



P.O. Box 2815  
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# Hawaii Captive Insurance Council

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## SPECIAL POINTS OF INTEREST:

- 167 active Captives in Hawaii
- Hawaii is the 2nd largest captive domicile in the United States
- HCIC has over 100 active members.
- HCIC established since 1987

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## HCIC Message

Aloha!

The Hawaii Captive Insurance Council (HCIC) is committed to promoting, developing, and maintaining Hawaii as a world-class captive insurance domicile, thereby enhancing the reputation of our captive owners and members on the local, national, and international level. Over the last year, in partnership with the State of Hawaii Insurance Division, the HCIC has been hard at work on a number of initiatives for the benefit of our membership, a few of which are as follows:

- Coordinated a successful campaign against legislation which would have increased the premium tax rate for Hawaii domiciled captives.
- Drove the passage of legislation which increased the interval for examination of certain captive insurance companies from once every three years to once every five years, as well as improved Hawaii's laws related to sponsored cell captives.
- Increased the effectiveness and transparency by which we communicate with our membership by posting board of directors meeting minutes and other information on the HCIC website, as well as completing the Japanese language translation of our website for our constituents in Japan.
- Supported the hiring efforts of the State of Hawaii Insurance Division amid difficult budgetary circumstances throughout the State, thereby ensuring the provision of timely and responsive services to our members.

Additionally, the HCIC is continuing to actively work with the State of Hawaii Insurance Division to improve Hawaii's captive environment through the betterment of our laws, administrative rules, and overall ease with which Hawaii domiciled captives do business.

The HCIC truly appreciates your continued support. It is only through the committed and engaged participation of our members that the HCIC continues to advance its mission of advocating on issues and initiatives, educating our membership on current and future issues, and communicating this information to our members and prospective members in order to maintain Hawaii as a world-class captive domicile.

Aloha and Mahalo,

*Matt Takamine*  
President and Director  
Hawaii Captive Insurance Council

*David Kahaulelio*  
Chairman of the Board of Directors  
Hawaii Captive Insurance Council

# Captive Anniversaries

HCIC extends our congratulations to all captives celebrating these anniversaries in 2010. Thank you for your continued loyalty and commitment to Hawaii as a captive domicile, and we wish you continued success for you and your captive programs. *Not all companies gave us authorization to print their company name, so this is not a complete list of 2010 anniversaries.*

| Captive Name                        | Captive Organizer    | Years    |
|-------------------------------------|----------------------|----------|
| Mid-Pacific Insurance Company, Inc. | Roberts Hawaii, Inc. | 20 years |
| Real State Insurance LLC            |                      | 10 years |

"We have enjoyed the last 10 years in Hawaii and appreciate the depth of resources combined with fair and balanced regulation." *Marco Flores, Director of Risk Management, Real State Insurance LLC*

## Legislative Updates

### Dodd-Frank Act

President Obama signed the Dodd-Frank Wall Street Reform and Consumer Protection Act, P.L. 111-203 ("Dodd-Frank Act") on July 21, 2010. While the Dodd-Frank Act may be better known for its regulatory and governance provisions dealing with non-insurance aspects of the financial services industry, it also affects the insurance industry. For example, the Dodd-Frank Act creates an Office of National Insurance to monitor the regulatory and operational aspects of the insurance industry. Of greater interest to captives is the portion of the Dodd-Frank Act known as the Nonadmitted and Reinsurance Reform Act of 2010, which promotes uniformity in the way premium tax for nonadmitted or surplus insurers and reinsurers will be assessed among the various states. Under the Dodd-Frank Act, the placement of nonadmitted insurance will be regulated by the insured's home state. With regard to reinsurance, credit for reinsurance will be regulated by the ceding insurer's state

of domicile only if the state is accredited by the National Association of Insurance Commissioners ("NAIC") or has financial solvency requirements substantially similar to NAIC accreditation requirements, and the state recognizes credit for the ceding insurers ceded risk.

Risk retention groups are specifically excluded from these provisions. Most of the nonadmitted and reinsurance reform provisions do not take effect until July 21, 2011. The Dodd-Frank Act encourages the states to adopt nationwide uniform requirements, such as an interstate compact, to provide for the reporting, payment, collection, and allocation of premium taxes. Until such a compact is developed, questions remain as to the impact of Dodd-Frank on Hawaii captives that are not risk retention groups. This is intended to be a broad overview of the Dodd-Frank Act, and if you would like to know if or how your company would be affected by the new law, we recommend that you consult your legal advisors.

### Hawaii Administrative Rules

A Subcommittee was formed by the Legislative Committee this summer as a collaborative effort between HCIC and the Hawaii Insurance Division to improve and streamline the regulation of Hawaii captives. It's been almost 10 years since the HAR affecting captives was last amended, so the Subcommittee is taking a close look at the captive regulations. Among other things, the Subcommittee is considering changes to the fee schedule and examination charges, electronic copy submissions, document retention requirements, and notification requirements to the Insurance Division for business plan amendments.

### HCIC Member Survey

The Legislative Committee has been working with the HCIC Executive Committee and Board to develop a short electronic survey to be sent to all HCIC members in October to see what HCIC can do to better meet your needs. Your participation would be greatly appreciated.

# Message From The State of Hawaii



I believe it was Heraclitus who said that “the only constant is change”. We said farewell to our friend and colleague Insurance Commissioner J.P. Schmidt as he moved into the private sector and now has welcomed his new daughter Alexandra. We now welcome the new Insurance Commissioner Gordon Ito who is a long time veteran of the Insurance Division, and also welcome Sanford Saito, CFE, as our permanent Examiner III (EIII) (he has been the acting EIII since January and done an outstanding job). We have recently welcomed the new Mayor Peter Carlisle of the City and County of Honolulu (former Prosecutor) and soon after the HCIC FORUM we will be welcoming a new Governor who in turn will likely appoint a new Director of Department of Commerce and Consumer Affairs as well as a new Insurance Commissioner. I guess all of above makes us “constant”.

In July the NAIC conducted our pre-accreditation meeting and came back with very good recommendations to improve the Risk Focused Exams and our processes. These types of exams will be required for RRGs next year and we have been conducting them for the last two years to prepare for next year’s requirement (this does not apply to pure captives). We are in the process of reviewing the recommendations and developing an action plan to prepare for the full accreditation next year.

HCIC’s Hawaii Administrative Rules (HAR) subcommittee has met with the Captive Insurance Branch (CIB) to discuss ideas on how to improve the way we do business with one another. One idea that CIB is exploring is electronic filing of business plan amendments and other requests. We will also be working on scanning and storing our records electronically as part of the same project. If you have any ideas on how to improve the ease of doing business with the CIB we are pleased to hear them.

Since the last State Update we have licensed two additional captives which totals to 7 new formations since January. The active applications in the works are now at 12 so the activity is still growing despite the soft insurance market. Fortunately we are currently recruiting two additional Examiner II (EII) which totals four new EII’s for the year and will result in CIB being fully staffed. This in turn will help us meet the challenge of accreditation, catch up on the Pure Captive examinations, as well as keep our turnaround on requests for new applications and existing captives’ various requests at a superior level to other domiciles. We realize the need for speed, i.e., that timely turnaround can be extremely important to the private sector.

My sincere thanks to all of the captive managers and consultants for their hard work and your consideration of Hawaii. We especially thank the parent companies for choosing this State, we recognize that you have many choices in domiciles and we appreciate the chance to serve your needs. As always, please let us know how we can help you.

Aloha,  
George W. Sumner III, ACI

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## Captive Management — Evolution of the Species

Captives have been in existence since the 1950’s and the management of captives has evolved considerably. Today “Captive Management” encompasses (or should encompass) so much more than it did twenty or thirty years ago. In the early 1990’s it was common for captive management companies to be entirely staffed by accountants and the majority of their time was spent preparing monthly, quarterly and yearly financial statements for numerous captives. The skill sets between captive management companies were very transferable often leading to high levels of employee turnover as competition increased and more and more locations became interested in passing captive legislations. Twenty or thirty years ago, captive

owners had basically one objective in mind; to reap financial benefit and perhaps more specifically to take advantage of the then arguably more relaxed tax position. That is not to say that accounting is no longer performed by captive managers, on the contrary, this is still one of the primary services that Captive Management companies provide for their captive clients. However, in today’s world, captive management firms consist of not only accountants, but captive industry consultants, insurance professionals and sometimes even actuaries.

Captive owner’s needs have changed, their reasons for forming and running captives have evolved and they have become more sophisticated. With that, the role of the

captive manager has also evolved. One size does not fit all however and each client’s goals and objectives must be thoroughly understood in order to tailor the appropriate suite of services. Some clients are seeking a strategic collaborator whereas others are simply requiring their captive managers to manage their books and records and file their regulatory returns.

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# Captive Management – Continued

Captive owners looking for strategic advice, not just accounting services, often require a team approach to servicing their captive. For some clients, it is possible that less than 50% of the time spent servicing their captive is spent on accounting services. So, in addition to accounting services and regulatory compliance, what other services are captive managers performing today? Or, perhaps more importantly phrased, what other services are clients finding of value in this decade?



Written by Ellen Charnley - Senior Vice  
President, Captive Solutions, Marsh

## *Benchmarking*

Captive clients want to know if what they are doing is common practice amongst the industry or more importantly what other captives are doing that they are not. Are there opportunities that they are missing out on? Can they better utilize their captive? Specific benchmarking across industry segments can be of real value to clients. For example what are healthcare clients typically using their captives for? Which insurance companies are the main players in the workers compensation fronting arena? How many captives purchase reinsurance or self administer their claims. These are questions that captive managers often can answer, particularly if they have the technology to gather data from hundreds and thousands of captives under their management globally. Interpreting this benchmarking data, making sure the data is relevant to the client, and ultimately using this data to help the client make informed decisions about the future of their captive are all critical service components.

## *Capital Adequacy modeling*

Do I have too much capital in my captive? Do I have enough? How much is the right number? These questions are asked by captive owners time and time again and today captive managers can help captive clients answer these questions. Captive managers should be able to provide analytical models using several metrics such as benchmarking similar captives, traditional insurance company models, historical loss analysis, IRS rulings and case law, and Solvency II principles. These metrics help identify a desirable capital range. We then can assist our clients with options to reduce or increase their capital and to enhance the utilization of their defined capital. This service has become particularly valuable in recent years as the value of captives and in particular any 'excess' surplus is constantly under scrutiny by parent company c-suites.

## *Investment Analysis*

Parent company scrutiny is also very evident when it comes to a captive's investment returns. Gone are the days where a captive investment portfolio yields greater than 5%. This often brings the captive's worth into question by CFOs and alternative investment strategies are sometimes required. For example, having the captive invest in parent company assets (e.g. accounts receivables or fixed assets) allows cash flow to be returned to the parent organization potentially to be invested at a higher return. Regularly reviewing the investment strategy and thinking outside the box with the client should be a common practice.

## *Other modeling and forecasting*

As captive managers, we consider ourselves an extension of the clients risk management team, and as such we can assist with budgeting and forecasting under multiple assumptions and variables. For example, changes in risk retentions, adding new lines of business, and understanding the financial impact over the long term of structuring the captive as an insurance company for federal tax purposes. Having a sophisticated modeling tool kit enables us to provide sensitivity analysis so that together, as a team, captive managers can review the options for the future.

## *Corporate Governance*

Corporate Governance does not only apply to major corporations; this affects virtually all companies in today's world. Captive subsidiaries very often have to comply with the controls and procedures that have been mandated across the entire organization. Compliance is the first priority for the captive manager. Captive owners (and their auditors) cannot accept an inadequate control environment. There must be adequate segregation of controls, sophisticated IT controls and thorough independent reviews. Detailed documentation of the control environment has become a valued service. Captive managers should be able to help develop captive policy and procedure manuals that internal audit departments are proud of.

Not all captive owners require these more strategic services and obviously each owner's requirements should be specifically addressed. However how will those captive owner's who receive nothing more than accounting services ever know what more their captive manager can do for them if they are not shown? It is time for captive manager's to showcase their talents and become strategic collaborators. This will not only benefit captive owners, but also the industry as a whole. Captive Management will continue to evolve as technology improves and economic pressures cause captive parents to think differently. Hopefully in the not too distant future, the services of Captive Managers across the industry will no longer just be considered captive accounting.