

1 STATE OF OKLAHOMA

2 1st Session of the 54th Legislature (2013)

3 HOUSE BILL 1108

By: Mulready

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5
6 AS INTRODUCED

7 An Act relating to insurance; amending 36 O.S. 2011,
8 Section 6470.2, which relates to the Oklahoma Captive
9 Insurance Company Act; modifying certain definitions;
10 adding certain definitions; and providing for an
11 effective date.

12 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

13 SECTION 1. AMENDATORY 36 O.S. 2011, Section 6470.2, is
14 amended to read as follows:

15 Section 6470.2 As used in the Oklahoma Captive Insurance
16 Company Act:

17 1. "Alien captive insurance company" means an insurance company
18 formed to write insurance business for its parents and affiliates
19 and licensed pursuant to the laws of an alien jurisdiction which
20 imposes statutory or regulatory standards in a form acceptable to
21 the Insurance Commissioner on companies transacting the business of
22 insurance in such jurisdiction;

1 2. "Affiliated company" means a company in the same corporate
2 system as a parent, an industrial insured, or a member organization
3 by virtue of common ownership, control, operation, or management;

4 3. "Association" means a legal association of individuals,
5 corporations, partnerships, or associations that has been in
6 continuous existence for at least one (1) year:

7 a. the member organizations of which collectively, or
8 which does itself:

9 (1) own, control, or hold with power to vote all of
10 the outstanding voting securities of an
11 association captive insurance company
12 incorporated as a stock insurer, or

13 (2) have complete voting control over an association
14 captive insurance company incorporated as a
15 mutual insurer, or

16 b. the member organizations of which collectively
17 constitute all of the subscribers of an association
18 captive insurance company formed as a reciprocal
19 insurer;

20 4. "Association captive insurance company" means a company that
21 insures risks of the member organizations of the association and
22 their affiliated companies;

23 5. "Branch business" means any insurance business transacted by
24 a branch captive insurance company in this state;

1 6. "Branch captive insurance company" means an alien captive
2 insurance company licensed by the Insurance Commissioner to transact
3 the business of insurance in this state through a business unit with
4 a principal place of business in this state;

5 7. "Branch operations" means any business operations of a
6 branch captive insurance company in this state;

7 8. "Captive insurance company" means a pure captive insurance
8 company, association captive insurance company, captive reinsurance
9 company, sponsored captive insurance company, special purpose
10 captive insurance company, or industrial insured captive insurance
11 company formed or licensed under the Oklahoma Captive Insurance
12 Company Act. For purposes of the Oklahoma Captive Insurance Company
13 Act, a branch captive insurance company must be a pure captive
14 insurance company with respect to operations in this state, unless
15 otherwise permitted by the Insurance Commissioner;

16 9. "Captive reinsurance company" means a reinsurance company
17 that is formed or licensed pursuant to the Oklahoma Captive
18 Insurance Company Act and is wholly owned by a qualifying
19 reinsurance parent company. A captive reinsurance company is a
20 stock corporation;

21 10. "Consolidated debt to total capital ratio" means the ratio
22 of the sum of all debts and hybrid capital instruments including,
23 but not limited to, all borrowings from banks, all senior debt, all
24 subordinated debts, all trust preferred shares, and all other hybrid

1 capital instruments that are not included in the determination of
2 consolidated GAAP net worth issued and outstanding to total capital,
3 consisting of all debts and hybrid capital instruments described in
4 this paragraph plus equity of the shareholders determined in
5 accordance with GAAP for reporting to the United States Securities
6 and Exchange Commission;

7 11. "Consolidated GAAP net worth" means the consolidated
8 shareholders' equity determined in accordance with GAAP for
9 reporting to the United States Securities and Exchange Commission;

10 12. "Controlled unaffiliated business" means a company:

11 a. that is not in the corporate system of a parent and
12 affiliated companies,

13 b. that has an existing contractual relationship with a
14 parent or affiliated company, and

15 c. whose risks are managed by a pure captive insurance
16 company in accordance with Section ~~34~~ 6470.27 of this
17 ~~act~~ title;

18 13. "Insurance Commissioner" means the Insurance Commissioner
19 of the State of Oklahoma or designee of the Insurance Commissioner;

20 14. "Department" means the Oklahoma Department of Insurance;

21 15. "GAAP" means generally accepted accounting principles;

22 16. "Industrial insured" means an insured insured under
23 industrial life insurance as defined in Section 4202 of ~~Title 36 of~~
24 ~~the Oklahoma Statutes~~ this title;

1 17. "Industrial insured captive insurance company" means a
2 company that insures risks of the industrial insureds that comprise
3 the industrial insured group and their affiliated companies;

4 18. "Industrial insured group" means a group that meets either
5 of the following criteria:

6 a. a group of industrial insureds that collectively:

7 (1) owns, controls, or holds with power to vote all
8 of the outstanding voting securities of an
9 industrial insured captive insurance company
10 incorporated as a stock insurer, or

11 (2) has complete voting control over an industrial
12 insured captive insurance company incorporated as
13 a mutual insurer, or

14 b. a group which is created under the Liability Risk
15 Retention Act of 1986, 15 U.S.C., Section 3901 et
16 seq., as amended, as a corporation or other limited
17 liability association taxable as a stock insurance
18 company or a mutual insurer under this title;

19 19. "Member organization" means any individual, corporation,
20 partnership, or association that belongs to an association;

21 20. "Parent" means any corporation, partnership, or individual
22 that directly or indirectly owns, controls, or holds with power to
23 vote more than fifty percent (50%) of the outstanding voting
24 securities of a pure captive insurance company;

1 21. "Participant" means an entity as defined in Section ~~38~~
2 6470.31 of this ~~act~~ title, and any affiliates of that entity, that
3 are insured by a sponsored captive insurance company, where the
4 losses of the participant are limited through a participant contract
5 to the assets of a protected cell;

6 22. "Participant contract" means a contract by which a
7 sponsored captive insurance company insures the risks of a
8 participant and limits the losses of the participant to the assets
9 of a protected cell;

10 23. "Protected cell" means a separate account established and
11 maintained by a ~~sponsored captive insurance company for one~~
12 participant protected cell captive insurer and may include an
13 incorporated protected cell and a sponsored captive insurance
14 company;

15 24. "Pure captive insurance company" means a company that
16 insures risks of its parent, affiliated companies, controlled
17 unaffiliated business, or a combination thereof;

18 25. "Qualifying reinsurer parent company" means a reinsurer
19 authorized to write reinsurance by this state and that has a
20 consolidated GAAP net worth of not less than Five Hundred Million
21 Dollars (\$500,000,000.00) and consolidated debt to total capital
22 ratio not greater than 0.50;

23 26. "Special purpose captive insurance company" means a captive
24 insurance company that is formed or licensed under the Oklahoma

1 Insurance Code that does not meet the definition of any other type
2 of captive insurance company defined in this section;

3 27. "Sponsor" means an entity that meets the requirements of
4 Section ~~37~~ 6470.30 of this ~~act~~ title and is approved by the
5 Insurance Commissioner to provide all or part of the capital and
6 surplus required by applicable law and to organize and operate a
7 sponsored captive insurance company;

8 28. "Sponsored captive insurance company" means a captive
9 insurance company:

- 10 a. in which the minimum capital and surplus required by
11 applicable law is provided by one or more sponsors,
12 b. that is formed or licensed under the Oklahoma Captive
13 Insurance Company Act,
14 c. that insures the risks of separate participants
15 through the contract, and
16 d. that segregates the liability of each participant
17 through one or more protected cells; ~~and~~

18 29. "Treasury rates" means the United States Treasury strips
19 asked yield as published in the Wall Street Journal as of a balance
20 sheet date;

21 30. "Incorporated protected cell" means a protected cell that
22 is established as a corporation or other legal entity separate from
23 the protected cell captive insurer of which it is a part; and

24

1 31. "Protected cell captive insurer" means a captive insurer

2 that:

3 a. is formed and licensed under the provisions of the
4 Oklahoma Captive Insurance Company Act,

5 b. insures the risks of separate participants through a
6 contract, and

7 c. segregates each participant's liability through one or
8 more protected cells.

9 SECTION 2. This act shall become effective November 1, 2013.

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11 54-1-6223 AMM 01/03/13