

New Start for Captive Industry in Tennessee

Continuing an occasional series profiling U.S. captive domiciles

By Dick Goff

Long known as the Volunteer State, Tennessee appears to be attracting members of the ART industry to volunteer at its borders as the state begins to accept captive insurance license applications this summer under a new legal and regulatory framework.

Tennessee is open for captive business in a big way following passage of first-year Gov. Bill Haslam's captive modernization legislation that will be implemented by new insurance commissioner Julie Mix McPeak.

Not many in the industry recall that Tennessee was a U.S. captive domicile before Vermont or any of the other states or districts other than Colorado. Yes, Tennessee and Colorado were first on the captive bandwagon in the 1970s and then Vermont adopted a captive law in 1981 that looked a lot like the Tennessee law.

But Tennessee's head start was fated to lose momentum under succeeding indifferent political leadership teams. From a high of about 15 captives in the late 80s, the state's roster of licensed captives fell to a third of that number before Gov. Haslam's election last year.

The new governor made a revitalized captive industry a key component of his first legislative package. When he appointed Ms. McPeak as Commissioner of the Department of Commerce and Insurance, the ART industry got the impression that he meant business.

Julie, of course, is the former Kentucky insurance commissioner who led the establishment of the captive industry in that state. She later joined the Nashville law firm Burr Forman and SIIA members will recall her scintillating presentations at national conferences. Julie took a volunteer role for SIIA as its representative to the National Association of Insurance Commissioners (NAIC) for its deliberation of new risk retention group regulations. Now, of course, she is a full-fledged member of the NAIC and we anticipate she will be an effective advocate for RRGs on that body.

Kevin Doherty, a partner of Burr Forman, who serves as chair of SIIA's ART Committee, must feel like the godfather of a burgeoning captive industry. He worked with Julie during her time with Burr Forman and then helped create the legislation to modernize the domicile's captive regulations and increase its appeal to the industry nationwide.

And he also is quick to point out that Nashville is conveniently and centrally located. "Draw a 600-mile radius around Nashville and the circle will include about 60 percent of the U.S. population," he says.

But it was another industry that first promoted Nashville's centrality. When the "Grand Old Opry" radio show was broadcast by WSM-AM radio, it made Nashville famous as "music city U.S.A." and a cultural icon and an entire entertainment industry were born.

And there is an insurance angle to that story, Kevin is quick to point out. Radio call letters WSM stood for "We Shield Millions," the slogan of the old Nashville Life and Casualty Co. that owned the radio station and subsequently became part of AIG. Where else than the ART Gallery can you learn such fascinating trivia?

Kevin is happy that Tennessee companies that have formed their captives in other domiciles may now have the option to come home. And he jokes, "we'll even accept carpet baggers from up north."

The captive modernization law that was passed this spring is among the most advanced in the U.S., with all the current features that are attractive to new captives. These include segregated incorporated cells, special purpose captives and branch captives. A unique feature will offer direct writing of workers' compensation captives for qualified self-insurers.

Kevin recalls that Gov. Haslam and Ms. McPeak exercised all their political muscle in lobbying for the new law. "It wasn't that legislators weren't in favor of captives, but they just needed a thorough education about them," Kevin says. "In the end, the law passed unanimously in both houses."

Kevin is instrumental in organizing a new Tennessee captive industry association that he hopes will be up and running in time for an inaugural meeting this fall.

Tennessee appears to be getting it right in setting up a professional captive team and is throwing out the welcome mat for existing and prospective captive insurers. And on your way there, pick up a pair of boots and a guitar.

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