

# Getting Big Around the Middle

Vermont may have the Fortune 500 business, but Utah's captive industry has its eye on the thousands of companies in the next tier.

by Lynna Goch

Utah's captive business continued to expand in 2011, with 69 new licensed captives beating U.S. domicile leader Vermont's tally of 41. Ross Elliott, Utah's captive insurance director, sees third parties generating the new captive activity. "I think what we've seen is a lot of interest in the captive industry being generated by trusted advisers like brokers, attorneys, accountants, risk managers of companies that are in the middle-market strata. They are finding out more about the advantages of captive insurance and promoting a lot to their clients," he said.

Vermont's captive industry may attract the Fortune 500 companies, Ross said, but the next strata constitutes "thousands and thousands, perhaps tens of thousands of companies that are the next layer down from that, probably only 5% or less of them have captives. And so I suspect that what we're seeing is just the beginning of a lot of interest of those middle-market companies in captives."

## The Beginning

Utah began its foray into the captive business in 2003. Jon Huntsman was governor then and one of his strategies for the state was economic development, Elliott said. Neighboring states Arizona and Nevada were already in the captive business, with legislation passed in 2001 and 1999 respectively, and Utah saw two of its larger businesses in the state starting up captive entities in the Cayman Islands and Arizona. "So we decided maybe we needed to get into that business. Arizona at the time had their single fee for licensure and so we figured that in order to compete with Arizona then we needed ours in the same fashion, and so that's what we did," Elliott said. "We also were approached by some life insurance companies who wanted us to provide special purpose finance captives and so we modified the law and it became effective in 2008."

During 2011, health care, real estate and manufacturing were the fastest growing industries represented

## Key Points

- ▶ **The News:** In 2011, Utah licensed 69 new captives.
- ▶ **The Background:** Third parties are generating interest in captives in Utah.
- ▶ **Watch For:** Health care reform to impact captive growth.

by captives in Utah. Elliott characterizes the manufacturing sector as being "all types."

"It's everything from clothes hangers to latex gloves to the surfaces on optical disks, to the cameras mounted in the turrets on military aircraft," he said.

## Regulation

Meanwhile, captive domiciles continue to tweak their legislation to attract companies to their states. Last July, Nevada's Gov. Brian Sandoval signed A.B. 74 into law. Among the changes in the legislation is the elimination of a requirement that every captive in the state be examined once every three years. Nevada Insurance Commissioner Brett Barratt told *Best's News Service* at that time that those examinations could cost companies between \$8,000 and \$20,000, which is enough to keep some from considering Nevada when forming a captive. Nevada made this move to become more competitive with its U.S. captive domicile rivals. Vermont also proposed new legislation recently



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—Ross Elliott,  
Utah Captive Insurance Division

that would allow captives to use trusts to meet capital requirements. In an email, David F. Provost, deputy commissioner, Captive Insurance, Vermont Department of Banking, Insurance, Securities and Health Care Administration, said such a change from the norm is something that would be looked at carefully on a case-by-case basis.

“I can see many circumstances where this would be an appropriate alternative and others where it wouldn’t work,” Provost wrote.

Elliott says Utah has no changes planned for Utah’s captive laws in 2012. “But we will evaluate that in order to stay competitive—we have to make adjustments from time to time.” When considering changes to its captive legislation, Utah has to take a broad approach because its captive owners come from 25 to 30 states.

To build on the 2011’s success rate in attracting captive business, Elliott said the state’s goals will be to continue increasing the education and the credentialing of the captive staff.

Utah will also increase its staff to handle the number of new captives and will also form an advisory council of those who are in the Utah captive industry to advise the division on how to grow.

With about half of all U.S. states being domiciles, each state has to market itself to beat the competition. Taxes, regulations, staffing or infrastructure and accessibility are considerations that must be made in choosing a domicile. Elliott accounts for Utah’s growth spurt of captives because of its location, favorable legislation and business-friendly environment. “Salt Lake City is a hub for Delta Airlines and so we have hundreds of flights in and out daily so it’s easily accessible from almost everywhere in the United States. It’s a popular tourism venue so you see the greatest snow on Earth,” he said.

In addition, Elliott points out that last year in his state-of-the-

## Utah: A Closer Look

**Name of Captive Regulation:** Captive Insurance Companies Act

**Year Passed:** 2003

**Recent Amendments:**

- 2008 Special Purpose Financial Captive Insurance Company Act
- R590-238 Captive Insurance Companies (Rule)

**Cells Offered?** Yes

**Total Number of Licensed Captives:** 282 licensed inception to date, 239 currently active

**Total Number of Licenses**

**Granted in 2011:** 69

**Types of Captives Permitted by Law:**

- Pure
- Association
- Sponsored
- Industrial Insured
- Special Purpose
- Special Purpose Financial

**Minimum Capital and Surplus Requirements:**

- **Pure:** \$250,000
- **Association:** \$750,000
- **Sponsored:** \$1,000,000
- **Industrial Insured:** \$500,000
- **Special Purpose:** Calculated by analyst
- **Special Purpose Financial:** \$250,000

**Captives by Class:**

- **Pure:** 236
- **Association:** 0
- **Sponsored:** 1 (with 1 cell)
- **Industrial Insured:** 1
- **Special Purpose:** 0
- **Special Purpose Financial:** 1

**Premium Written, 2010:**

\$298,596,581

**Taxation Annually:** Utah is a nonpremium tax state for captive insurers. In lieu of that, the renewal fee is a flat \$5,250 per year per captive insurance company.

Source: Utah Captive Insurance Division



state speech, Gov. Gary Herbert said one of the state’s objectives is to keep the government off the backs and out of the wallets of business. “That’s one of the best descriptions I’ve heard for the way we approach business. This year in his state-of-the-state he proposed a tax decrease,” Elliott said.

Looking ahead, it seems that the health reform act will also

impact captives. “My personal opinion is that the health care changes that are happening in the United States are causing a lot of people to take a look at the benefits that a captive offers—whether those are employee benefits, medical benefits, health care, cells—those are probably our hot topics both for Utah and for the U.S. captive market.”