



Use of Captive Insurance Companies Public Meeting

Marie Grant
Insurance Commissioner

October 7, 2026

This presentation does not provide legal advice.
You should discuss specific questions with your
trusted financial advisor or insurance producer.



Agenda

- Presentation by the Maryland Insurance Administration - Commissioner Grant
- Presentation by the Maryland Hospital Association - Andrew Nicklas, Senior Vice President of Government Affairs and Policy & General Counsel and Jake Whitaker, Assistant Vice President of Government Affairs & Policy
- Presentation by the Centers for Better Insurance, LLC - Jason Schupp, Founder and Managing Member
- Comments from Public Stakeholders, as time allows



MIA Reporting Requirement: Senate Bill 890

“The Maryland Insurance Administration, in consultation with relevant stakeholders, shall study the use, regulation, and taxation of captive insurance companies by entities in the State.

The study ... shall examine:

- (1) utilization of captive insurance by nonprofit and for–profit entities;
- (2) existing federal and state regulatory and taxation frameworks that apply to captive insurance, including states with and without established captive insurance frameworks, focusing on:
 - (i) mechanisms used for funding regulatory oversight; and
 - (ii) how other states tax capital contributions and internal reserves, including whether different tax treatments are applied based on the nonprofit or for–profit status of the captive owner; ...

MIA Reporting Requirement: Senate Bill 890, continued

(3) the feasibility, utility, and potential structure of establishing a State registry for captive insurance companies domiciled in other jurisdictions but used by entities in the State, including an analysis of how a registry framework could provide regulatory transparency and fund oversight operations as an alternative to a premium tax framework; and

(4) the aggregate results of any completed investigations regarding the use of captive insurance by nonprofit and for-profit entities in the State.

...

On or before January 1, 2027, the Administration shall report its findings and recommendations to the Governor and, in accordance with § 2–1257 of the State Government Article, the Senate Finance Committee and the House Health 10 Committee.”

What is a Captive Insurer?

- **Definition:** A wholly owned subsidiary formed specifically to finance and insure the risks of its non-insurance parent company (or companies).
- **Legal Entity:** Once established, the captive is a separate legal and taxpaying corporation, and often operates similarly to a commercial insurance company, subject to some of the same state regulatory requirements, including reporting, capital, and reserve requirements.
- **The Core Mechanism:** Instead of paying premiums to an outside commercial insurer, the parent company pays premiums or other expenditures to its own captive to cover its exposures.
- **Growing Trend:** Today, there are approximately 8,000 captives globally compared to roughly 1,000 in 1980, according to AM Best Captive Center.
- **International Presence:** Captives can be domiciled and licensed in a wide number of jurisdictions, both in the U.S. and offshore. Bermuda is the largest single jurisdiction, followed by the Cayman Islands. In Europe, Guernsey, Luxembourg, and Ireland are the market leaders. In the U.S., Vermont is the largest domicile and is considered a leader in captive legislation.

Captive vs. Commercial Insurance

Feature	Commercial Insurance	Captive Insurance
Ownership	Third-party insurance carrier	Wholly owned by parent organization
Underwriting Profits	Retained by the commercial carrier	Retained by parent company
Policy Customization	Standardized market policies	Tailored to organizational needs
Claims Handling	Managed by carrier	Controlled internally by the organization

Core Structural Models

- **Single-parent or “Pure” Captive:** Any company that insures risks of its parent and affiliated companies or controlled unaffiliated business.
- **Group Captive:** Jointly owned by multiple independent businesses facing similar industry risks (e.g., healthcare providers, contractors).
- **Association Captives:** Any company that insures risks of the member organizations of the association, and their affiliated companies.
- **Rental Captives:** A captive insurer formed to enter into contractual agreements with policyholders or associations to offer some or all of the benefits of a program of captive insurance and that only insures risks of the policyholders or associations

Note that the above list is not exhaustive, and variations continue to emerge.

Captives Under Maryland Law

- **Unauthorized Insurers:** The MIA's enforcement position is that captive insurance companies that do not hold a certificate of authority from the MIA are unauthorized insurers if providing insurance to Maryland entities. They are not excluded in Title 4, Subtitle 2 of the Insurance Article, which is the law in Maryland that pertains to unauthorized insurers.
- **Premium Tax:** In accordance with Section 4-209 of the Insurance Article of the Annotated Code of Maryland, an unauthorized insurer is to remit a premium receipts tax of 3% on the gross premiums charged for insurance. If the insurer does not remit the premium receipts tax pursuant to Section 4-209, the insured must do so pursuant to Section 4-211.
- **Home State:** Maryland's unauthorized insurance law applies to all insureds whose "Home State" is Maryland. The definition of "Home State" is the state in which an insured maintains its principal place of business. However, when there are multiple affiliated entities covered by the same policy, the term "Home State" means the state of the affiliated entity that pays the largest percentage of the premium.

State Approaches to Captive Insurance: States with No Domestic Captives

Thirty-five (35) states currently allow for captive formation - 37 if Washington, D.C. and the U.S. Virgin Islands are included. Fifteen (15) states currently do not allow for, or have a mechanism that allows for, captive formation. States without domestic captive options (Like Maryland) fall into two enforcement models: establishing a mandatory out-of-state captive registration/tax framework, or enforcing existing independent procurement/unauthorized insurer tax laws through tax audits, investigations, and voluntary disclosure programs.

Washington State

- **Framework:** Washington enacted SB 5315 (2021), establishing a mandatory registration framework for out-of-state captives insuring Washington-based risks.
- **Tax & Fee Structure:** Requires eligible captive insurers (\$1 million minimum net assets) to register with the Office of the Insurance Commissioner (OIC), pay an initial and annual renewal fee of \$2,500, and pay a 2% premium tax on risks allocable to Washington.
- **Retroactive Back Taxes:** Mandates payment of unpaid premium taxes retroactive to January 1, 2011 (without penalties or interest if registered timely).
- **Application to Nonprofits:** Applies equally to commercial corporations and nonprofit health systems.

State Approaches to Captive Insurance: States with No Domestic Captives

Minnesota

- **Enforcement Program:** The Minnesota Department of Revenue (MDOR) actively enforces its 2% independent procurement tax on captive insurance transactions through a Voluntary Disclosure Program.
- **Hospital Exemption Clarification:** No statutory policy or administrative determination treats nonprofit hospitals as exempt from the direct procurement tax. Nonprofit 501(c)(3) health systems actively file and pay the tax.
- **Tax Code Counter-Measures:** Minnesota law (Minn. Stat. § 290.01) requires captives to be combined into the parent company's unified corporate income tax return if less than 50% of the captive's income is derived from insurance premiums.

State Approaches to Captive Insurance: States with No Domestic Captives

Indiana

- **Statutory Definition:** Under Indiana Code § 27-1-2-2.3, captives are exempt from standard certificates of authority but must complete Captive Insurer Registration with the Indiana Department of Insurance.
- **Tax Requirements:** Registered captives pay a flat \$2,500 annual tax to the state treasury, and are exempt from other state/local license fees or privilege taxes (aside from property taxes).

State Approaches to Captive Insurance: States that Allow Domestic Captive Insurance Companies

New York

- **Capital & Reserves:** New York does not currently tax capital contributions made by a parent company to its captive insurer.
- **Registry & Amnesty:** New York does not maintain a registry for out-of-state captives and has not established a tax amnesty program.
- **Tax Combination Rules:** Under New York Tax Law § 210-C, New York requires captive insurers to be combined with the parent corporation's tax filings if less than 50% of the captive's income consists of insurance premiums.

State Approaches to Captive Insurance: States that Allow Domestic Captive Insurance Companies

Texas

- **Status:** Texas law permits domestic captive insurance companies to be licensed and incorporated under Chapter 964 of the Insurance Code. For foreign or alien captives that remain unlicensed in Texas, the state enforces premium taxation primarily through its 4.85% unauthorized insurance and independently procured insurance tax laws on Texas-allocated risks.
- **Amnesty Program:** In July 2026, in an effort to encourage unlicensed captive insurance companies and their insureds to comply with state tax laws, the Texas Comptroller of Public Accounts announced an unauthorized insurance tax amnesty program for captive owners. Taxpayers filing unauthorized insurance tax returns for 2022, 2023, 2024, and 2025 by December 31, 2026, receive a limited 4-year lookback with a complete waiver of penalties and interest.

Written Comments

Written comments will be accepted through EOD Wednesday, October 21, 2026,
on topics covered in today's meeting.

Those can be submitted via email to:

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&

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Questions?



Contact Information

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Thank
you