

LAWS OF DELAWARE  
VOLUME 83  
CHAPTER 50  
151st GENERAL ASSEMBLY  
FORMERLY  
SENATE SUBSTITUTE NO. 1  
FOR  
SENATE BILL NO. 36

AN ACT TO AMEND TITLE 18 OF THE DELAWARE CODE RELATING TO CAPTIVE INSURANCE COMPANIES.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend § 6902, Title 18 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 6902. Definitions.

As used in this chapter, unless the context requires otherwise:

(17) “Dormant captive insurance company” means a captive insurance company which meets all of the following criteria for ~~an entire calendar year; a continuous 12-month period~~:

a. The ~~company; company~~ did not do all of the following:

1. ~~Did not contract Contract~~ for, or collect, any direct premium; and premium.

2. ~~Did not contract Contract~~ for, or assume, any reinsurance premium; premium.

b. The company was not obligated as an insurance company of any type under any contract of insurance or reinsurance issued or entered into during any year in which it is a dormant captive insurance ~~company; and company~~.

c. The company has provided written notice to the Commissioner of its intention to be treated as a dormant captive insurance company and certifies to the matters set forth in paragraphs (17)a. and b. of this section.

(29) “Pure captive insurance company” means ~~any~~ a captive insurance company that insures risks ~~of its parent and any of such parent’s affiliated companies and any controlled unaffiliated business; of 1 or more of the following~~:

a. Its parent.

b. Its parent’s affiliated companies.

c. A controlled unaffiliated business.

(32) “Series” means a series established under §§ 17-218(b), ~~18-215(b)~~ 18-215(b), or 18-218 of Title 6, § 3804(a) of Title 12, or corresponding law of another state.

Section 2. Amend § 6903, Title 18 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 6903. License application; certificate of authority.

(a) Any person complying with § 6906 of this title may apply to the Commissioner for a certificate of authority to do any and all insurance business comprised in §§ 902-905, 906(a)(1),(2), (4)-(15) and (b), 907 and 908 of this title and to issue annuities as defined in § 2902 of this title; provided, however, that:

(1) No pure captive insurance company may directly insure any risks other than those ~~of its parent, any of such parent's affiliated companies, and any controlled unaffiliated business;~~ of any 1 or more of the following:

- a. Its parent.
- b. Its parent's affiliated companies.
- c. A controlled unaffiliated business.

(9) ~~No series captive insurance company may provide insurance other than the kinds of insurance permitted in paragraphs (a)(1) through (5) of this section.~~ A series may elect to apply for a certificate of authority as a pure, agency, association, industrial insured-insured, or special purpose captive insurance company; or a series may elect to be licensed as a series captive insurance company.

Section 3. Amend § 6906, Title 18 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 6906. Formation of captive insurance companies.

(a) A pure captive insurance company may be any of the following:

- (1) ~~incorporated~~ Incorporated as a stock corporation or as a nonstock ~~corporation,~~ corporation.
- (2) ~~or may be formed~~ Formed as a limited liability company, partnership, limited partnership, series, or statutory trust ~~(including trust, including a limited liability company, limited partnership partnership, or statutory trust having 1 or more series);~~ series.

(b) An association captive insurance company or an industrial insured captive insurance company may be any of the following:

- (1) ~~incorporated~~ Incorporated as a stock corporation or as a nonstock ~~corporation,~~ corporation.
- (2) ~~may be formed~~ Formed as a limited liability company, partnership, limited ~~partnership~~ partnership, or statutory trust, ~~or series.~~
- (3) ~~or may be organized~~ Organized as a reciprocal insurer.

(c) A special purpose captive insurance ~~company or a~~ company, special purpose financial captive insurance ~~company or an~~ company, agency captive insurance ~~company or a~~ company, or branch captive insurance company may be any of the following:

- (1) ~~incorporated~~ Incorporated as a stock corporation or as a nonstock ~~corporation,~~ corporation.
- (2) ~~may be formed~~ Formed as a limited liability company, partnership, limited ~~partnership~~ partnership, or statutory trust ~~(including trust, including a limited liability company, limited partnership partnership, or statutory trust having 1 or more series);~~ series, or series.

(3) ~~or may be such~~ Such other person, other than a natural person in that natural person's individual capacity, approved by the Commissioner.

(d) A sponsored captive insurance company, including a sponsored captive insurance company that is also a special purpose financial captive insurance company, may be any of the following:

- (1) ~~incorporated~~ Incorporated as a stock corporation or as a nonstock ~~corporation~~, corporation.
- (2) ~~or may be formed~~ Formed as a limited liability company, partnership, limited partnership, or statutory ~~trust (including trust, including~~ a limited liability company, limited ~~partnership~~ partnership, or statutory trust having 1 or more ~~series~~); series.

Section 4. Amend § 6916, Title 18 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 6916. Applicable laws.

(a) ~~No provisions of this title, other than those contained in this chapter or specifically referenced in this chapter, shall apply to captive insurance companies except for the following which shall apply to captive insurance companies:~~ Only the following provisions of this title apply to a captive insurance company:

- (1) Chapter 3 of this ~~title~~ title, except for §§ 331, 332, and 333 of this ~~title~~; and title.
- (2) ~~Section~~ Sections 2702, 2703, 2706, and 2716 of this title.
- (3) This chapter.
- (4) Provisions of this title specifically referenced in this chapter.

Approved June 15, 2021