

STATE OF OKLAHOMA

2nd Session of the 56th Legislature (2018)

CONFERENCE COMMITTEE SUBSTITUTE

FOR ENGROSSED

SENATE BILL 606

By: Sparks of the Senate

and

Mulready of the House

CONFERENCE COMMITTEE SUBSTITUTE

An Act relating to insurance; amending 36 O.S. 2011, Sections 606.1, 6470.3, as last amended by Section 13, Chapter 73, O.S.L. 2016 and 6470.10, as last amended by Section 17, Chapter 298, O.S.L. 2015 (36 O.S. Supp. 2017, Sections 6570.3 and 6470.10), which relate to foreign insurers becoming domestic insurers, provisional licenses, and captive insurance companies; modifying entities who may become domestic insurers; adding contracts to items remaining in force under certain conditions; removing time period for Insurance Commissioner to issue certain provisional license; modifying entities who may become certain captive insurer; and declaring an emergency.

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

SECTION 1. AMENDATORY 36 O.S. 2011, Section 606.1, is amended to read as follows:

Section 606.1. A. 1. Any foreign or alien insurer which is organized under the laws of any other ~~state and is admitted to do business in this state~~ jurisdiction for the purpose of transacting

1 insurance may become a domestic insurer by complying with all of the
2 requirements of law relative to the organization and licensing of a
3 domestic insurer of the same type and by designating its principal
4 place of business at a location in this state, provided, the
5 Insurance Commissioner approves the insurer's application for
6 redomestication following a public hearing. Said domestic insurer
7 will be entitled to like certificates and licenses to transact
8 business in this state and shall be subject to the authority and
9 jurisdiction of this state.

10 2. The Commissioner shall approve an insurer's application to
11 redomesticate unless, after a public hearing thereon, he finds that:

- 12 a. the insurer cannot comply with all the requirements of
13 law relative to the organization and licensing of a
14 domestic insurer,
- 15 b. after redomestication, the insurer would not be able
16 to satisfy the requirements for the issuance of a
17 license to write the line or lines of insurance for
18 which it is presently licensed,
- 19 c. the effect of the redomestication would be
20 substantially to lessen competition in insurance in
21 this state or tend to create a monopoly therein,
- 22 d. the financial condition of the insurer is such as
23 might jeopardize or prejudice the interest of its
24

1 policyholders or the state and is not in the public
2 interest, or

3 e. the competence, experience and integrity of those
4 persons who control the operation of the insurer are
5 such that it would not be in the interest of the
6 policyholders, the public or the state to permit the
7 redomestication.

8 3. The insurer's application to redomesticate shall contain
9 information acceptable to the Commissioner concerning its financial
10 condition, its plan of operation for the succeeding three (3) years,
11 and information concerning the competence, experience and integrity
12 of those persons who control the operation of the insurer.

13 4. The application for redomestication shall be deemed approved
14 unless the Commissioner has, within thirty (30) days after the
15 conclusion of the hearing, entered his order disapproving the
16 redomestication.

17 B. Any domestic insurer may, upon the approval of the Insurance
18 Commissioner, transfer its domicile to any other state in which it
19 is admitted to transact the business of insurance, and upon such a
20 transfer, shall cease to be a domestic insurer, and shall be
21 admitted to this state if qualified as a foreign insurer. The
22 Commissioner shall approve any such proposed transfer unless he
23 shall determine such transfer is not in the interest of the
24 policyholders of this state.

1 C. The certificate of authority, agents appointments and
2 licenses, rates, and other items which the Insurance Commissioner
3 allows, in his discretion, which are in existence at the time any
4 insurer licensed to transact the business of insurance in this state
5 transfers its corporate domicile to this or any other state by
6 merger, consolidation or any other lawful method shall continue in
7 full force and effect upon such transfer if such insurer remains
8 duly qualified to transact the business of insurance in this state.
9 All outstanding policies and other contracts of any transferring
10 insurer shall remain in full force and effect and need not be
11 endorsed as to the new name of the company or its new location
12 unless so ordered by the Commissioner. Every transferring insurer
13 shall file new policy forms with the Commissioner on or before the
14 effective date of the transfer, but may use existing policy forms
15 with appropriate endorsements if allowed by, and under such
16 conditions as approved by, the Commissioner. However, every such
17 transferring insurer shall notify the Commissioner of the details of
18 the proposed transfer, and shall file promptly, any resulting
19 amendments to corporate documents required to be filed with the
20 Commissioner.

21 D. The Insurance Commissioner may promulgate rules and
22 regulations to carry out the purposes of this section.
23
24

1 SECTION 2. AMENDATORY 36 O.S. 2011, Section 6470.3, as
2 last amended by Section 13, Chapter 73, O.S.L. 2016 (36 O.S. Supp.
3 2017, Section 6470.3), is amended to read as follows:

4 Section 6470.3. A. A captive insurance company, when permitted
5 by its articles of incorporation or charter, may apply to the
6 Insurance Commissioner for a license to do any and all insurance
7 authorized by this title; however:

8 1. A pure captive insurance company may not insure any risks
9 other than those of its parent, affiliated companies of its parent,
10 or any controlled unaffiliated business, or a combination thereof;

11 2. An association captive insurance company may not insure any
12 risks other than those of the member organizations of its
13 association and their affiliated companies;

14 3. An industrial insured captive insurance company may not
15 insure any risks other than those of the industrial insureds that
16 comprise the industrial insured group and their affiliated
17 companies;

18 4. A special purpose captive insurance company may provide
19 insurance or reinsurance, or both, for risks as approved by the
20 Insurance Commissioner;

21 5. A captive insurance company may not provide personal motor
22 vehicle or homeowner's insurance coverage or any component of these
23 coverages; and
24

1 6. Any captive insurance company may provide workers'
2 compensation insurance, insurance in the nature of workers'
3 compensation insurance, and reinsurance of such policies, unless
4 prohibited by federal law or laws of this state or any other state
5 having jurisdiction over the transaction.

6 B. To conduct insurance business in this state a captive
7 insurance company shall:

8 1. Obtain from the Insurance Commissioner a license authorizing
9 it to conduct insurance business in this state;

10 2. Maintain a place of business in this state designated as its
11 registered office; and

12 3. Appoint a resident registered agent to accept service of
13 process and to otherwise act on its behalf in this state. Whenever
14 the registered agent cannot with reasonable diligence be found at
15 the registered office of the captive insurance company, the
16 Insurance Commissioner shall be deemed an agent of the captive
17 insurance company upon whom any process, notice, or demand may be
18 served.

19 C. 1. Before receiving a license, a captive insurance company
20 shall file with the Commissioner a certified copy of its
21 organizational documents, a statement under oath of its president or
22 other authorized person showing its financial condition, a
23 feasibility study, a business plan, and any other statements,
24 information or documents required by the Commissioner.

1 2. In addition to the information required by paragraph 1 of
2 this subsection, an applicant captive insurance company shall file
3 with the Insurance Commissioner evidence of:

- 4 a. the amount and liquidity of its assets relative to the
5 risks to be assumed,
- 6 b. the adequacy of the expertise, experience, and
7 character of the person or persons who will manage it,
- 8 c. the overall soundness of its plan of operation,
- 9 d. the adequacy of the loss prevention programs of its
10 insureds, and
- 11 e. such other factors considered relevant by the
12 Insurance Commissioner in ascertaining whether the
13 proposed captive insurance company will be able to
14 meet its obligations.

15 3. Information submitted pursuant to this subsection is
16 confidential and may not be made public by the Insurance
17 Commissioner or an agent or employee of the Insurance Commissioner
18 without the written consent of the company, except that:

- 19 a. information may be discoverable by a party in a civil
20 action or contested case to which the captive
21 insurance company that submitted the information is a
22 party, upon a showing by the party seeking to discover
23 the information that:

- (1) the information sought is relevant to and necessary for the furtherance of the action or case,
- (2) the information sought is unavailable from other nonconfidential sources, and
- (3) a subpoena issued by a judicial or administrative officer of competent jurisdiction has been submitted to the Insurance Commissioner; however, the provisions of this paragraph do not apply to an industrial insured captive insurance company insuring the risks of an industrial insured group, and

- b. the Insurance Commissioner may disclose the information to a public officer having jurisdiction over the regulation of insurance in another state if:
 - (1) the public official agrees in writing to maintain the confidentiality of the information, and
 - (2) the laws of the state in which the public official serves require the information to be confidential.

D. A captive insurance company shall pay to the Department a nonrefundable application fee of Two Hundred Dollars (\$200.00) for reviewing its application to determine whether it is complete and in addition, the Insurance Commissioner may retain legal, financial,

1 and examination services from outside the Department, the reasonable
2 cost of which may be charged against the applicant. Also, a captive
3 insurance company shall pay a license fee for the year of
4 registration and a renewal fee of Three Hundred Dollars (\$300.00).

5 E. If the Insurance Commissioner is satisfied that the
6 documents and statements filed by the captive insurance company
7 comply with the provisions of the Oklahoma Captive Insurance Company
8 Act, the Insurance Commissioner may grant a license authorizing the
9 company to do insurance business in this state until the succeeding
10 March 1 at which time the license may be renewed.

11 F. 1. Notwithstanding any other provision of this act, the
12 Insurance Commissioner may issue a provisional license to any
13 applicant captive insurance company ~~for a period not to exceed sixty~~
14 ~~(60) days~~ if the Insurance Commissioner deems that the public
15 interest will be served by the issuance of such license.

16 2. As a condition precedent to the issuance of a provisional
17 license under this section, the applicant shall have filed a
18 complete application containing all information required by this
19 section, paid all fees required for licensure and the Insurance
20 Commissioner shall have made a preliminary finding that the
21 expertise, experience and character of the person or persons who
22 will control and manage the applicant captive insurer are
23 acceptable.
24

1 3. The Insurance Commissioner may by order limit the authority
2 of any provisional licensee in any way deemed necessary to protect
3 insureds and the public. The Insurance Commissioner may by order
4 revoke a provisional license if the interests of insureds or the
5 public are endangered. If the applicant fails to complete the
6 regular licensure application process, the provisional license shall
7 terminate automatically.

8 SECTION 3. AMENDATORY 36 O.S. 2011, Section 6470.10, as
9 last amended by Section 17, Chapter 298, O.S.L. 2015 (36 O.S. Supp.
10 2017, Section 6470.10), is amended to read as follows:

11 Section 6470.10. A. A captive insurance company may be
12 incorporated as a stock corporation or as a nonstock corporation, or
13 may be formed as a limited liability company, partnership, limited
14 partnership, statutory trust or any lawful form approved by the
15 Insurance Commissioner.

16 B. An association captive insurance company, industrial insured
17 captive insurance company or special purpose captive insurance
18 company may be organized as a reciprocal insurer.

19 C. The Commissioner shall not issue the initial license or
20 review the license of any captive insurer unless the Commissioner
21 determines the following matters serve the best interest of the
22 prospective policyholders and promote the general good of the state:
23
24

1 1. The character, reputation, financial standing, and purposes
2 of the principals, owners or other persons who will direct or
3 control the affairs of the captive insurer;

4 2. The character, reputation, financial responsibility,
5 insurance experience, and business qualifications of the officers
6 and directors; and

7 3. Other aspects as the Insurance Commissioner considers
8 advisable.

9 D. In the case of a captive insurance company licensed as a
10 branch captive insurance company, the findings required in
11 subsection C above shall be in respect to the alien captive
12 insurance company.

13 E. 1. A captive insurance company formed under the laws of
14 this state or under the laws of another jurisdiction that is
15 licensed under the provisions of this title shall have the
16 privileges and be subject to the provisions of the laws of this
17 state or the laws of such other jurisdiction, as applicable, under
18 which such captive insurance company is organized as well as the
19 applicable provisions contained in this title. In the event of
20 conflict between the provisions of the laws of this state or the
21 laws of such other jurisdiction, as applicable, under which such
22 captive insurance company is organized, and the provisions of this
23 title, the latter shall control.

1 2. A captive insurance company, formed or licensed under the
2 Oklahoma Captive Insurance Company Act, has the privileges and is
3 subject to the provisions of Oklahoma law as well as the applicable
4 provisions contained in the Oklahoma Captive Insurance Company Act.
5 If a conflict occurs between a provision of the general law of
6 Oklahoma and a provision of the Oklahoma Captive Insurance Company
7 Act, the latter controls. No provision of the Insurance Code, other
8 than those contained in this act or otherwise specifically
9 referencing such companies, shall apply to captive insurance
10 companies.

11 3. In addition to the applicability of law provided in this
12 section, a captive insurance company operating as a risk retention
13 group shall be subject to the provisions of the Oklahoma Risk
14 Retention Act under Sections 6451 through 6468 of this title.

15 4. The provisions of the Oklahoma Insurance Code pertaining to
16 mergers, consolidations, conversions, mutualizations, and change in
17 control apply in determining the procedures to be followed by a
18 captive insurance company in carrying out any of the transactions
19 described in those provisions, except the Insurance Commissioner may
20 waive or modify the requirements for public notice and hearing.

21 5. The terms and conditions set forth in Articles 18 and 19 of
22 the Oklahoma Insurance Code pertaining to insurance supervision,
23 conservatorship, rehabilitation, and receiverships apply in full to
24 captive insurance companies, including for this purpose individual

1 protected cells of sponsored captive insurance companies as provided
2 in Section 6470.29 of this title.

3 6. Any insurer which holds a current license to transact the
4 business of insurance under the laws of any other ~~state~~ jurisdiction
5 may become an Oklahoma domiciled captive insurer by complying with
6 all of the requirements of Oklahoma law relative to the organization
7 and licensing of a captive insurer and obtaining the approval of the
8 insurer's application for redomestication by the chief insurance
9 regulatory official of the company's current and proposed domiciles.

10 SECTION 4. It being immediately necessary for the preservation
11 of the public peace, health or safety, an emergency is hereby
12 declared to exist, by reason whereof this act shall take effect and
13 be in full force from and after its passage and approval.

14
15 56-2-3632 CB 7/17/2018 9:58:48 AM
16
17
18
19
20
21
22
23
24