



HOUSE BILL 163: Captive Insurance Amendments

2015-2016 General Assembly

Committee:

Introduced by:

Analysis of: S.L. 2015-99

Date:

Prepared by: Kristen Harris
Staff Attorney

SUMMARY: *S.L. 2015-99 makes enhancements and various technical and substantive statutory changes to the laws governing captive insurance companies in the State, as recommended by the Department of Insurance.*

This act became effective June 19, 2015.

CURRENT LAW AND BACKGROUND: Captive insurance companies form and operate in North Carolina under the North Carolina Captive Insurance Act which became effective July 1, 2013.

BILL ANALYSIS:

Section 1 contains various technical and clarifying changes. Enhancements and substantive changes are outlined below by individual statute.

G.S. 58-10-340 Definitions.

- Removes an incorporated cell captive insurance company from the definition of "captive insurance company" because a protected cell captive insurance company can contain incorporated protected cells.
- Adds definitions for "core" and "impairment".

G.S. 58-10-370 Capital and surplus requirements.

Amends the capital and surplus requirement for a special purpose captive insurance company so the Commissioner has discretion to set an amount less than \$250,000.

G.S. 58-10-380 Formation of captive insurance companies.

- Adds a provision that says a special purpose captive insurance company may be organized in any form of business organization authorized by the Commissioner.
- Removes the requirements that a captive insurance company be incorporated or organized by no less than three individuals, including one being a resident of North Carolina.
- Adds a provision to allow a captive to establish one or more separate accounts within the captive in order to segregate risks for certain insureds of the captive thus negating the need to reorganize as a protected cell captive insurance company.

G.S. 58-10-385 Directors.

Amends the statute to give the Commissioner discretion to decide whether it is appropriate for a director, officer, or employee to be the beneficiary of any fee, brokerage, gift, or other compensation



House Bill 163

Page 2

because of any investment, loan, deposit, purchase, sale, payment, or exchange made by or for the captive insurance company.

G.S. 58-10-405 Annual reports.

- Makes March 15th the due date for all annual reports, other than risk retention groups and association captive insurance companies.
- Adds a provision to allow the Commissioner to require a report on the financial condition of a captive insurance company on any frequency that the Commissioner determines.
- Adds a provision to allow the Commissioner to exempt a captive insurance company from the annual report requirement subject to the filing of an annual audit.

G.S. 58-10-415 Annual audit and actuarial certification.

- Separates the statement of actuarial opinion from being a part of the annual audit requirement.
- Adds a provision to allow the Commissioner to exempt a captive insurance company from the statute of actuarial opinion requirement.

G.S. 58-10-430 Examinations.

Removes the requirement that the Department physically visit a captive insurance company when conducting an examination.

G.S. 58-10-440 Investment requirements.

Amends the section to allow a captive insurance company or protected cell to make a loan to its parent company, an affiliated company, a controlled unaffiliated business, or a participant provided the transaction is approved by the Commissioner.

G.S. 58-10-465 Applicable provisions.

Removes the requirement that the Commissioner adopt a rule or regulation or issue an order to exempt a special purpose captive insurance company from a law in Chapter 58 or a regulation established under Chapter 58.

G.S. 58-10-490 Inactive captive insurance companies.

Adds a new section which allows captives to become inactive during periods when the owners decide not to utilize them. During this period, they do not have to pay premium tax and they may be exempted from the filing and reporting requirements in the captive law.

G.S. 58-10-510 Establishment of protected cells.

- Amends the section to make it, at the Commissioner's discretion, whether to require a protected cell to have the business it writes fronted, reinsured, or secured by a trust fund.
- Adds language regarding the transfer or conversion of a protected cell.
- Adds language stating that a protected cell may enter into a contract with its protected cell captive insurance company or with another protected cell within the protected cell captive insurance company.

G.S. 58-10-512 Incorporated protected cells.

Adds a new section on incorporated cells detailing what is required to form an incorporated protected cell and giving it authority to enter into contracts and undertake its obligations in its own name.

House Bill 163

Page 3

G.S. 58-10-513 Cell shares and cell dividends.

Adds a new section detailing the issuance of cell shares and the payment of cell dividends.

G.S. 58-10-515 Participation in a protected cell captive insurance company.

Adds a provision to allow the Commissioner the discretion to allow a participant to insure risks other than its own, its affiliates, or controlled unaffiliated businesses.

G.S.58-10-517 Company to inform persons they are dealing with protected cell captive insurance company.

Adds a new section requiring all protected cell captive insurance companies to inform any person with whom it transacts business that it is a protected cell captive insurance company and the name of any cell, if any, with which the person is transacting.

G.S. 58-10-525 Application of supervision, rehabilitation, and liquidation provisions to protected cell captive insurance companies.

Adds language applying Article 30 not only to a protected cell captive insurance company as a whole, but also to protected cells individually.

G.S. 58-10-540 Petition for certificate of authority.

Deletes the statute from Chapter 58 to remove the requirement that an alien captive insurance company obtain a certificate of general good from the Commissioner.

G.S. 58-10-560 Controlling provisions when conflict exists; exemptions.

Removes the requirement that the Commissioner adopt a rule or regulation or issue an order to exempt a special purpose financial captive insurance company or its protected cells from the captive insurance act or a regulation established under the act.

G.S. 58-10-655 Commissioner to share information with Department of Revenue.

Adds a new section requested by the Department of Revenue to provide for the sharing of information relating to captive's financials between the Department of Revenue and the Department of Insurance.

Section 2 adds new conforming language to G.S. 105-259(b) to regulate the disclosure of the information being shared by the Departments of Insurance and Revenue.

EFFECTIVE DATE: S.L. 2015-99 became effective June 19, 2015.

The Department of Insurance substantially contributed to this summary.