CAPTIVE REVIEW

‘Cautious Optimism’ for NRRA Amendment, but ‘Political Gridlock’ a Threat

Richard Crutcher, 8/20/2014

The Vermont Captive Insurance Association (VCIA) is ‘cautiously optimistic’ legislation proposed last week seeking to amend the Non-Admitted Reinsurance Reform Act (NRRA) will make its way through Washington in one piece.

Senators Patrick Leahy (D-VT) and Lindsay Graham (R-SC) were widely celebrated by those who had been calling for clarity to be brought to the Act, due to fears that ambiguity within the NRRA’s original wording was making it possible for captives domiciled outside of their parent’s home state to be targeted for further premium taxes.

The bi-partisan duo duly delivered, but there will now be a battle to achieve majority support within Congress.

While recognising passing the legislation was far from a done deal, the VCIA’s president Rich Smith explained why he was ‘cautiously optimistic.’

“The two senators are both strong supporters of the industry and very influential,” he said. “When they get behind something it is a huge step forward. We have also been working very closely with the house committees that originally passed that legislation. Unfortunately many of them are no longer in Congress, but they all wrote letters in support of us.”

Jesse Crary, a captive specialist practitioner at Vermont-based law firm Primmer Piper Eggleston & Cramer PC, said it was great to see the corrective legislation finally make its way to Washington, but had concerns the broader political environment would slow down its progress.

“It has been difficult to get anything through Congress recently, but what does give me some optimism is it is quite a limited piece of legislation and is not trying to change other parts of Dodd-Frank,” he said.

“If the bill fails it will have little to do with its content and much more about the political gridlock in general.”

When the Dodd-Frank Wall Street Reform and Consumer Protection Act, which included the NRRA, was signed into law in July 2010, it caused confusion within the US captive industry as to whether it was applicable to them or not.

Influential captive stakeholders in dominant domiciles such as Vermont and South Carolina quickly argued that it should not be targeting captives and there was a fear the large economic power states—such as New York, Texas and California—would begin chasing parent companies for premium tax and in-effect force them to re-domicile to their home state.

Smith admits those fears have not materialised to this extent, but believes it is still important to get the issue cleared up.

“I was really nervous about NRRA and thought it could have caused a fair amount of dislocation within the industry,” he added. “I haven’t seen or heard that anecdotally when I talk with folks in the industry…but as long as it is hanging out there, we really feel we need to close it.”