CAPTIVE REVIEW

Dodd Frank does not apply to captive surplus lines says VCIA

Vicky Beckett 14/10/2011

Captives' surplus lines should not be impacted by the Dodd Frank Act, a new whitepaper has reported.

The Vermont Captive Insurance Association (VCIA)said the broadness of definitions by Dodd Frank's Non-admitted and Reinsurance Reform Act (NRRA) raises questions about the Act's impact on captive insurance.

Richard Smith, president of the VCIA, plans to discuss the need for legislative clarification with members of the congress.

The Dodd Frank's NRRA was intended to streamline the regulation and taxation of surplus lines insurance.

James McIntyre, VCIA federal legislative counsel and founder of McIntyre and Lemon, addressed the potential application of NRRA to captives in a white paper.

McIntyre (pictured) said 'non-admitted insurance' should apply to surplus lines insurance that is permitted to be 'placed in state by virtue of surplus lines insurer's eligibility'.

"Captive insurance is not considered surplus lines insurance placed by a non-admitted insurer, nor do captives seek to be surplus lines insurers, so captive insurance should not be considered within the definition of non-admitted insurance," said McIntyre.

He went on to write: "Even if captives could be considered non-admitted insurers, only the states that are exposed to some aspects of a captive insurance transaction may impose a tax.

"The tax would have to be imposed by a separate law of the state, not merely by adoption of a NRRA-related interstate compact," said McIntyre.

However, 44 US states have reportedly already adopted legislation to implement the act.