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LEGISLATIVE BILL REVIEW FORM: 2014

Bill Number:__H. 198_____________ Name of Bill:_An Act Relating to the Legacy Insurance Management Act_____

Agency/ Dept:_Dept. of Financial Regulation____ Author of Bill Review:___Commissioner Susan L. Donegan______

Date of Bill Review:__2/10/2014_____________ Status of Bill: (check one):

_____Upon Introduction _____ As passed by 1st body __X___As passed by both bodies

Recommended Position:

_X____Support _____Oppose _____Remain Neutral _____Support with modifications identified in #8 below

Analysis of Bill

1. **Summary of bill and issue it addresses.** *Describe what the bill is intended to accomplish and why.*

This bill proposes to add Chapter 147, called "Legacy Insurance Transfers," to Title 8. *The Legacy Insurance Management Act* (LIMA) would continue Vermont's tradition of innovation in the financial services sector. LIMA would enable a Vermont-domiciled company to apply to the Department of Financial Regulation (DFR) to purchase a single "closed block" of commercial surplus lines insurance policies or reinsurance agreements. The Vermont-domiciled company would be a single purpose entity, formed for the sole purpose of engaging in one LIMA transaction. Insurance policies for personal lines, such as auto, workers' compensation, homeowners, life, or health insurance, would not be transferrable under this act.

In the bill, applicant companies are referred to as "assuming companies," as they assume the responsibilities and risk of the closed block. An application from an assuming company would be thoroughly vetted by DFR for both solvency and sufficiency of operations, and would be subject to an administrative hearing to ensure that policyholders have due notice and process. Upon application, the company would remit a one-time fee of $30,000.00. Any subsequent costs associated with the review of the application, as well as costs associated with ongoing regulatory oversight, may be later assessed on the company. If the application is granted, the assuming company must pay a tax equal to one percent of the first $100,000,000.00 dollars of gross liabilities to be transferred, and one half of one percent of liabilities transferred that exceed $100,000,000.00. After the tax has been paid, the assuming company would be permitted to manage the closed block under the regulatory oversight of DFR.

Finally, the assuming company must have at least one meeting per year in Vermont and must have a principal place of business in Vermont.

2. **Is there a need for this bill?** *Please explain why or why not.*

This bill would allow Vermont to respond to a unique market opportunity. Insurance companies are required to reserve funds for claims that have not been reported, but are statistically likely to occur during the life of the insurance policy. These reserves, called "incurred but not reported," or IBNR reserves, must remain on a company's balance sheet for many years in certain cases, even when the company no longer engages in the type of business related to the claims. Traditionally, a company has had to carry that IBNR liability on its balance sheet, or the company would have to seek expensive reinsurance. For example, a company that previously insured long tail risks, such as asbestos liability, might be required to reserve funds for those policies for decades, even though the company now insures entirely different types of risk and no longer maintains the expertise to manage asbestos claims. This can be incredibly inefficient and burdensome for insurance companies. The bill, however, would allow companies to move their liabilities to a willing purchaser who is required to manage claims in a manner consistent with Vermont's insurance laws. LIMA would be the first such law in the U.S., but it is modeled on a European approach that has been successful for some time now.

This bill would also make Vermont a target destination for sizeable LIMA transactions, similar to the way Vermont is the preferred domicile of many captive insurance companies. The bill would protect policyholders and the market as a whole by applying the high standards and practices of DFR to the assuming entities. Currently, there is no standardized structure for these transactions to adhere to within the U.S. The bill would provide that necessary structure, along with the rigorous regulatory oversight needed to reassure investors and parties on both sides of the transaction. The bill is necessary should Vermont hope to become a destination for LIMA transactions.

3. **What are likely to be the fiscal and programmatic implications of this bill for this Department?**

   As an immediate matter, DFR has sufficient capacity and expertise to responsibly oversee the application and oversight process of LIMA transactions. DFR hopes that this new LIMA vehicle will grow slowly but significantly in popularity, as was experienced when the Department began to license captive insurance companies. Should this occur, DFR may require additional staff. Any financial outlays necessary to operate a LIMA division would likely be covered, and then some, by revenues from the LIMA transactions.

4. **What might be the fiscal and programmatic implications of this bill for other departments in state government, and what is likely to be their perspective on it?**

   The Department of Taxes may see additional revenue, as these entities would be subject to the Vermont corporate income tax. The Office of the Secretary of State may see an increase in applications for incorporation or association as a Vermont domiciled company. This would be a positive development for both of these agencies, as well as for the State as a whole.

5. **What might be the fiscal and programmatic implications of this bill for others, and what is likely to be their perspective on it?** (*for example, public, municipalities, organizations, business, regulated entities, etc)*

   Other groups, including merchants and local municipalities, will experience a secondary benefit from increased demand, driven by quality jobs and wages brought into the state. Vermont's own experience with captive insurance suggests that the annual meetings that companies will be required to hold in Vermont will bring in additional revenue to the State.

   Regulated entities, such as insurers, may be impacted as well. Some more established insurers and reinsurers may experience greater competition from these new LIMA companies, while other companies may benefit from removing liabilities from their balance sheets. Insurers who had initially chafed at the increased competition may eventually choose to compete for this new business. In either case, the marketplace will operate in a more free and efficient manner.

6. **Other Stakeholders:**

   6.1 Who else is likely to support the proposal and why?

   This bill is supported by entities hoping to form a Vermont-domiciled company for the purpose of purchasing and managing a closed block. The group of supporters is likely to include third-party administrators, established insurance companies, and investors. Businesses who are seeking to improve their balance sheet may also support the bill. These businesses would include any insurer who had at one time written long-tail commercial insurance policies, but now finds it inefficient to manage these policies on an ongoing basis and wishes to remove the liabilities from its balance sheet. Law firms hoping to facilitate the LIMA transactions are also likely to support the bill, as they will be able to negotiate and execute these new transactions on behalf of their clients.

   6.2 Who else is likely to oppose the proposal and why?

   Currently, there are no parties actively opposing or anticipated to oppose the bill.

7. **Rationale for recommendation:** *Justify recommendation stated above.*

   This bill would position Vermont's financial services sector as a notable innovator in the U.S., while limiting risk by building on the experiences seen in Europe. In the process, the bill would create the professional jobs necessary to operate LIMA companies, and has the potential to generate significant revenue in the form of income and transaction taxes, as well as administrative fees.

8. **Specific modifications that would be needed to recommend support of this bill**: *Not meant to rewrite bill, but rather, an opportunity to identify simple modifications that would change recommended position.*

   None.

Secretary/Commissioner has reviewed this document: Susan L. Donegan **Date:** 2/10/14

Please return this bill review as a Microsoft Word or PDF document to laura.gray@state.vt.us