



U.S. DOMICILED CAPTIVES HAVE STRONG SHOWING IN 2021

Written By Karrie Hyatt



There was robust captive growth across the board in 2021 for U.S. based domestic captives. In 2020, the hardening market and pandemic-related losses indicated that the captive sector would grow in 2021. That predication held true with large numbers of new captive formations last year. There was also slightly more captive legislation activity last year, definitely an uptick from 2020. States updating their captive legislation largely made small tweaks to keep up with industry changes.

CAPTIVE NUMBERS BREAKDOWN

Captive formations were high in 2021, with a total of 337 new captives in the eleven domiciles that have released numbers for last year. Leading the way was Delaware with 70 new captives, followed by Utah with 52 captive formations. Rounding out the top five domiciles were Vermont (45), North Carolina (31), and Montana (29).

In both 2020 and 2021, Delaware licensed 70 new captives. This was up from 56 in 2019. The domicile reports that the total number of captives in the state is 759, which would put Delaware ahead of every other domicile in terms of numbers. However, this total includes series and cell captives which most domiciles don't include in their total number of captives.

Utah may have had the second largest number of formations last year, but their overall number of captives went down slightly from 396 in 2020 to 384 at the end of last year. In fact, this was the second year of decline in the state's total captive numbers after reaching a high of 441 in 2019. In the first few months of 2022, however, Utah has already reported licensing a large number of new captives.

Vermont had a strong year, which also saw the domicile celebrating its 40th anniversary as a captive domicile. Their 45 new captives go on record as the fourth highest year of growth. After two years of static total number of captives—both 2019 and 2020 finished with a total of 589 captives—Vermont's total number of captives rose to 620.

While no longer a new captive domicile, yet still one of the most recent, North Carolina continues their dynamic growth with 31 new captive formations in 2021, taking the number of captives from 250 in 2020 to 257 in 2021. The domicile is looking forward to a strong 2022 with several new captives licensed and new applications already being processed. Debbie Walker, who has been the captive regulator in the state since it passed captive law, has retired from the position. She oversaw the creation of captive regulation and its rapid growth to a large, well-regarded domicile. Her replacement, Lori Gorman, is a long-time financial analyst in the state, and will likely carry on Walker's successful policies.

Montana continues to license a large number of captives each year, with 29 last year. However, since their 2019 high of 288 total captives the domicile's total numbers have been in decline. In 2020, the domicile finished the year with 270. The number of total captives also went down again in 2021, with the domicile finishing with 261.

With 27 new captive formations in 2021, their highest number of formations yet, Arizona had a banner year. Last year's growth was more than double 2020's 12 formations. The domicile's numbers continue to grow, going from 121 in 2019 to 149 in 2021.

Washington, D.C. came in just behind Arizona with 26 formations, giving the domicile 175 total captives, up from 159 in 2020.



Hawaii, one of the oldest captive domiciles, continues to be a quiet force in captive sector with 17 new captives in 2021. This brings the total number of captives to 251, up from 242 in 2020.

Connecticut added 13 new captives last year, more than twice the number the year before, for a total of 35 captives. Missouri added six new captives for a total of 80.

Notably missing from this list is Tennessee. This domicile usually has a strong showing in both formations and total number of captives, but the state had not yet released data for 2021 at the time of publication. The state's captive insurance department has seen some rapid turnover in the leadership department since the end of 2019. Its most recent director, Belinda Foreman, left the position last summer. The interim director, Jonathan Habart, was appointed permanently to to position in November.

DOMICILE LEGISLATIVE UPDATES

In 2021, Delaware updated its captive law to allow for three key issues. The first part of the updated legislation allows for captive structures to be classified as "registered series," which will allow for greater transparency. The update also clarifies provisions regarding the insuring of a parent company's risks. The third provision changes the period of dormancy for captives that elect to take it from one calendar year of inactivity, to twelve consecutive months of inactivity. This change will allow captive

owners to enter into dormancy sooner and is meant to encourage owners to consider dormancy first rather than dissolution.

Not a change to captive legislation, but a change to existing law that will affect captives, in January of this year the Delaware state legislature passed a bill that allows corporations to use captive insurance companies to insure directors and officers liability insurance.

In May 2021, Governor Phil Scott signed into law Vermont's updated captive legislation. Vermont updates its captive law nearly every year with minor changes and adjustments to keep it the most attractive captive domicile in the U.S. Last year's update allowed for protected cell captives to more easily convert to a standalone captive or to a different type of cell captive. It also simplified the processes pertaining to redomestication, captive mergers, and organizational document filings prior to a captive being licensed.

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Tennessee amended its captive insurance law in June 2021. The primary change was to reduce the statutory capital that a protected cell captive needs in order to commence operations from \$250,000 to \$100,000. The update also authorizes captives to insure parametric insurance coverage.

Alabama began the process of updating their captive law at the beginning of 2020. Due to the COVID-19 shut down, the legislature wasn't able to proceed with the changes. Instead, in early 2021, the legislature went forward with passing the amendments suggested in 2020 and included several more changes. The updated legislation expanded the definition of branch captives, which will allow for easier creation and use of this type of captive. It authorized agency captives, reinsurance captives, and special purpose financial captives to domicile in the state. The law lowered the minimum capital requirements for pure and protected cell captives. It added to the existing law a formalized process for captive redomestication and now allows for captives to be capitalized with a surplus note as long as there is a written agreement between creditor and captive.

OVERALL MARKETPLACE

The outlook for captives sees the market continue to expand. The current hard market in most lines of insurance is expected to last through this year—with some lines easing capacity and others remaining tight, particularly for emerging risks and hard to insure risks. This places the captive sector in the optimal spot to help businesses insure their risks. The number of captives in the U.S. will likely have another year of solid growth in 2022. ■

Karrie Hyatt is a freelance writer who has been involved in the captive industry for more than ten years. More information about her work can be found at: www.karriehyatt.com.



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