SENATE BUDGET AND APPROPRIATIONS COMMITTEE

STATEMENT TO

[Third Reprint]

ASSEMBLY, No. 2360

STATE OF NEW JERSEY

DATED: DECEMBER 8, 2010

The Senate Budget and Appropriations Committee reports favorably Assembly Bill No. 2360 (3R).

This bill permits a captive insurance company to be licensed by the Department of Banking and Insurance to do business in the State in any of the lines of insurance in subtitle 3 of Title 17 of the Revised Statutes (R.S.17:17-1 et seq.) or Title 17B of the New Jersey Statutes (N.J.S.17B:17-1 et seq.), generally including contracts or policies of life insurance, health insurance, annuities, indemnity, property and casualty, fidelity, guaranty and title insurance, and reinsurance, provided the captive meets certain requirements.

The bill regulates captive insurance companies, which include pure captive insurance companies, association captive insurance companies, sponsored captive insurance companies, and industrial insured captive insurance companies and risk retention groups.

The bill provides that a captive insurance company must meet certain requirements, including those relating to formation, capital and surplus, annual reporting, examination, local office presence, ability to meet policy obligations, payment of certain fees and taxes, and annual reporting.

In addition, the bill creates a "Captive Insurance Regulation and Supervision Fund" to provide the financial means for the commissioner to administer the bill's requirements.

Further, the bill provides procedures for various types of captive insurance companies to merge with other entities and procedures that a sponsored captive insurance company must follow with respect to protected cell companies.

Under the bill, a captive insurance company cannot be required to join a rating organization. The bill prohibits a captive insurance company from joining or contributing to a State insolvency guaranty fund and from receiving benefits from the fund if the captive insurance company becomes impaired or insolvent.

Finally, the bill authorizes the Commissioner of Banking and Insurance to suspend or revoke a captive's license for a violation of the bill's provisions or unsound operations.

This bill is identical to Senate Bill No. 168 (1R), as also reported by the committee.

FISCAL IMPACT:

The bill has two principal fiscal impacts: an indeterminate effect on State tax revenues, and increased regulatory costs and regulatory fee revenue attributable to the Department of Banking and Insurance.

With respect to the impact on State tax revenues, the OLS notes insufficient information exists on which to base an estimate of the bill’s direct impact on State insurance premiums tax revenues, which depends on the amount of taxable premiums received by captive insurance companies established in New Jersey, and the extent, if any, to which these premiums were previously paid, or otherwise would be paid, to a noncaptive insurer subject to New Jersey taxation of premiums.

The bill increases expenditures of the Department of Banking and Insurance, by an indeterminate amount, by requiring that agency to license, regulate and promote captive insurance companies, and increases the department’s licensing and fee revenue from such companies. The department is authorized to set the fee structure to adequately fund all departmental expenses, although at the outset, due to uncertainty concerning the number of potential licensees and the costs of promoting the State to the industry, revenue from fees and taxes dedicated to department operating costs might not fully defray such costs. Additionally, the bill dedicates 10 percent of the premiums tax revenues collected from captive insurance companies to the department for the regulation of those companies.

Lastly, the bill creates the "Captive Insurance Regulation and Supervision Fund" and provides the financial means for the commissioner to administer the bill's regulatory and promotional responsibilities by authorizing the commissioner to establish fees necessary to offset those expenses, which fees shall be credited to the fund.