

Montana Captive Insurance News

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Montana Captive Law Improvements Passed

Helena, MT. MCA33-28 will offer greater flexibility and certainty to Montana domiciled captive insurance companies and risk retention groups once Governor Brian Schweitzer signs SB161 into law in May 2007. With 100% approval by the Senate and 94% support by the House, the bill's passage demonstrates Montana's strong support of its rapidly growing captive insurance industry and the economic development it brings.

"I want to thank Senator Rick Laible of Hamilton who sponsored the bill as well as the efforts of the Montana Captive Insurance Association members and the Insurance Commissioner's Office staff who helped draft SB161's language and educate legislators during the session," says Huth. (MCIN Note: Huth was also instrumental in rallying the captive insurance industry through his frequent communications).

MCIA members' legislative efforts were provided by Brenda Olson (ORG Risk Management), John Jones, (Moulton Bellingham Longo & Mather), Cliff Larson (Allegiance Re), Dick Goff (WA Taft), Arthur Perschetz. (Muldoon Murphy & Aguggia), Arthur DeRosier and Michael Mace (Rocky Mountain College).

See page 2 for SB161 highlights.♦

Benefits Liability RRGs for Associations & Trade Groups

Benefit plan sponsors facing problems finding affordable medical stop loss coverage should consider banding together to create a Montana-domiciled risk retention group (RRG) or an association captive to gain savings, control, and affordable reinsurance. Montana is one of two states to have approved such a program for a group of plan sponsors, and more captives and RRGs are sure to follow.

Attempting to stem ever-growing medical benefit costs, many employers have created self-insured medical plans and then purchase medical stop-loss insurance to protect the plan against a single large claim or a rash of expensive claims in any one year. Yet employers' health insurance costs continue to rise.

A RRG or association captive can reduce reliance on third party medical stop-loss insurance by offering plan sponsors opportunities to capture underwriting profits within their premiums. By creating a separate group, the RRG or captive can help immunize employers from rate hikes due to others' adverse loss experience.

For example, a captive or RRG could insure a self funded plan sponsor's claims in the "middle layer", excess of the plan sponsor's specific and aggregate deductible (which may be reduced by the RRG) and below the commercial insurer's attachment point (which may be increased to lower costs).

Trade associations are well suited for bringing this solution to their members. Association captives can satisfy multi-state insurance requirements by reinsuring their members' insurance carrier under a "fronting arrangement," and under Montana's pending new law, the captive can be capitalized with as little as \$375,000. These captives will incur an annual fronting fee and need to abide by carrier coverage forms, collateral requirements, and claims administration.

For multi-state employers, a Montana RRG license may be preferred over an association captive license. RRGs can write insurance in all 50 states and are exempted from many state laws, thanks to the 1986 federal Liability Risk Retention Act. A single RRG can only insure entities that

INSIDE THIS ISSUE

1	Montana Captive Law Improvements Passed
1	Benefits Liability RRGs for Associations and Trade Groups
2	Highlights of SB161
2	May 18 is MCIA's Early Bird Registration Deadline
3	Shot of the Day: On the Butting Edge

Highlights of SB161

Helena, MT. Senate Bill 161 is supercharging the “engine” of MCA33-28 as follows:

- Allows captives to organize as any legal business entity form and states that captives and RRGs may be formed as mutual or stock insurers.
- Allows pure captives to insure “controlled unaffiliated business entities,” defined as those entities not part of the parent’s corporate system that have an existing contractual relationship with the parent or its affiliated company.
- Reduces by 50% the minimum capital requirements for captive reinsurance companies (e.g. \$125,000 for pure captives and \$375,000 for association captives that reinsure an admitted carrier).
- Reduces minimum capital for protected cell captive insurance companies with 10 or fewer homogenous cells to \$250,000; otherwise the minimum capital is \$500,000 (down from \$1 million).
- Ensures MTDOI confidentiality for captive programs.
- States that pure captives and branch captives can insure group health plans and health insurance.
- Creates a new licensing category specifically for Captive Risk Retention Groups.
- Clarifies that GAAP reporting is acceptable for captives and RRGs, except that approved letters of credit will also be recognized as assets.
- Codifies an administrative rule allowing captives to file annual statements 60 days after fiscal year end.
- Allocates a portion of captive premium taxes towards a captive fund to bolster the MTDOI’s marketing efforts.

Interested parties can go online to read the full bill at <http://data.opi.mt.gov/bills/2007/billpdf/SB0161.pdf> or read MCA33-28 with SB161 changes at www.orgcaptives.com ♦

are within the same industry or that belong to a common association. And because RRGs can only write liability coverage, its insureds will most likely be self-funded plans for which a portion of the plans’ contractual liabilities are insured. Further, it’s important to structure the RRG’s ownership carefully to avoid ERISA restrictions on transactions with “parties of interest.”

Those interested in exploring this opportunity can contact Brenda Olson at ORG in Bigfork, MT. She can be reached at brendao@orgcaptives.com and at (406) 837-2774. ♦

May 18 is MCIAs Early Bird Registration Deadline

Save \$100 off of the MCIAs Summer Conference registration fee by signing up by May 18 at www.mtcaptives.org. MCIAs members will pay only \$595 for the first registrant and \$495 for each additional person. Spouses and guests can participate in networking receptions and meals for only \$125 by pre-registering too. Don’t forget to sign up for the white water rafting event in Glacier National Park. My 82 year old mother-in-law has had a fabulous time on this trip, so don’t be shy!

The conference agenda offers attendees many opportunities to network and learn about the latest alternative risk transfer (ART) topics, including:

- ✓ **Captive Challenges & Opportunities** by Thomas Jones of McDermott, Will & Emery
- ✓ **The Convergence of Health Care and ART** presented by Gary Lefkowitz of the US Department of Labor
- ✓ **Enterprise Risk Management: The Captive Proposition** presented by Brenda Olson of ORG Corporation
- ✓ **RRG Alternative for Medical Stop Loss**
- ✓ **Educating the Next Generation of Captive Industry Leaders** by Mike Mace & Art DeRosier of Rocky Mountain College
- ✓ **Montana Captive Laws and the 2007 Legislative Session** by Michelle Jenson of Moulton, Bellingham, Longo and Mather
- ✓ **Deciphering the Actuarial Report** by Martin Lewis, Tillinghast / Towers-Perrin. ♦

SHOT OF THE DAY: "ON THE BUTTING EDGE"

GLACIER NATIONAL PARK

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