



SPONSOR: Sen. Paradee & Rep. Bush  
Reps. Briggs King, Ramone, Michael Smith, Spiegelman

DELAWARE STATE SENATE  
151st GENERAL ASSEMBLY

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 and by redesignating accordingly:

§ 6902. Definitions.

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

(28) "Policy" means as defined in § 2702 of this title.

(29) "Premium" means as defined in § 2703 of this title.

(29)-(31) "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.

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:

(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, branch, industrial insured, reciprocal, 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.

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

54           § 6916. Applicable laws.

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

58           (1) Chapter 3 of this ~~title~~ title, except for §§ 331, 332, and 333 of this ~~title~~; and title.

59           (2) ~~Section~~ Sections 2706 and 2716 of this title.

60           (3) This chapter.

61           (4) Provisions of this title specifically referenced in this chapter.

#### SYNOPSIS

Section 1 of this Act adds definitions for "policy" and "premium" and revises the definition of "pure captive insurance company" to clarify that a pure captive insurer may insure its parent, its parent's affiliates, or a controlled unaffiliated business.

Section 2 of this Act expands the captive insurance licensing authority for a series as defined under Chapter 69 of Title 18 to allow a Delaware series to be licensed as an agency, branch, or reciprocal captive insurance company.

Section 3 of this Act allows certain captive insurers to select the Delaware series form of business organization.

Section 4 of this Act makes the insurable interest provisions of § 2706 of Title 18 applicable to captive insurance companies.

In addition, this Act makes technical corrections to conform existing law to the standards of the Delaware Legislative Drafting Manual.

Author: Senator Paradee