

Inaugural TCIA Conference Plays to Rave Reviews -- A Symphony of History, Regulatory Progress, and Music

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The [Tennessee Captive Insurance Association, Inc.](#) (TCIA) and Music City USA (Nashville, Tennessee) rolled out the red carpet for the Inaugural TCIA conference on December 6-7, 2011. More than 100 delegates were present at the opening session that featured Julie McPeak, Commissioner of the [Tennessee Department of Commerce and Insurance](#). McPeak's energy and passion for attracting captives to Tennessee was received with enthusiasm. Prior to her new position she served as counsel to the insurance practice group of a leading Nashville law firm and was the former Executive Director of the Kentucky Office of Insurance. This experience and the indicated commitment of Governor Haslam provide Tennessee with the leadership that promises to develop the State's captive portfolio. Two new captives have been approved since the September 1, 2001 effective date of the revised statute. The Commissioner said Tennessee now has a total of six licensed captives with two additional applications pending as of the date of the conference.

In her presentation, McPeak stressed that "...Compliance with the updated captive law would be the key to Tennessee's success as a domicile." She introduced Assistant Insurance Commissioner Larry Knight, Senior Counsel Lacosta Wix, Director of Captive Insurance Michael Corbett, and other members of the Department. They all participated in a regulatory Q&A panel discussion later in the conference and networked with the attendees.

A "Come home to Tennessee and Music City" video prefaced TCIA Chairman Kevin Doherty's history of insurance in Tennessee and its revised captive statutes. Chairman Doherty, who heads the Burr & Forman, LLP insurance group, reminded conference attendees that Tennessee passed a captive insurance statute in 1978, three years before Vermont enacted its statute. He also provided an intriguing history of National Life & Accident, the first domestic insurance company in the State. The famous WSM (We Shield Millions) Grand Ole Opry country western radio station was founded by a son of the National Life founder. The radio station remains a favorite in many homes in the U.S., and early in its history, became the principal way that National Life expanded and marketed its coverages.

The Q&A session about the new captive law highlighted several of its features. The revised statutes permit pre-qualified Tennessee self-insureds to morph into captives and leverage the federal tax benefit that results from the deductibility of premiums. Other features of note are: (1) captives whose owners qualify as self-insureds can write workers' compensation on a direct basis in Tennessee, and (2) businesses that have captives domiciled elsewhere can create a branch captive in Tennessee and avoid fronting expenses for their Tennessee member insureds.

The cost of captive examinations was another issue discussed with the regulators. Assistant Commissioner Larry Knight said he was well aware of the concern and was doing all he could to keep the costs of those examinations down. He pointed out that if a captive had an annual audit performed by a CPA a three-year exam would not be required. The exam would be scheduled after 5 years of operation.

Speaker of the House Pro Tem Judd Matheny gave luncheon attendees a legislative history and his perspective of the revised captive statute. He credited his primary staff member with educating him on the benefits of having an effective captive statute. This same staff person had previously worked with a captive formed in Puerto Rico. The theme of the House Speaker Pro Tem's luncheon message hammered home the Tennessee legislature's passion to set

policy that would continue to strengthen Tennessee's business environment. Rep Matheny said the Legislature was very supportive of Governor Haslam's captive initiative.

A subsequent seminar probed the question, "Why have captive domiciles sputtered?" This was one of several questions answered by a panel of experienced captive service providers: Gary Osborne, [USA Risk](#); Dick Goff, [The Taft Companies](#); David Guerino, Willis Management; and Brady Young, [Strategic Risk Solutions](#). As of December 2011, thirty-two states have captive statutes, providing the captive industry with numerous domicile choices. How many is too many? Will more domiciles find themselves "weeded out" by competing jurisdictions? Among the major reasons cited for domiciles that have not grown were the lack of dedicated insurance department captive staff, staff turnover, cuts in insurance department staff because of budget cutbacks, and failure of regulators to live up to their commitments. One specific example cited by a service provider told of a telephone call to a state insurance department asking to speak to whoever was responsible for captive applications. After several frustrating call forwards from one individual to another, nobody in the insurance department had any idea who was responsible for captives. That state has yet to return a call to the service provider.

It was pointed out that one of the features of the Tennessee captive revision was the dedication of all taxes paid by captives to the Insurance Department. Another panelist emphasized that states such as Vermont, which dedicate some or all of the taxes paid by captives, are more responsive to captive needs.

The next presentation featured Steve Chirico from A.M. Best, who explained the A.M. Best rating methodology for captives. He also provided a historical performance overview of captives and risk retention groups. Chirico said that, contrary to the perceptions of a number of state regulators and others, RRG's outperform other types of captives and commercial insurers. The five-year operating ratio of RRG's was 16 points better than commercial insurers and 4 points better than other types of captives rated by A.M. Best. A.M. Best published a captive market review of captives in August, 2011. That report is an excellent source for captive benchmarking and is available for purchase at <http://www.ambest.com/research>.

The TCIA inaugural conference concluded with dinner and country music at a nearby restaurant. Three singer/songwriters, including TCIA's Kevin Doherty, staged an entertainment program that will long be remembered by those who attended.

As the conference wound down, Michael Corbett, Director of Captive Insurance, reminded the group that the primary focus in the immediate future will be to encourage Tennessee domiciled businesses that have captives to re-domesticate or establish branch captives in the Volunteer state. In addition, TCIA and the Department will be reaching out to businesses to explain the benefits of forming a captive. Tennessee has more than 300 companies with more than 500 employees.

Tennessee is off to a strong start!