

New Zealand Captive Insurance Association

PO Box 369
Auckland
Ph: 09 902 0997

10 August 2006

Hon Lianne Dalziel
Minister of Commerce
Parliament Building
Wellington

Dear Ms Dalziel

Thank you very much of letter of 8 August 2006 regarding the Business Law Reform Bill and I thank you for responding on behalf of the Minister of Finance.

As noted in your letter, the purpose of the Business Law Reform Bill is to protect the international reputation of the New Zealand insurance market and the New Zealand Captive Insurance Association fully supports the purpose of the Bill and your efforts in this matter.

Currently, our organisation is actively promoting New Zealand as a captive insurance domicile to New Zealand and Australian corporations. In this matter we have been reasonably successful in attracting approximately 8 Australian corporations into New Zealand to establish their captive insurance companies. These captives are established under the Insurance Companies Deposits Act 1953, and comply with the Insurance Companies Deposits Act and other corporate regulations under the Companies Act 1993.

The New Zealand Captive Insurance Association believes we have established enough credibility in the international insurance market to now promote New Zealand as a captive insurance domicile and to that effect we have been quite successful as mentioned previously

It is important that we have a clear understanding in this matter as we are currently progressing a number of opportunities for further captives to be formed in New Zealand of Australian parentage. Earlier discussions with the Ministry of Economic Development Insurance & Superannuation Unit have indicated that it is their understanding of the Business Law Reform Bill that any overseas owned captive insurance companies would not be allowed to lodge a deposit with the Public Trust under the amendments of the Business Law Reform Bill if they have no New Zealand insureds. This causes the New Zealand Captive Insurance Association grave concerns. Your letter, however, indicates that there will be exemptions for legitimate purposes, but what these may be and which party will determine whether the purpose is legitimate or not has yet to be clarified. Without such an exemption we understand that all existing overseas owned captive insurance companies would have their company registration terminated because they would not comply with the intent of the Business Law Reform Bill as defined by the Ministry of Economic Development Insurance & Superannuation Unit.

Another official inside the Ministry of Economic Development has informed us that the intent of this Bill is simply to stop companies forming under the Companies Act with the word insurance, underwriter, assurance, reinsurance in the title when they have not complied with the requirements of

the Insurance Companies Deposits Act 1953, ie. purchased the \$500,000 bond, submit the application to the Public Trustee, have the \$500,000 government bond held in trust by the Public Trustee. There was no reference for the necessity of a New Zealand insured to be present for compliance purposes.

As you can see these interpretations of the Business Law Reform Bill are somewhat at odds with each other and we are writing to you to ask that you clarify the intent and operation of the proposed changes to be implemented through the Business Law Reform Bill..

If you could please provide any further clarification as to which approach your Government is supporting it would be greatly appreciated by the New Zealand Captive Insurance Association.

Yours sincerely

P J Lowe
President