

**It's Not a Yellow Book! Non-NAIC Reserve Analyses**

Erich A. Brandt, FCAS, MAAA  
 Darcie R. Truttmann, FCAS, MAAA  
 Steve Kinion, ACI

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### About the Presenters



**Erich A. Brandt, FCAS, MAAA**  
 Senior Consulting Actuary, Pinnacle Actuarial Resources

- Illinois State University (B.A. Mathematics)
- 25 years of experience, primarily in commercial lines
- Reserving studies for:
  - Insurance companies (SAO and financial exams)
  - Captive insurance companies
  - Self-insured entities
- Extensive experience reviewing industry financial statement data and associated trends
- Experience in workers' compensation, liability lines, medical professional liability and commercial automobile



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### About the Presenters



**Darcie R. Truttmann, FCAS, MAAA**  
 Consulting Actuary, Pinnacle Actuarial Resources

- Western Illinois University (Masters in Mathematics)
- Illinois College (B.A. Mathematics)
- 17 years of experience, primarily in commercial lines
- Reserving studies for:
  - Insurance companies (SAO and financial exams)
  - Captive insurance companies
  - Self-insured entities
  - Public entities
- Funding recommendations for emerging coverages
- Experience reviewing industry financial statement data and associated trends



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**About the Presenters**

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**Steve Kinion, ACI**  
 Director, Bureau of Captive and Financial Insurance Products  
 Delaware Insurance Department

- Delaware is the 3<sup>rd</sup> largest U.S. captive domicile and 5<sup>th</sup> largest world
- Captive insurance director in Delaware since 2013
- 27 years of insurance regulatory experience
- Started at Oklahoma Insurance Department
- University of Tulsa, JD/MBA
- Returning to law practice on October 1, 2022 to counsel both commercial and captive insurers

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**Antitrust Notice**

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- The Casualty Actuarial Society is committed to adhering strictly to the letter and spirit of the antitrust laws. Seminars conducted under the auspices of the CAS are designed solely to provide a forum for the expression of various points of view on topics described in the programs or agendas for such meetings.
- Under no circumstances shall CAS seminars be used as a means for competing companies or firms to reach any understanding – expressed or implied – that restricts competition or in any way impairs the ability of members to exercise independent business judgment regarding matters affecting competition.
- It is the responsibility of all seminar participants to be aware of antitrust regulations, to prevent any written or verbal discussions that appear to violate these laws, and to adhere in every respect to the CAS antitrust compliance policy.

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**Agenda**

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- Examples of non-NAIC reserve analyses
- General considerations for non-NAIC reserve work
- Loss reserve considerations
- Professional considerations
- Ask the regulator

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**Examples of Non-NAIC Reserve Analyses**



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**Examples**


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Self-insureds  
Insureds with large self-insured retentions

Captive insurance companies

Municipal pools

Insureds with large deductibles  
Collateral negotiations



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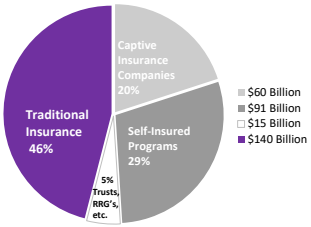
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**U.S. Commercial Insurance Market**



Traditional Insurance 46%  
 Self-Insured Programs 29%  
 Captive Insurance Companies 20%  
 Trusts, RRG's, etc. 5%

■ \$60 Billion  
 ■ \$91 Billion  
 □ \$15 Billion  
 ■ \$140 Billion

**According to AM Best, 2004 was the hallmark year when alternative premium dollars exceeded 50% of all premium volume in the commercial marketplace.**

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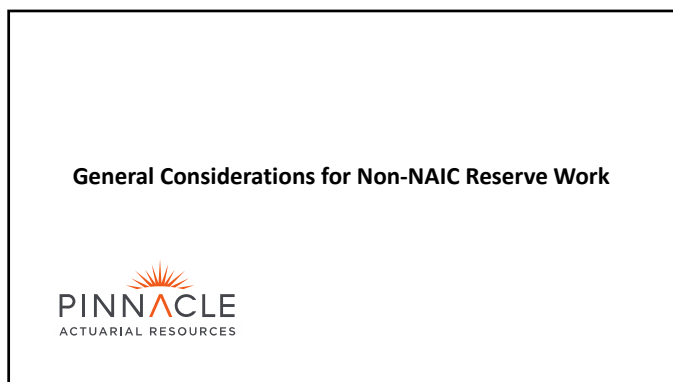
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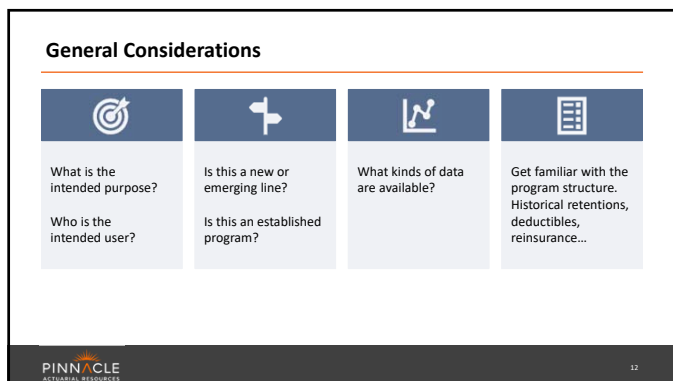
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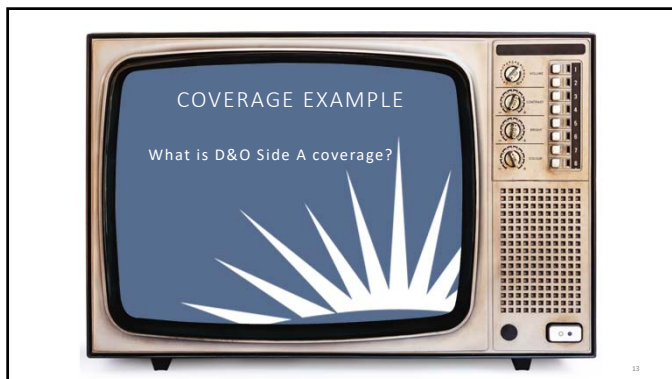
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### Delaware Senate Bill 203 Amended Section 145(g) Delaware General Corporation Law (DGCL)

- Senate Bill 203 amended Section 145(g) of the DGCL to expressly provide that the definition of "insurance" includes captive insurance.
- This makes captive insurers a viable alternative to traditional D&O insurance, even Side A D&O insurance, for claims that are not directly indemnifiable by the corporation due to DGCL Section 145(b).
- Allows a captive insurer to indemnify the officers & directors when the corporations shareholder sue the officers and directors. *Lawsuits brought by or in the right of the corporation.*

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### Senate Bill 203 Applies to Delaware corporations

The Second-Smallest State is the Corporate Home to the World's Leading Companies

More than one million business entities have made Delaware their legal home and more than 60 percent of the Fortune 500 companies are incorporated in Delaware.

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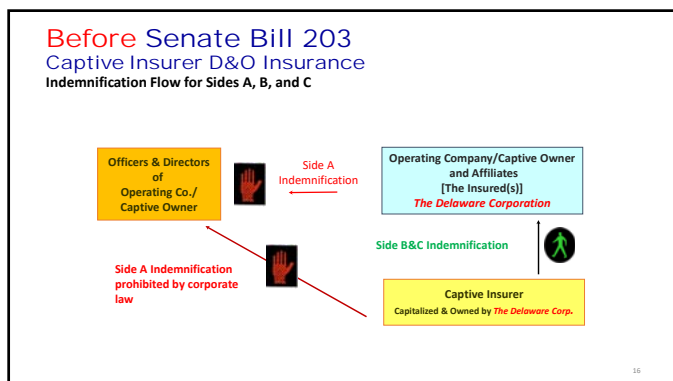
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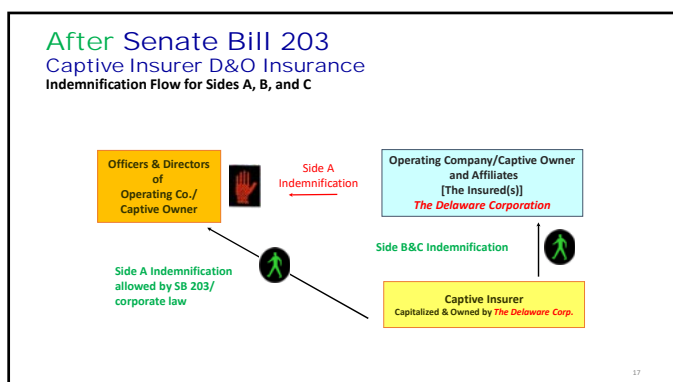
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- ### Amended Section 145(g)
- Why captive insurance?
- Other states allow the use of a captive insurance for what is Side A coverage, but do not directly say so.
  - New Mexico allows insurance, trust fund, letter of credit, or self-insurance.
  - Nevada allows insurance or other financial arrangements.
  - Delaware specifically opted for captive insurance because captive insurance is regulated insurance for:
    - Solvency
    - Investments
    - Subject to regulatory filings, examination, audits, and actuarial opinions

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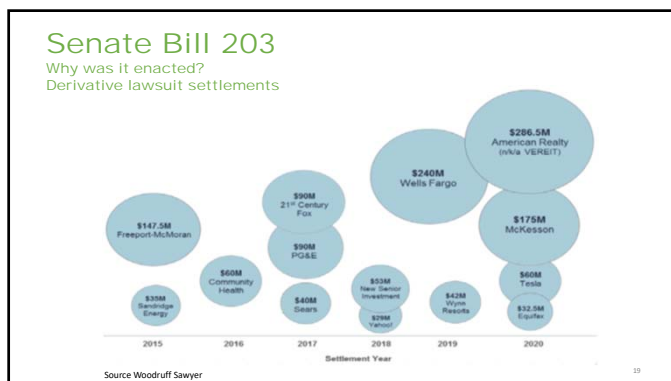
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### Amended Section 145(g)

What industries will use it?

According to a January 11, 2022 article in *Business Insurance* problem coverage areas in D&O include:

- SPAC related transactions
- Cryptocurrencies
- Cannabis
- Environmental
- Initial public offerings
- Cyber risks
- Fiduciary fee litigation

• See Judy Greenwald (2022, January 11). D&O liability rates flattening. [Business Insurance D&O liability rates flattening](#) | [Business Insurance](#)

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### Loss Reserve Considerations

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### Loss Reserve Considerations


Data

Methodology

Available benchmarks  
Patterns  
Loss ratios

Adequacy of funding estimates

Consider available rate filings


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### Rate Filing Example

**1. Base Rates**


The following base rates apply based on the insured's revenue size. Accounts with \$100 million or more revenue will be a rated. Base Rates are for \$1 million limit.

Revenue Size (\$)	State Group 1 Base Rate (\$)	State Group 2 Base Rate (\$)	State Group 3 Base Rate (\$)	State Group 4 Base Rate (\$)	State Group 5 Base Rate (\$)
<\$50K	3,240	3,600	3,960	4,980	5,400
>=\$50K and <\$1M	3,265	3,650	4,015	4,745	5,475
>=\$1M and <\$2M	3,375	3,750	4,125	4,875	5,625
>=\$2M and <\$4M	3,665	3,850	4,235	5,005	5,775
>=\$4M and <\$7.5M	3,950	4,100	4,510	5,300	6,150
>=\$7.5M and <\$15M	3,950	4,400	4,840	5,720	6,600
>=\$15M and <\$25M	4,365	4,850	5,335	6,305	7,275
>=\$25M and <\$50M	4,770	5,300	5,830	6,860	7,950
>=\$50M and <\$100M	5,265	5,850	6,435	7,605	8,775
>=\$100M and <\$100M	5,855	6,550	7,205	8,515	9,825

State Group Assignments: CO, CT, IN, KY, MI, MO, ND, RI, SD, TN, VA, WI, WY

If no coverage is elected under insuring clauses B and C, apply a factor of

Factor
0.60


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### FUNDING ADEQUACY

Funding estimates and parameters are starting points for the reserve process

**CONSIDER**

- Initial funding \$\$\$
- Initial expected loss ratios
- Deviations from actuarial estimates


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**Professional Considerations**



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**Go to the ASOPs**

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ASOP 41 ASOP 43 ASOP 20		Considerations Peer Review
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**ASOP 41**

Applies to actuaries issuing communications within any practice area

Actuarial report

Disclosures in any actuarial communication

- Applies when issuing actuarial findings or an SAO
  - Form and content of communication is appropriate; clear given intended users
  - Identify actuary
- If the actuary intends the actuarial findings to be relied upon by the intended user
  - Data sources; material issues
  - Findings
- Intended user and qualifications
  - Information date
  - Scope of assignment
  - Cautions on risk/uncertainty
  - Responsibility for methods or assumptions – reliance on others



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**ASOP 43**

<p>INTENDED PURPOSES/USER</p> <ul style="list-style-type: none"> <li>External or Internal?</li> </ul>	<p>INTENDED MEASURE OF UNPAID CLAIMS</p>	<p>NATURE OF UNPAID CLAIMS</p> <ul style="list-style-type: none"> <li>Coverage, recoverables</li> <li>Define expenses</li> </ul>	<p>METHODS AND MODELS</p> <ul style="list-style-type: none"> <li>Data</li> <li>Applicability of methods and/or models to data</li> </ul>
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**ASOP 43**

- Consider ASOP 25; *Data Quality*
- Gross vs. Net
- Reliance upon a single method
- Discussion of sensitivity to assumptions
- Discussion of uncertainty

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**ASOP 20**

 <p>Selected discount rate and basis for the selection</p>	 <p>Difference between undiscounted and discounted unpaid claim estimate</p>	 <p>Does the unpaid discounted estimate include a risk margin?</p>	 <p>Significant risks associated with discounted unpaid estimate</p>
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**Is an SAO Required?**

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Review state law for  
guidance on due dates

Review ASOP 36

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**ASOP 36**

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- Identify the intended purpose of the Statement of Actuarial Opinion
- Describe the reserves being opined upon
  - Net vs. gross
  - If the reserves reflect collectability risk and to what extent
  - The claims to be covered by the reserves
    - i.e., line of business, year, state
- Risk of material adverse deviation

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**ASOP 36**

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- Type of Statement of Actuarial Opinion
  - Reasonable, deficient/inadequate, redundant/excessive, qualified opinion or no opinion
- Additional Disclosures
  - Any changes in assumptions and methods from prior opinion
  - If reserves are deficient or redundant, the amount of reserves the actuary deems reasonable
- Deviation from standard – refer also to ASOP 41

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**Law Examples**

- DE SAO
  - <https://captive.delaware.gov/wp-content/uploads/sites/18/2021/04/Actuarial-Opinion-Instructions.pdf>
- IL Joint Insurance Pools

(§ 21CS 220/6) (from Ch. 127, par. 746)  
 Sec. 6. Joint self-insurance. An intergovernmental contract

The joint insurance pool shall also annually file with the Director a statement of actuarial opinion that conforms to the Actuarial Standards of Practice issued by the Actuarial Standards Board. All statements of actuarial opinion shall be issued by an independent actuary who is an associate or fellow of the Casualty Actuarial Society or of the Society of Actuaries. The statement of actuarial opinion shall include a statement that the pool's reserves are calculated in accordance with sound loss-reserving standards and adequate for the payment of claims. This opinion shall be filed no later than **150 days** after the end of each fiscal year. The joint insurance pool

SAO Due Date Information



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**Ask the Regulator**



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**ASK THE REGULATOR**

How much authority does a captive regulator have in the actuarial process?



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**Conclusions**

- Non-NAIC loss reserve analyses often involve a variety of intended users and intended purposes
- New and innovative coverages and programs may require use of industry data and benchmark assumptions
- Use the ASOPs and state laws to help guide you on a professional course of action given the intended audience and use of the work product
- Regulators can serve as a source to answer questions or advise on legal requirements

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**Thank You**

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