



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

DELAWARE STATE SENATE
151st GENERAL ASSEMBLY

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:

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

3 § 6902. Definitions.

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

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

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

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

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

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

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

16 (29) "Pure captive insurance company" means ~~any~~ a captive insurance company that insures risks ~~of its~~
17 ~~parent and any of such parent's affiliated companies and any controlled unaffiliated business.~~ of 1 or more of the
18 following:

19 a. Its parent.

20 b. Its parent's affiliated companies.

21 c. A controlled unaffiliated business.

22 (32) "Series" means a series established under §§ 17-218(b), ~~48-215(b)~~ 18-215(b), or 18-218 of Title 6, §
23 3804(a) of Title 12, or corresponding law of another state.

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

26 § 6903. License application; certificate of authority.

27 (a) Any person complying with § 6906 of this title may apply to the Commissioner for a certificate of authority to
28 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
29 issue annuities as defined in § 2902 of this title; provided, however, that:

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

32 a. Its parent.

33 b. Its parent's affiliated companies.

34 c. A controlled unaffiliated business.

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

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

41 § 6906. Formation of captive insurance companies.

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

43 ~~(1) incorporated~~ Incorporated as a stock corporation or as a nonstock ~~corporation~~, corporation.

44 ~~(2) or may be formed~~ Formed as a limited liability company, partnership, limited partnership, series, or
45 statutory ~~trust (including~~ trust, including a limited liability company, limited ~~partnership~~ partnership, or statutory trust
46 having 1 or more ~~series~~ series.

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

49 ~~(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.

SYNOPSIS

Section 1 of this Act revises the following definitions:

(1) "Dormant captive insurance company", to change the criteria review period from a calendar year to a continuous 12-month period.

(2) "Pure captive insurance company", to clarify that a pure captive insurer may insure its parent, its parent's affiliates, or a controlled unaffiliated business.

(3) "Series", to allow a registered series to be licensed as a captive insurer.

Section 2 of this Act clarifies that a pure captive insurer may insure its parent, its parent's affiliates, or a controlled unaffiliated business. Section 2 of this Act also 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 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 provisions of §§ 2702, 2703, and 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.

This Substitute Bill differs from Senate Bill No. 36 as follows:

(1) By removing new definitions for "policy" and "premium" and amending definitions for "dormant captive insurance company" and "series" as indicated in Section 1 of this Act.

(2) By clarifying that a pure captive insurer may insure its parent, its parent's affiliate, or a controlled unaffiliated business as indicated in Section 2 of this Act.

(3) By removing authority for a series to apply for a certificate of authority as a branch or reciprocal captive insurance company.

(4) By making §§ 2702 and 2703 of Title 18 applicable to captive insurance companies.

Author: Senator Paradee