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**Nonadmitted and Reinsurance Reform Act:
No Captive Insurance Impact
Consortium Agrees with White Paper Conclusions**

MONTPELIER – The new federal Nonadmitted and Reinsurance Reform Act (NRRA), often referred to as the Dodd Frank Act, has no applicability to captive insurance. That is the conclusion of an independent white paper prepared for the Vermont Captive Insurance Association (VCIA) by the law firm of McIntyre and Lemon, PLLC of Washington, DC.

“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,” said Dave Provost, Deputy Commissioner of Captive Insurance.

A consortium of the VCIA, the Captive Insurance Companies Association and the National Risk Retention Association agreed with the conclusion of the white paper. “There was no intent to have NRRA encompass captive insurance,” said Rich Smith, President of the Vermont Captive Insurance Association.

“There is a good deal of misinformation that is being disseminated to captive insurance companies,” said Dan Towle, Vermont’s Director of Financial Services. “This does a disservice to the captive insurer and to the industry.”

The white paper went to great lengths to analyze Congressional legislative intent, quoting from the chief bill sponsors as to the focus of the bill being surplus lines of insurance. Based on this analysis and the language of the NRRA itself, the white paper concludes both that (1) captive insurers should not be subject to the NRRA’s nonadmitted insurance provisions because they are not placing nonadmitted insurance within the meaning of the NRRA and (2) the NRRA did not change the application of state independently procured insurance laws, nor should it restrict the collection of premium taxes paid for independently procured insurance to the “home state” of the insured, as it does for nonadmitted insurance. The white paper can be read in its entirety at www.VermontCaptive.com/DoddFrank.

“It is prudent for captive insurance companies to seek counsel from their attorneys, tax advisors and captive managers if they have questions on the applicability of self procurement taxes,” said Towle. “Generally speaking, if you have been advised that self procurement taxes were not applicable before the NRRRA, they would not be applicable now. The NRRRA itself did not create any new taxes.”

Captive insurance is a regulated form of self insurance that has been around since the 1960’s, and has been a part of the Vermont insurance industry since 1981, when Vermont passed the Special Insurer Act. Captive insurance companies are formed by companies or groups of companies as a form of alternative insurance to better manage their own risk. Captives are typically used for corporate lines of insurance such as property, general liability, products liability, or professional liability. Growth sectors of the captive insurance industry include securitization, professional medical malpractice coverage for doctors and hospitals, and the continued trend of small and mid-sized companies forming captive insurance companies.

For more information on Vermont’s captive industry, visit www.vermontcaptive.com or call Dan Towle at 802-828-5232 or email dan.towle@state.vt.us .