including, but not limited to, any applicable provisions in Articles 1, 2, 3, 7, 9, 10, 12, 19, 22, 33, and 34 of this Chapter.
- (38) Securities. – Those different types of debt obligations, equity, surplus certificates, surplus notes, funding agreements, derivatives, and other legal forms of financial instruments.
- (38a) Special purpose captive insurance company. – A captive insurance company that is formed or licensed under this Part that does not meet the definition of any other type of captive insurance company defined in this section and is designated as a special purpose captive insurance company by the Commissioner.

SECTION 2. G.S. 58-10-345 reads as rewritten:

"§ 58-10-345. Licensing; authority; confidentiality.

(a) Any ~~captive insurance company~~ business entity, when permitted by its organizational documents, may apply to the Commissioner for a license to do any ~~and all~~ insurance comprised in G.S. 58-7-15; provided, however, that:

- (1) No pure captive insurance company shall insure any risks other than those of its parent and affiliated companies or a controlled unaffiliated business or businesses.
- (2) No association captive insurance company shall insure any risks other than those of its association, those of the member organizations of its association, and those of a member organization's affiliated companies.
- (3) No industrial insured captive insurance company shall insure any risks other than those of the industrial insureds that comprise the industrial insured group, those of their affiliated companies, and those of the controlled unaffiliated business of an industrial insured or its affiliated companies.



- Session Law 2014-65
- Received unanimous support in all committees and both legislative chambers
- Governor signed July 7, 2014
- Effective July 7, 2014



House Bill 267

2014 Legislative Amendments

Legislative changes were made for the following reasons:

- Addition of a new type of captive, “Special Purpose Captive Insurance Company”
- Simplification of deposit requirements
- Simplification of independent audit requirements
- Compliance with NAIC accreditation standards for risk retention groups
- Technical corrections



Addition of Special Purpose Captive Insurance Company

- The addition of G.S. 58-10-340(38a) provides for another type of captive that may be formed in North Carolina, the special purpose captive insurance company.
- This new captive type maximizes captive formation opportunities in North Carolina.
- This allows the Commissioner to approve captives that:
 - May not fit into one of the defined captive insurer categories
 - May fit into one of the defined categories, but there is a desire to deviate from one or more of the requirements of that category



Simplification of Deposit Requirements

- G.S. 58-10-345(c)(6) was amended so that a captive insurance company *is no longer required* to maintain its minimum required capital and surplus on deposit with the Commissioner.
- G.S. 58-10-425(a) was amended to provide the Commissioner with discretionary authority to require a captive insurance company to maintain a deposit with the Commissioner in a form and amount as the Commissioner may specify.



Simplification of Independent Audit Requirements

G.S. 58-10-415, Annual audit and actuarial certification, was almost completely rewritten, with the assistance of a local accounting firm, in order to simplify and clarify the section.

- In general, the revised legislation states the annual audited financial report shall be prepared in accordance with generally accepted accounting principles (unless otherwise required, approved or accepted by the Commissioner) and shall be audited by an independent CPA in accordance with generally accepted auditing standards.
- A new provision was added that provides the Commissioner with discretion to grant 30-day period extensions of the due dates for filings required pursuant to G.S. 58-10-415.
- A provision was added that requires the CPA to furnish a written statement in the engagement letter or other document submitted to the captive that the CPA is aware of and will comply with the requirements of G.S. 58-10-420(b) and (c).



Compliance with NAIC Accreditation Standards for Risk Retention Groups

- G.S. 58-10-340(37) subjects risk retention groups (“RRGs”) to Articles 9 (reinsurance intermediaries), 10 (insurer financial provisions), and 12 (risk-based capital requirements) of Chapter 58.
- G.S. 58-10-415(a) was modified to include the following language, “Risk retention groups shall comply with Parts 6 (property and casualty actuarial opinions) and 7 (annual financial reporting) of Article 10 of this Chapter instead of this section (Annual audit and actuarial certification).”
- G.S. 58-10-420(e) was added to include the following language, “Risk retention groups shall comply with Part 7 of Article 10 of this Chapter instead of this section (Independent certified public accountants).”



Compliance with NAIC Accreditation Standards for RRGs (cont.)

- G.S. 58-10-430 was modified to include the following language, “Risk retention groups are not subject to this section (Examinations) and shall instead be examined in accordance with the Examination Law, G.S. 58-2-131 through 58-2-134.”
- G.S. 58-3-165 was modified to include licensed RRGs in the definition of “Insurer” as defined by G.S. 58-3-165(a)(6) and remove licensed RRGs from the definition of “Captive insurer” as defined by G.S. 58-3-165(a)(2), thereby subjecting licensed RRGs to the requirements of G.S. 58-3-165 (Business transacted with producer-controlled property or casualty insurers).
- G.S. 58-22-15 was amended to reflect that the Commissioner may limit the net amount of risk retained by an RRG for any individual risk.



Technical Corrections

The technical corrections clarify and make certain words or phrases consistent in the Act.



Marketing & Promotion

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2013 – 2014 Activities

- Dec 2013 Attended and provided a presentation at the North Carolina Captive Insurance Association's inaugural seminar in Raleigh, NC
- Jan 2014 Attended the World Captive Forum in Aventura, FL
- Mar 2014 Attended and exhibited at the Captive Insurance Companies Association (CICA) International Conference in Scottsdale, AZ
- Apr 2014 Attended and exhibited at the Risk Insurance Management Society (RIMS) Annual Conference and Exhibition in Denver, CO
- Apr 2014 Met with the Raleigh Chamber of Commerce
- May 2014 Met with the Charlotte Chamber of Commerce
- May 2014 Participated in and presented at Womble Carlyle office for interested parties in Winston-Salem, NC
- May 2014 Presented at the NC Association of CPAs 2014 Spring Members in Business and Industry Conference
- June 2014 Participated in and presented at McGuireWoods event for interested parties in Charlotte, NC
- Aug 2014 Attended the Vermont Captive Insurance Association Annual Conference in Burlington, VT
- Aug 2014 Attending the North Carolina Captive Insurance Association Conference in Charlotte, NC
- Sep 2014 Will attend the South Carolina Captive Insurance Association Annual Executive Educational Conference in Isle of Palms, SC
- Sep 2014 Will meet with the Wilmington Chamber of Commerce
- Oct 2014 Will attend the Self-Insurance Institute of America's Annual National Educational Conference and Expo in Scottsdale, AZ
- Oct 2014 Will attend Captive Live USA in Chicago, IL



SWOT Analysis

(Strengths, Weaknesses, Opportunities and Threats)

- The NCDOTI conducted a SWOT analysis to help develop a marketing strategy for our captive program.
- The SWOT analysis is an organized list of our program's strengths, weaknesses, opportunities, and threats.
- Our strengths and weaknesses are internal and can be changed.
- Our opportunities and threats are external and cannot be changed.
- Our objective is to turn our weaknesses into strengths and our threats into opportunities.
- The outcome should be an increase in “value” to the North Carolina economy.



SWOT Analysis – Strengths

1. Dedicated and Experienced Captive Staff / NCDOJ Reputation

- *Dedicated staff for captive program and in-house actuarial support*
- *Access to additional staff, if workload demands are heavy*
- *Seasoned insurance professionals on staff possessing industry and regulatory experience*
- *Reputation for being a fair regulator*
- *Keenly aware of the importance of customer service and consistency in regulation*



SWOT Analysis – Strengths

2. The North Carolina Captive Insurance Act

- *Provides regulatory flexibility and allows the Commissioner to use prudent judgment and discretion*
- *Reasonable and adequate capital requirements*
- *No fees (except for special purpose financial captives)*
- *No mandatory NCDOL examinations (except for RRGs)*
- *Competitive premium tax rates*
- *Allows for the formation of incorporated and unincorporated protected cells*
- *Allows for special purpose captive insurance companies*
- *Possible exemption from annual audit requirements for captives writing less than \$1.2 million in premium (**case by case basis only**)*



SWOT Analysis – Strengths (cont.)

3. Geographic Location

- *Easily accessible with central east coast location with four major airports*
- *Moderate climate with mild winters and long pleasant periods of spring and fall with warm summers*
- *Scenic mountains and 300 miles of coast line*

4. Business Climate

- *In September 2013 Forbes Magazine recognized North Carolina as the fourth best state for business and careers*
- *In July 2014 Forbes Magazine named Raleigh, North Carolina as the best metro area for business and careers*

5. Transportation Infrastructure

- *North Carolina is home to the sixth largest major airline hub in the U.S.*
- *North Carolina has the second largest highway system in the U.S.*



SWOT Analysis – Weaknesses

1. North Carolina is a late entrant to the captive arena and has not established a firm “brand” or reputation in the captive industry
 - Over 30 other US states have captive laws
 - Off-shore jurisdictions
2. North Carolina has not yet established a critical mass of experienced captive service providers (although development is taking place)
3. Perception of having inexperienced regulators
 - Perception that staff do not understand captives
 - External fear that new states will welcome all captives in an effort to increase the number of captives and drive premium tax revenue, resulting in lax regulation
4. North Carolina market is unaware of the benefits of captives
 - Business community in North Carolina is relatively unfamiliar with captives and may look at them with skepticism



SWOT Analysis – Opportunities

1. Captive interest is growing amid small and medium sized companies
 - Enterprise risk captives (mini captives)
2. Demand for stop loss captives
 - As health care costs continue to increase, there is a growing trend by businesses to self-insure health benefits. Many are considering or will consider using a captive to address their health care costs.
3. Redomestications from off-shore
 - Owners of off-shore captives may consider redomesticating to the US for various reasons including increased scrutiny from the IRS of off-shore captives, competitive US captive laws, or desire as an American company to have their captive do business from the United States.
4. Redomestications from on-shore
 - North Carolina companies that have captives in other domiciles may consider redomesticating to North Carolina.
 - Non-North Carolina companies that have captives in other domiciles may consider redomesticating to North Carolina.



SWOT Analysis – Threats

1. Competition

- *How do we differentiate ourselves from other domiciles?*
- *Over 30 states have captive enabling legislation*

2. Most Fortune 500 companies have already established or have considered the establishment of captives

SWOT Analysis – Threats

3. Regulatory Forces

- *National Association of Insurance Commissioners*
 - *Considering the application of accreditation standards to certain captives, which could drive captives off-shore*
- *Internal Revenue Service*
 - *Interest in risk pooling arrangements*
- *Federal Insurance Office*
 - *Concerned with life reinsurance captives*
 - *Concerned with perceived lack of transparency for captive oversight from state to state*
- *Dodd Frank Act / Nonadmitted & Reinsurance Reform Act (“NRRA”)*
 - *Debate whether NRRA applies to captives*
 - *Heightened states’ awareness of self-procurement taxes*
 - *Some states applying self-procurement tax statutes to captive insurance to persuade captives to redomesticate to their home state*
 - *Each state free to interpret the NRRA as it will, regardless of how other states do so*



Marketing Goals & Objectives

- The responsibilities of the NCDOI's Captive Insurance Section are to promote North Carolina's captive insurance industry and to appropriately regulate captive insurance companies.
- The overarching goals that we have set for the North Carolina captive program are:
 1. Accommodate the insurance needs of North Carolina businesses
 2. Attract new business to North Carolina
 3. Create a positive economic impact on the state of North Carolina
 4. Become a respected, then leading, U.S. captive domicile



Marketing Goals & Objectives (cont.)

In order to reach our goals we have identified the following marketing objectives:

- Continue to maintain a sensible pro-business approach to regulation, demonstrating an appropriate and reasonable level of regulation
- Continue to maintain a regulatory team that is not only educated and experienced, but is dedicated to responding to the needs of the captive industry and easily accessible via phone, e-mail or in person
- Develop and maintain positive working relationships with captive managers and other captive service providers
- Participate in and promote North Carolina at various industry and trade conferences throughout the US



Marketing Goals & Objectives (cont.)

- Participate in educational sessions throughout North Carolina in order to educate businesses on the benefits of captives
- Continue to maintain a synergistic relationship with the North Carolina Captive Insurance Association
- Continually look for ways to improve North Carolina's captive law
- Continue to maintain a state of the art captive website
- Automate, to the extent possible, application and reporting processes



Marketing Strategy

- Target Market

- Captive managers
- Attorneys
- CPAs
- Other captive service providers
- Trade associations
- NC companies that have captives domiciled in other jurisdictions
- Companies that are interested in forming a captive

- Marketing Mix

- **Product**

- Captive law
- North Carolina
- NCDOT
 - Professional, knowledgeable staff
 - Customer service (Responsive, accessible)



Marketing Strategy (cont.)

- **Price**

- Fees
- Premium taxes

- **Place**

- Website
- Industry conferences
- NCDOT Raleigh office
- NCDOT regional offices (Asheville and New Bern)

- **Promotion**

- **Word of mouth**
- Website – www.nccaptives.com
- Industry conferences
- Brochures
- Press releases
- Speaking engagements
- One-on-one meetings
- Conference calls

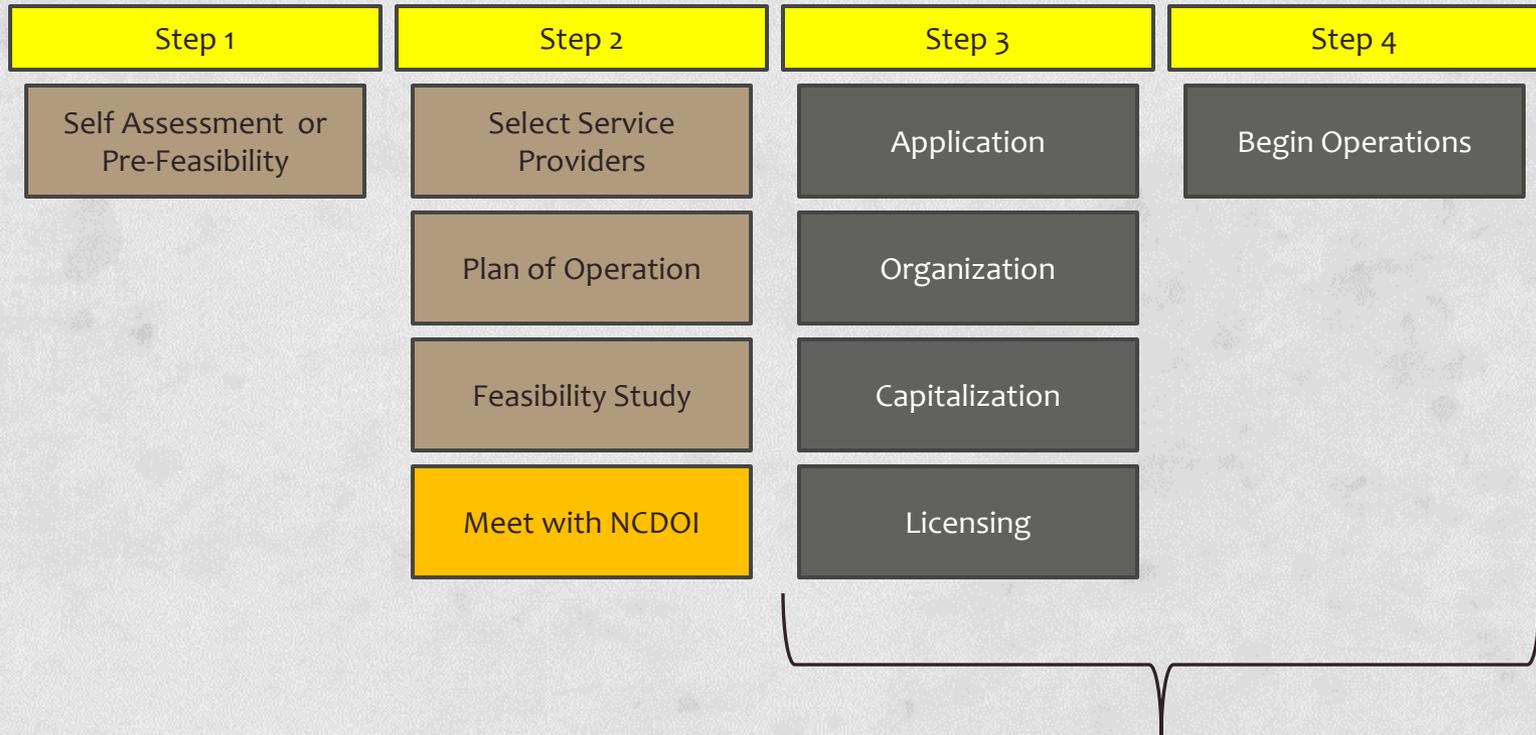


Licensure Process

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Forming a New Captive

All captives: G.S. 58-10-345 and 58-10-380; Protected Cell: G.S. 58-10-505 and 58-10-510; SPFC: G.S. 58-10-555, 58-10-565 and 58-10-570)

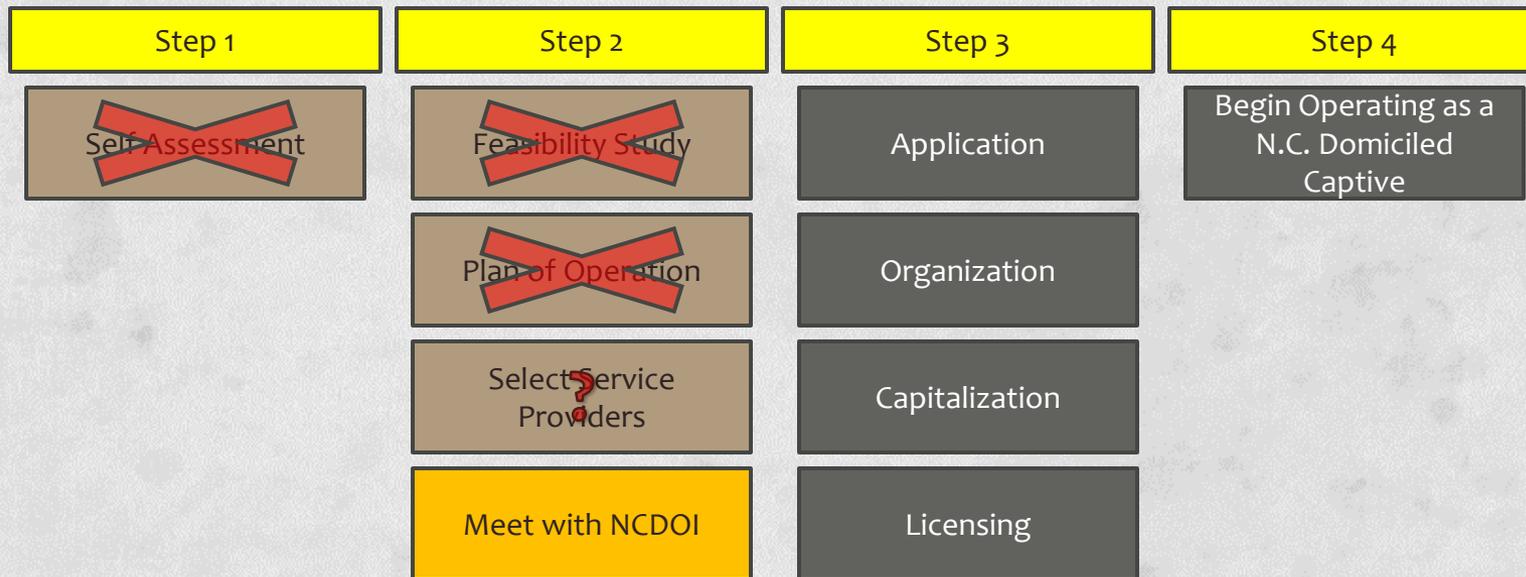


Primary NCDOT Involvement
Goal is 2 weeks to 30 days

Several of the items shown above will be occurring simultaneously.

Redomestication to North Carolina

All captives: G.S. 58-10-345; Protected Cell: G.S. 58-10-505;
SPFC: G.S. 58-10-565)



Redomestication to North Carolina is designed to be as simple and streamlined as possible

Several of the items shown above will be occurring simultaneously.



Licensing Process – Best Practices

- Review the North Carolina Captive Insurance Act
- Develop solid plan of operation
- Complete application in full
- Use experts
- Provide responses to the Department in a timely manner
- Contact the Department with any questions prior to submitting application



Update on Captive Industry in
North Carolina

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Captive Managers

As of August 22, 2014 there are 22 approved captive managers in North Carolina.



Captive Insurance Companies

- As of August 22, 2014, 11 captive insurance company license applications approved:
 - Pure captives – 5
 - Protected cell captives – 5
 - Special purpose captive - 1
- The 5 protected cell captive insurance companies have a total of 20 protected cells.
- More applications currently under review
 - Pure Captives – 7
 - Protected Cell Business Plans – 3
- Expect increase in filings as end of 2014 approaches



Other Information

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Website

www.nccaptives.com

- Forms & instructions
- News
- List of approved captive managers
- List of licensed captive insurance companies
- North Carolina Captive Insurance Act
- Sign-up for e-mail distribution list
- Contact information
- Events
- Other resources

Contact Information

Debra Walker
Director of Captive Insurance
Debbie.Walker@ncdoi.gov
919-807-6165

Ray Martinez
Senior Deputy Commissioner
Ray.Martinez@ncdoi.gov
919-807-6142

Rick Kohan
Associate Actuary
Richard.Kohan@ncdoi.gov
919-807-6145

Kevin Brodie
Senior Regulatory Specialist
Kevin.Brodie@ncdoi.gov
919-807-6152

Kathy Hart
Administrative Assistant – Captives
Kathy.Hart@ncdoi.gov
919-807-6180

Jeff Trendel
Deputy Commissioner
Jeff.Trendel@ncdoi.gov
919-807-6148

Jonathan Stark
Senior Captive Financial Analyst
Jonathan.Stark@ncdoi.gov
919-807-6181

Leane Rafalko
Senior Regulatory Specialist
Leane.Rafalko@ncdoi.gov
919-807-6149

Captives



Q&A