



**KAREN WELDIN STEWART  
INSURANCE COMMISSIONER**

**MEMORANDUM**

February 25, 2013

To: All Captive Managers, Auditors, and Actuaries Accredited in Delaware, and all Members of the Delaware Captive Insurance Association

From: Steve Kinion, Director, Bureau of Captive and Financial Insurance Products

Re: Reminder of Senate Bill 203 Requirements for Risk Retention Groups and Supplemental Information about NAIC Accreditation

---

This memorandum supersedes the memorandum dated February 20, 2013 that addresses the same subject.

---

The purpose of this memorandum is to remind all captive managers, actuaries, and auditors who provide services for risk retention groups that on July 12, 2012 Delaware Governor Markell signed Senate Bill 203. This bill was immediately effective and places certain new legal requirements on RRGs. These legislative changes were made in order for the Delaware Insurance Department to satisfy the Part A accreditation requirements for the National Association of Insurance Commissioners.

After sending a memorandum on February 20 about this subject, the Captive Bureau received a number of inquiries from the captive insurance community seeking additional information about how the Part A standards affect RRGs not only in Delaware, but in all other captive domiciles. Commissioner Stewart believes that a well informed captive industry is a more compliant industry, which is why the Captive Bureau is now offering this superseding memorandum that answers the inquiries.

All Captive Managers, Auditors, and Actuaries Accredited in Delaware, and all Members of the Delaware Captive Insurance Association

February 25, 2013

Page 2 of 3

### **Questions about NAIC Accreditation and Future Changes**

The mission of the accreditation program is to establish and maintain uniform regulatory standards that promote insurance company financial solvency regulation. The accreditation program provides a process for the uniform solvency regulation of multi-state insurance companies. All fifty states, the District of Columbia and Puerto Rico are currently accredited.

Do the Part A standards affect captive insurers that are not RRGs? No. RRGs are the only form of captive insurers subject to the laws required for a state to be accredited by the NAIC.

Are all RRGs subject to the accreditation standards? Yes. The scope of the Part A standards include RRGs that are domiciled in one state and registered or operating in at least one other state. The word "state" means the U.S. states and the U.S. territories.

How many accreditation standards exist? There are four accreditation standards named A through D. Part A concerns laws and regulations. Part B concerns regulatory practices and procedures. Part C concerns organization and personnel practices. Part D concerns organization, licensing, and change of control of domestic insurers.

Besides Delaware, are other captive domiciles subject to NAIC accreditation? Yes. This means that all state insurance departments must implement the Part A standards for RRGs in order to become or maintain NAIC accredited.

May I domicile an RRG in an offshore domicile to avoid the accreditation laws? No, an RRG may only be domiciled in a U.S. state.

Do the accreditation standards change? Yes. As insurance industry practices evolve, so must solvency regulation.

Will the Delaware Insurance Department enact other accreditation standards? Yes. There are three additional Part A accreditation standards Delaware will implement. Two will be implemented in 2013. These are to make RRGs subject to the actuarial opinion statute for property & casualty insurers, and the second requires RRGs to be subject to the Chapter 301 Regulation which is the model audit rule. The third standard is applying Risk Based Capital (RBC) to RRGs which will be an accreditation standard in 2014.

All Captive Managers, Auditors, and Actuaries Accredited in Delaware, and all Members  
of the Delaware Captive Insurance Association  
February 25, 2013  
Page 3 of 3

How do I stay current on the changing accreditation standards? I suggest that you consider joining a captive trade organization like the Delaware Captive Insurance Association or the National Risk Retention Association.

### **An Explanation of the Legislative Changes in Senate Bill 203**

#### A. Holding Company Act

SB 203 makes RRGs subject to the *Insurance Holding Company Systems Regulatory Act* and *Model Regulation* or substantially similar laws and regulations. This means that RRGs are subject to Chapter 50 of the Delaware Insurance Code, and Regulation 1801, which includes the requirements related to holding company systems.

#### B. Risk Limitation

Delaware law now provides the Department of Insurance with clear authority to limit the net amount of risk retained by an RRG for an individual risk. RRGs are now subject to Section 909 of the Delaware Insurance Code, which limits the amount of an individual risk to ten percent of an insurer's surplus to policyholders.

#### C. Reinsurance Ceded

Section 6911 of the Delaware Insurance Code provides that an RRG may take credit or a reduction from liability for the reinsurance ceded to reinsurers in accordance with related sections that comply with the *Credit for Reinsurance Model Act* and *Model Regulation*. However, this Section formerly indicated that an RRG may take credit or a reduction from liability "as otherwise approved by the Commissioner." SB 203 removed "as otherwise approved by the Commissioner" by amending subparagraph (b) and adding a new subparagraph (c) to Section 6911. The impact of this change is that RRGs are now subject to the same credit for reinsurance rules as commercial insurers.

#### D. Managing General Agents Act

SB 203 now makes RRGs subject to Chapter 18, Title 18 of the Delaware Insurance Code, which establishes a regulatory framework for the regulation of MGAs.

#### E. Reinsurance Intermediaries Act

SB 203 now makes RRGs subject to the laws for reinsurance intermediaries which are in Chapter 16, Title 18 of the Delaware Insurance Code. This act establishes a regulatory framework for the regulation of reinsurance intermediaries.

Thank you for considering this reminder and I look forward to your compliance.