

Regular Session, 2012

SENATE BILL NO. 205

BY SENATOR MORRISH

INSURERS. Lowers the minimum capital and surplus requirement for captive insurers from one million dollars to five hundred thousand dollars and removes the prohibition from providing workers' compensation and employee liability insurance. (8/1/12)

1 AN ACT

2 To amend and reenact R.S. 22:550.3(B), 550.10(A), 550.12(A), 550.13(B), and 550.16(C),
3 relative to captive insurers; to reduce the unimpaired paid-in capital requirements for
4 captive insurers; to clarify requirements and prohibitions for captive insurers; to
5 provide technical changes; and to provide for related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. R.S. 22:550.3(B), 550.10(A), 550.12(A), 550.13(B), and 550.16(C) are
8 hereby amended and reenacted to read as follows:

9 §550.3. Applicability of other provisions

10 * * *

11 B. The provisions of R.S. 22:~~71~~ and 72 regarding conversions apply to
12 captive insurers licensed pursuant to this Chapter.

13 * * *

14 §550.10. Capital and surplus requirements

15 A. A captive insurer shall maintain at all times, in addition to any other
16 capital or surplus required to be maintained pursuant to Subsection C of this Section,
17 unimpaired paid-in capital and surplus of not less than ~~one million~~ **five hundred**

1 **thousand** dollars.

2 * * *

3 §550.12. Suspension or revocation of certificate of authority; hearings

4 A. The commissioner may refuse, suspend or revoke the certificate of
5 authority of a captive insurer if, after an examination and hearing, the commissioner
6 determines that the captive insurer satisfies any one of the following items:

7 (1) Is insolvent or has impaired its required capital or surplus.

8 (2) Is in such condition that its further transaction of business in this state
9 would be hazardous to the policyholders, creditors, or the public.

10 (3) Has failed to meet a requirement of R.S. ~~22:2420~~ **550.10**.

11 (4) Has refused or failed to submit an annual report, as required by R.S.
12 ~~22:2431~~ **550.21**, or any other report or statement required by law or by order of the
13 commissioner.

14 (5) Has failed to comply with the provisions of its charter or bylaws.

15 (6) Has failed to submit to an examination, or has refused or failed to pay the
16 cost of an examination required pursuant to R.S. ~~22:2432~~ **550.22**.

17 (7) Has used any method in transacting the business of insurance pursuant
18 to this Chapter which is detrimental to the operation of the captive insurer or would
19 make its condition unsound with respect to its policyholders or the general public.

20 (8) Has failed otherwise to comply with the laws of this state.

21 (9) The suspension or revocation of the certificate of authority of the captive
22 insurer is in the best interest of its policyholders or the general public.

23 * * *

24 §550.13. Authorized and prohibited types of insurance

25 * * *

26 B. A captive insurer licensed pursuant to this Chapter shall comply with the
27 following:

28 (1) The insurer shall not directly provide insurance classified as life, health
29 and accident, title, credit life, health, and accident, credit property and casualty, or

1 annuity, as described in R.S. 22:47.

2 (2) The insurer shall not directly provide personal motor vehicle,
3 homeowners' insurance coverage, or any other noncommercial line of coverage.

4 (3) ~~The insurer shall not directly provide workers' compensation or~~
5 ~~employers' liability insurance coverage, except in connection with a self-funded~~
6 ~~insurance program as prescribed in this Section.~~

7 (4) The insurer shall not accept or cede reinsurance, except as otherwise
8 provided in R.S. 22:~~2427~~**550.17**.

9 (5) ~~The insurer may provide excess workers' compensation insurance to its~~
10 ~~parent and affiliated companies, unless otherwise prohibited by the laws of the state~~
11 ~~in which the insurance is transacted.~~

12 (6) ~~The insurer may reinsure workers' compensation insurance provided~~
13 ~~pursuant to a program of self-funded insurance of its parent and affiliated companies~~
14 ~~if either one of the following applies:~~

15 (a) ~~The parent or affiliated company which is providing the self-funded~~
16 ~~insurance is certified as a self-insured employer by the Louisiana Workforce~~
17 ~~Commission, if the insurance is being transacted in this state.~~

18 (b) ~~The program of self-funded insurance is otherwise qualified pursuant to,~~
19 ~~or in compliance with, the laws of the state in which the insurance is transacted.~~

20 * * *

21 §550.16. Investments; loan to parent or affiliated company in certain circumstances

22 * * *

23 C. A pure captive insurer may make a loan to its parent or affiliated company
24 if the loan **meets each of the following requirements:**

25 (1) ~~Is~~ **The loan is** first approved in writing by the commissioner;.

26 (2) ~~Is~~ **The loan is** evidenced by a note that is in a form ~~that is~~ approved by
27 the commissioner; ~~and,~~

28 (3) ~~Does~~ **The loan does** not include any money that has been set aside as
29 capital or surplus as required by R.S. 22:~~2420~~ **550.10**.

The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Cheryl Horne.

DIGEST

Present law requires captive insurers to maintain a paid-in capital surplus of at least one million dollars.

Proposed law lowers the capital surplus requirement to five hundred thousand dollars.

Present law prohibits captive insurers from directly providing workers' compensation or employers' liability insurance coverage, unless the coverage is in connection with a self-funded program. Present law further lists certain exceptions to this prohibition.

Proposed law removes the prohibition that prevents captive insurers from providing workers' compensation or employers' liability insurance coverage, eliminating the necessity for the exceptions provided in present law.

Present law has references to citations which have been recodified.

Proposed law makes technical changes to correct citations.

Effective August 1, 2012.

(Amends R.S. 22:550.3(B), 550.10(A), 550.12(A), 550.13(B), and 550.16(C))