

2025 Regular Session

HOUSE BILL NO. 635

BY REPRESENTATIVE BAMBURG AND SENATOR BASS

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

INSURANCE DEPARTMENT: Establishes the Creating Holistic Options in Coverage for Enterprise and Self-Insurance (CHOICES) Law

1 AN ACT

2 To amend and reenact Subpart S of Part I of Chapter 2 of Title 22 of the Louisiana Revised
3 Statutes of 1950, to be comprised of R.S. 22:550.1 through 550.32 and R.S.
4 44:4.1(B)(11) and to enact R.S. 22:821(40), relative to captive insurance companies;
5 to provide for definitions; to provide for application and regulation requirements; to
6 provide for capital and surplus requirements; to provide for confidentiality of certain
7 records; to provide a public records exception for certain records; to provide for
8 examinations; to provide for redomestication; to provide for dormancy; to require
9 for the payment of fees; and to provide for related matters.

10 Be it enacted by the Legislature of Louisiana:

11 Section 1. Section 2 of this Act amends and reenacts Subpart S of Part I of Chapter
12 2 of Title 22 of the Louisiana Revised Statutes of 1950 in its entirety. Due to the length of
13 the Subpart, present law is not included as overstruck text.

14 Section 2. Subpart S of Part I of Chapter 2 of Title 22 of the Louisiana Revised
15 Statutes of 1950, comprised of R.S. 22:550.1 through 550.32, is hereby amended and
16 reenacted and R.S. 22:821(40) is hereby enacted to read as follows:

17 SUBPART S. CAPTIVE INSURANCE COMPANIES18 §550.1. Purpose and short title

19 The purpose of this Subpart is to regulate the formation and operation of
20 domestic captive insurance companies within the state of Louisiana. This Subpart

1 may be known and cited as the "Creating Holistic Options in Coverage for Enterprise
2 and Self-Insurance Law" or "CHOICES Law".

3 §550.2. Definitions

4 As used in this Subpart, unless the context otherwise requires, the following
5 definitions apply:

6 (1) "Affiliated company" means a company in the same corporate system as
7 its parent or a member organization by virtue of common ownership, control,
8 operation, or management.

9 (2) "Association" means any legal association of individuals, corporations,
10 limited liability companies, partnerships, associations, or other entities,
11 independently or in conjunction with some or all of its member organizations, doing
12 any of the following:

13 (a) Owning, controlling, or holding the power to vote all of the outstanding
14 voting securities of an association captive insurance company incorporated as a stock
15 insurer.

16 (b) Having complete voting control over an association captive insurance
17 company incorporated as a mutual insurer.

18 (c) Having complete voting control over an association captive insurance
19 company.

20 (d) Constituting all of the subscribers of an association captive insurance
21 company formed as a reciprocal insurer.

22 (3) "Association captive insurance company" means any company that
23 insures only the risks of the member organizations of the association, affiliated
24 companies of the member organizations, and the risks of the association itself.

25 (4) "Branch captive insurance company" means an alien captive insurance
26 company licensed by the commissioner to transact the business of insurance in this
27 state. For the purposes of this Subpart, a branch captive insurance company is the
28 same as a pure captive insurance company, as defined in this Section, with respect
29 to operations in this state unless otherwise permitted by the commissioner.

1 (5) "Captive insurance company" means any pure captive insurance
2 company, association captive insurance company, risk retention group, or affiliated
3 reinsurance company formed or licensed pursuant to this Subpart.

4 (6) "Cash equivalents" means any short-term, highly liquid investments that
5 are both of the following:

6 (a) Readily convertible to known amounts of cash.

7 (b) So near their maturity that they present insignificant risks of changes in
8 value due to changes in interest rates.

9 (7) "Commissioner" means the commissioner of insurance.

10 (8) "Common ownership and control" means the direct or indirect ownership
11 of fifty-one percent or more of the outstanding voting stock of two or more
12 corporations by the same member or members.

13 (9) "Controlled unaffiliated business" means a business that meets all of the
14 following criteria:

15 (a) It is not in the corporate system of a parent and its affiliated companies,
16 in the case of a pure captive insurance company.

17 (b) It has an existing contractual relationship with a parent or one of its
18 affiliated companies, in the case of a pure captive insurance company.

19 (c) Risks are managed by a pure captive insurance company in accordance
20 with R.S. 22:550.28.

21 (10) "Department" means the Department of Insurance.

22 (11) "Excess workers' compensation insurance" means, in the case of an
23 employer that has insured or self-insured its workers' compensation risks in
24 accordance with applicable state or federal law, insurance in excess of the specified
25 per-incident or aggregate limit established by the commissioner.

26 (12) "Hazardous financial condition" means a present or reasonably
27 anticipated financial condition in which a captive insurance company, although not
28 yet financially impaired or insolvent, is unlikely to be able to do either of the
29 following:

1 (a) Meet obligations to policyholders with respect to known claims and
2 reasonably anticipated claims.

3 (b) Pay other obligations in the normal course of business.

4 (13) "Member organization" means any corporation, partnership, association,
5 or other form of business organization that belongs to an association. Political
6 subdivisions, as defined in Article VI, Section 44 of the Constitution of Louisiana,
7 are not eligible for membership in an association.

8 (14) "Parent" means a corporation, limited liability company, partnership,
9 other entity, or an individual who directly or indirectly owns, controls, or holds the
10 power to vote more than fifty-one percent of the outstanding voting interests in
11 connection with any of the following:

12 (a) Securities of a pure captive insurance company organized as a stock
13 corporation.

14 (b) Membership interests of a pure captive insurance company organized as
15 a nonprofit corporation.

16 (c) Membership interests of a captive insurance company organized as a
17 limited liability company.

18 (15) "Pure captive insurance company" means any company that insures
19 risks of its parent and affiliated companies or controlled unaffiliated businesses.

20 (16) "Risk retention group" means a captive insurance company organized
21 under the laws of this state pursuant to the Liability Risk Retention Act of 1986, 15
22 U.S.C. §3901 et seq., as amended, as a stock corporation, a mutual corporation, a
23 reciprocal, or other limited liability entity.

24 (17) "Stock insurer" means an incorporated insurer with issued and
25 outstanding stock whose capital and surplus is owned by its stockholders.

26 §550.3. Applicability of other provisions

27 A. The terms and conditions set forth in R.S. 22:96 and Chapter 9 of this
28 Title, R.S. 22:2001 et seq., pertaining to rehabilitation, liquidation, conservation,

1 dissolution, and administrative supervision, apply to captive insurance companies
2 licensed pursuant to this Subpart.

3 B. The provisions of R.S. 22:72 regarding stock and mutual conversions
4 apply to captive insurance companies licensed pursuant to this Subpart.

5 C. The provisions of acquisition of control or merger with a domestic insurer
6 provided for in the Insurance Holding Company System Regulatory Law, R.S.
7 22:691.1 et seq., apply to captive insurance companies licensed pursuant to this
8 Subpart.

9 §550.4. Regulations

10 The commissioner may promulgate rules in accordance with the
11 Administrative Procedure Act as are necessary to implement and enforce the
12 provisions of this Subpart.

13 §550.5. Incorporation of a captive insurance company

14 A. A captive insurance company may be incorporated as a stock corporation
15 or a nonstock corporation pursuant to this Title, or may be formed as a limited
16 liability company, partnership, limited partnership, statutory trust, or any lawful form
17 of entity approved by the commissioner.

18 B. A captive insurance company shall prepare articles of incorporation to be
19 approved and recorded in the same manner as provided in Subpart A of Part I of this
20 Chapter, R.S. 22:61 et seq. In determining whether to grant approval, the
21 commissioner shall consider all of the following:

22 (1) The character, reputation, financial standing, and purposes of the
23 incorporators or organizers.

24 (2) The character, reputation, financial responsibility, experience relating to
25 insurance, and business qualifications of the officers and directors.

26 (3) The competence of any person who, pursuant to a contract with the
27 captive insurance company, will manage the affairs of the company.

28 (4) The competence, reputation, and experience of the company's legal
29 counsel relating to the regulation of insurance.

1 (5) The company's business plan.

2 (6) Such other aspects as the commissioner deems advisable.

3 C. The articles of incorporation or bylaws of a captive insurance company
4 shall require that a quorum of the board of directors consists of not less than one-half
5 of the number of directors prescribed by the articles of incorporation or bylaws.

6 D. The capital stock of a captive insurance company shall be issued at not
7 less than par value.

8 §550.6. Certificate of authority required to transact insurance

9 A captive insurance company shall not transact the business of insurance in
10 this state unless the captive insurance company first obtains a certificate of authority
11 from the commissioner.

12 §550.7. Application requirements; confidential information

13 A. After incorporation, a captive insurance company shall apply to the
14 commissioner for a certificate of authority. The application shall be certified by the
15 initial board of directors of the captive insurance company and be accompanied by
16 the fee as set forth in R.S. 22:821. Before receiving a certificate of authority, a
17 captive insurance company shall file an application including all of the following:

18 (1) A copy of its bylaws, organizational documents, and any other statements
19 or documents required by the commissioner.

20 (2) A financial statement that has been certified by two principal officers.

21 (3) Biographical background information, on a form prescribed by the
22 commissioner, for each person who controls, directly or indirectly, ten percent or
23 more of the captive insurance company and for each director and officer in
24 accordance with the requirements set forth in R.S. 22:41.3.

25 (4) A plan of operation which clearly indicates the method of operation
26 including all of the following items:

27 (a) The types and limits of insurance that will be provided.

28 (b) Pro forma financial statements for a period covering three years,
29 including a balance sheet, income statement, and cash flow statement.

1 (c) The amount and liquidity of assets relative to the risks to be assumed.

2 (d) The expertise, experience, and character of the persons who will manage
3 the company.

4 (e) A description of the reinsurance program.

5 (f) A description of the underwriting policy, including who will perform
6 such functions.

7 (g) A description of the claims handling procedures, including who will
8 perform such functions.

9 (h) A description of the investment policy.

10 (i) A description of its ratemaking policies and procedures.

11 (j) The adequacy of its programs providing for loss prevention by its parent
12 or member organizations.

13 (k) The overall soundness of the plan of operation.

14 (5) A feasibility study or other analysis prepared by a qualified actuary.

15 (6)(a) A description of the coverages, deductibles, coverage limits, and rates,
16 together with such additional information as the commissioner may reasonably
17 require.

18 (b) If there is a subsequent material change in any item in the description,
19 the company shall submit an appropriate revision for approval and shall not offer any
20 additional kinds of insurance until a revision of the description is approved by the
21 commissioner. The company shall inform the adoption of such change.

22 (7) Evidence of its beneficial ownership, sponsorship, or membership.

23 (8) Such other factors deemed relevant by the commissioner in ascertaining
24 whether the proposed captive insurance company will be able to meet its policy
25 obligations.

26 B. Each applicant shall pay to the commissioner nonrefundable fees in
27 application for an initial certificate of authority and for actuarial review pursuant to
28 R.S. 22:821. The commissioner may retain legal, financial, and examination services
29 from outside the department and may charge the reasonable cost of services to the

1 applicant. The provisions of Chapter 8 of this Title, R.S. 22:1981 et seq., apply to
2 examinations, investigations, and processing conducted pursuant to this Subsection.

3 C.(1) In accordance with confidentiality provisions provided for in this Title,
4 information submitted pursuant to this Subsection, including any subsequent updates,
5 amendments, or revisions of or to such information, is confidential and shall not be
6 made public by the commissioner or an employee or agent of the commissioner
7 without the written consent of the company, except that the commissioner may
8 disclose, publish, or authorize the disclosure or publication of certain information for
9 the following purposes:

10 (a) In furtherance of legal or regulatory proceedings brought as a part of the
11 commissioner's official duties.

12 (b) To provide information to criminal law enforcement authorities for use
13 in the exercise of the commissioner's duties and authorities.

14 (c) To provide information to a public officer having jurisdiction over the
15 regulation of insurance with other state, federal, or international agencies, under the
16 following circumstances:

17 (i) The receiving public official shall agree in writing to maintain the
18 confidentiality of the information.

19 (ii) The laws of the state or foreign government in which the public official
20 serves require the information to be and to remain confidential.

21 (2)(a) Information submitted pursuant to this Section remains confidential
22 and shall not be made public by the commissioner or an employee or agent of the
23 commissioner without the written consent of the captive insurance company, except
24 as provided in Paragraph (1) of this Subsection and under the following
25 circumstances:

26 (b) The information may be discoverable by a party in a civil action or
27 contested case to which the captive insurance company that submitted the
28 information is a party, and the party seeking to discover the information shows all
29 of the following:

1 (i) The information sought is relevant to and necessary for the furtherance
2 of the action or case.

3 (ii) The information sought is unavailable from other nonconfidential
4 sources.

5 (iii) A subpoena issued by a judicial or administrative officer of competent
6 jurisdiction has been submitted to the commissioner.

7 D. Neither the commissioner nor any person who receives documents,
8 material, or information pursuant to this Section while acting under the authority of
9 the commissioner is required or permitted to testify in any private civil action
10 concerning confidential documents, material, or information.

11 E. Nothing in this Section shall be construed to excuse the applicant from
12 making any required disclosure pursuant to this Subpart.

13 §550.8. Initial examination and issuance of certificate of authority

14 Upon receipt of the application for certificate of authority, the commissioner
15 shall cause an initial examination to be made of the captive insurance company. If,
16 in the opinion of the commissioner, the examination shows the corporation to be duly
17 organized with adequate capital and surplus to meet its policyholder obligations, and
18 in compliance with all requirements of law, he shall notify the applicant and issue
19 a certificate of authority.

20 §550.9. Change of information submitted with application

21 A captive insurance company shall notify the commissioner of any change
22 to the plan of operation or other information submitted with the application within
23 thirty days of the adoption of the change.

24 §550.10. Capital and surplus requirements

25 A. Prior to issuing policies of insurance or entering into any contracts of
26 reinsurance, each pure captive insurance company shall possess and thereafter
27 maintain unimpaired paid-in capital and surplus of not less than two hundred fifty
28 thousand dollars and any additional capital or surplus required pursuant to
29 Subsection F of this Section.

1 B. Prior to issuing any policies of insurance or entering into any contracts
2 of reinsurance, each association captive insurance company shall possess and
3 thereafter maintain unimpaired paid-in capital and surplus of not less than five
4 hundred thousand dollars and any additional capital or surplus required pursuant to
5 Subsection F of this Section.

6 C. Prior to issuing any policies of insurance or entering into any contracts
7 of reinsurance, each risk retention group shall possess and thereafter maintain
8 unimpaired paid-in capital and surplus of not less than one million dollars and any
9 additional capital or surplus required pursuant to Subsection F of this Section.

10 D. A branch captive insurance company shall maintain at all times an
11 unimpaired paid-in capital and surplus requirement of two hundred and fifty
12 thousand dollars or an amount determined by the commissioner pursuant to
13 Subsection F of this Section. Additionally, as security for the payment of liabilities
14 attributable to branch operations, the commissioner may require that a trust fund,
15 funded by an irrevocable letter of credit or other acceptable asset, be established and
16 maintained in the United States for the benefit of United States policyholders and
17 ceding insurers. The amount of security required shall not be less than the capital
18 and surplus requirement and the reserves on the insurance policies or reinsurance
19 contracts.

20 E. Except as otherwise provided by the commissioner pursuant to Subsection
21 F of this Section, the capital required to be maintained pursuant to this Section shall
22 be in the form of cash, cash equivalents, bonds, marketable securities, a trust
23 approved by the commissioner and pledged to the commissioner, or evidences of
24 indebtedness which are direct general obligations of the government of the United
25 States.

26 F. The commissioner may prescribe additional requirements relating to
27 capital and surplus based on the type, volume, and nature of the insurance business
28 that is transacted by the captive insurance company.

1 §550.11. Deposit required of association captive insurance companies

2 Before receiving a certificate of authority, all association captive insurance
3 companies shall deposit with the commissioner a safekeeping or trust receipt from
4 a bank located in the state and doing business within the state or from a savings and
5 loan association chartered to do business in this state indicating that the association
6 captive insurance company has deposited one hundred thousand dollars in money or
7 bonds of the United States, the state of Louisiana, or any political subdivision
8 thereof, of the par value of not less than one hundred thousand dollars. All securities
9 deposited pursuant to this Section shall be held in trust for the benefit and protection
10 of and as security for all policyholders of the association captive insurance company
11 making the deposit.

12 §550.12. Suspension or revocation of certificate of authority; hearings

13 A. The commissioner may refuse, suspend, or revoke the certificate of
14 authority of a captive insurance company if, after an examination, the commissioner
15 determines that the captive insurance company meets any one of the following
16 conditions:

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

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

20 (3) Has failed to meet a requirement of R.S. 22:550.10.

21 (4) Has refused or failed to submit an annual report, as required by R.S.
22 22:550.21, or any other report or statement required by law or by order of the
23 commissioner.

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

25 (6) Has failed to submit to an examination or has refused or failed to pay the
26 cost of an examination required pursuant to R.S. 22:550.22.

27 (7) Has used any method in transacting the business of insurance pursuant
28 to this Subpart which is detrimental to the operation of the captive insurance
29 company or would make its condition unsound with respect to its policyholders or
30 the general public.

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

2 (9) Suspension or revocation of the certificate of authority of the captive
3 insurance company is in the best interest of its policyholders or the general public.

4 B. A captive insurance company whose certificate of authority has been
5 suspended, revoked, or refused shall not be subsequently authorized unless the
6 grounds for such suspension, revocation, or refusal no longer exist and the captive
7 insurance company is otherwise fully qualified.

8 C. An aggrieved party affected by the commissioner's decision, act, or order
9 pursuant to this Section may demand a hearing in accordance with Chapter 12 of this
10 Title, R.S. 22:2191 et seq.

11 §550.13. Authorized and prohibited types of insurance

12 A. Except as otherwise provided in this Section, a captive insurance
13 company licensed pursuant to this Subpart may transact any form of insurance
14 classified in R.S. 22:47.

15 B. A captive insurance company licensed pursuant to this Subpart shall
16 comply with all of the following:

17 (1) The insurer shall not directly provide insurance classified as life; health
18 and accident; title; credit life, health, and accident; credit property and casualty; or
19 annuity as described in R.S. 22:47.

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

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

25 (4) The insurer shall not accept or cede reinsurance, except as otherwise
26 provided in R.S. 22:550.17.

27 (5) The insurer may provide excess workers' compensation insurance to its
28 parent and affiliated companies, unless otherwise prohibited by the laws of the state
29 in which the insurance is transacted. Any captive insurance company, unless

1 prohibited by federal law, may reinsure workers' compensation of a qualified
2 self-insured plan of its parent or affiliated companies.

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

6 (a) The parent or affiliated company providing the self-funded insurance is
7 certified as a self-insured employer by the Louisiana Workforce Commission, if the
8 insurance is being transacted in this state.

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

11 (7) A risk retention group shall not insure any risks other than those of its
12 members and owners.

13 (8) Any captive insurance company may provide excess workers'
14 compensation insurance to its parent and affiliated companies, unless prohibited by
15 federal law or laws of the state having jurisdiction over the transaction. Any captive
16 insurance company, unless prohibited by federal law, may reinsure workers'
17 compensation of a qualified self-insured plan of its parent or affiliated companies.

18 C. A pure captive insurance company shall not insure any risks other than
19 those of its parent and affiliated companies or controlled unaffiliated businesses.

20 D. An association captive insurance company shall not insure any risks other
21 than those of the member organizations of its association and the affiliated
22 companies of the member organizations.

23 E. An association captive insurance company shall not expose itself to loss
24 on any one risk in an amount which exceeds ten percent of the captive insurance
25 company's capital and surplus. A risk, or any portion thereof, which has been
26 reinsured shall be deducted in determining the limitation of risk prescribed in this
27 Section.

28 F. An association captive insurance company shall maintain a ratio of actual
29 annual premiums written, net of reinsurance, to current capital and surplus less than
30 or equal to four to one.

1 G. Notwithstanding the provisions of this Section, a captive insurance
2 company may obtain a certificate of authority to provide coverage for unrelated risks
3 if the commissioner deems that extraordinary circumstances exist which make the
4 provision of this coverage by a captive insurance company appropriate and in the
5 best interest of the public. In determining whether such extraordinary circumstances
6 exist, the commissioner shall consider all of the following factors:

7 (1) The extent to which the particular coverage is available in the voluntary
8 market.

9 (2) The existence of a relationship between the parent of the captive
10 insurance company and the proposed policyholders other than that of insurer to
11 insured.

12 (3) Whether the captive insurance company has sufficient capital and surplus
13 to insure the proposed risks.

14 (4) Any other factors which the commissioner deems appropriate.

15 §550.14. Formation and meetings of board of directors; additional requirements to
16 transact insurance

17 A. The board of directors of a captive insurance company shall meet in
18 accordance with the following standards:

19 (1) The captive insurance company shall maintain its books and records in
20 accordance with R.S. 22:68.

21 (2) Prior to transacting insurance in this state, a captive insurance company
22 shall do all of the following:

23 (a) Make adequate arrangements with a bank located in this state that is
24 authorized pursuant to state or federal law to transfer money.

25 (b) Employ or enter into a contract with a natural person or business
26 organization to manage the affairs of the captive insurance company that meets the
27 standards of competence and experience satisfactory to the commissioner.

28 (c) Employ or enter into a contract with a qualified and experienced certified
29 public accountant that is approved by the commissioner or a firm of certified public
30 accountants that is nationally recognized.

1 (d) Employ or enter into a contract with qualified, experienced actuaries who
2 are approved by the commissioner to perform reviews and evaluations of the
3 operations of the captive insurance company.

4 B. A captive insurance company shall not engage in any insurance business
5 in this state unless it complies with all of the following:

6 (1) It first obtains from the commissioner a certificate of authority
7 authorizing it to do business in this state.

8 (2) Its board of directors, committee of managers, or, in the case of a
9 reciprocal insurer, its subscribers' advisory committee holds at least one meeting
10 each year in this state, except for an association captive insurance company, whose
11 board of directors shall meet at least quarterly each year.

12 (3) It maintains its principal place of business in this state.

13 (4) It appoints a registered agent to accept service of process and to
14 otherwise act on its behalf in this state, provided that whenever the registered agent
15 cannot with reasonable diligence be found at the registered office of the captive
16 insurance company, the commissioner shall be an agent of the captive insurance
17 company upon whom any process, notice, or demand may be delivered as authorized
18 service of process.

19 §550.15. Payment of dividends

20 A captive insurance company shall not pay dividends out of, or make any
21 other distribution with respect to its capital or surplus, or both, unless the captive
22 insurance company has obtained the prior approval of the commissioner to make
23 such a payment or distribution.

24 §550.16. Investments; loan to parent or affiliated company in certain circumstances

25 A. Except as otherwise provided in this Section, an association captive
26 insurance company shall comply with the requirements relating to domestic insurer
27 investments as set forth in Subpart B-1 of Part III of this Chapter, R.S. 22:601.1 et
28 seq.

29 B. A pure captive insurance company is not subject to any restrictions on
30 allowable investments, except that the commissioner may prohibit or limit any

1 investment that threatens the solvency or liquidity of the pure captive insurance
2 company.

3 C. A pure captive insurance company may make a loan to its parent or
4 affiliated company if the loan meets each of the following requirements:

5 (1) The loan is first approved in writing by the commissioner.

6 (2) The loan is evidenced by a note that is in a form approved by the
7 commissioner.

8 (3) The loan does not include any money that has been set aside as capital
9 or surplus as required by R.S. 22:550.10.

10 §550.17. Reinsurance; credit for reserves on risks or portions of risks in certain
11 circumstances; plan for workers' compensation deemed reinsurance in certain
12 circumstances

13 A. A captive insurance company shall not provide reinsurance on risks ceded
14 by any other insurer without prior written approval of the commissioner.

15 B. A captive insurance company may take credit for reserves on risks or
16 portions of risks ceded to a reinsurer, as authorized for domestic insurance
17 companies, and shall be in compliance with Subpart E of Part III of this Chapter,
18 R.S. 22:651 et seq.

19 C. Subject to the approval of the commissioner, a captive insurance company
20 may take credit for reserves on risks or portions of risks ceded to a reinsurer, or to
21 a pool, an exchange, or an association acting as a reinsurer, that does not comply
22 with the requirements of Subsection B of this Section. The commissioner may
23 require such documents, financial information, or other evidence as he determines
24 necessary to show that such reinsurer, pool, exchange, or association will be able to
25 provide adequate security for its financial obligations. The commissioner may deny
26 authorization or impose any limitations on the activities of such reinsurer, pool,
27 exchange, or association that, in his judgment, are necessary and proper to provide
28 adequate security for the ceding captive insurance company and for the protection
29 and benefit of the general public.

D. For the purposes of this Subpart, insurance provided by a captive insurance company of any plan for workers' compensation of its parent and affiliated companies which is certified or otherwise qualified in the state in which the insurance is provided as a self-insurance plan shall be deemed to be reinsurance.

§550.18. Captive insurance company prohibited from joining or contributing to risk-sharing plan, risk pool, or insurance insolvency guaranty fund

A. A captive insurance company shall not join or contribute financially to any risk-sharing plan, risk pool, or insurance insolvency guaranty fund in this state.

A captive insurance company or its insured, its parent or an affiliated company, or any member organization of its association shall not receive any benefit from such a plan, pool, or fund for claims arising out of the operations of the captive insurance company.

B. Any policy issued by an association captive insurance company shall contain in at least fourteen-point boldface capital letters on the front page and the declaration page, the following notice:

"NOTICE

THIS POLICY IS ISSUED BY A CAPTIVE INSURANCE COMPANY. YOUR CAPTIVE
INSURANCE COMPANY MAY NOT BE SUBJECT TO ALL OF THE INSURANCE
LAWS AND REGULATIONS OF YOUR STATE. STATE INSURANCE INSOLVENCY
GUARANTY FUNDS ARE NOT AVAILABLE FOR YOUR CAPTIVE INSURANCE
COMPANY."

§550.19. Prohibited acts regarding solicitation or sale

A captive insurance company shall not engage in either of the following:

(1) The solicitation or sale of insurance by an association captive insurance
company to any person who is not eligible for membership in such association.

(2) The solicitation or sale of insurance by, or operation of, a captive insurance company that is in a hazardous financial condition or is financially impaired.

1 §550.20. Prohibition on ownership by an insurance company

2 A captive insurance company shall not do business in this state if an
3 insurance company is directly or indirectly a member or owner of such captive
4 insurance company, except when the members of the captive insurance company are
5 all insurance companies.

6 §550.21. Annual report of financial condition to commissioner; regulations
7 designating form; alternative date to file annual report

8 Every captive insurance company licensed in this state shall file each of the
9 following with the department:

10 (1) Annually on or before March first, a statement of its financial condition
11 for the year ending December thirty-first immediately preceding, and any
12 amendment to the plan of operation at last year-end, verified by the oath of at least
13 two of its executive officers. The statement shall be in the form prescribed by the
14 commissioner.

15 (2) Annually on or before June thirtieth, an audited statement of its financial
16 condition prepared in accordance with generally accepted accounting principles in
17 the United States for the year ending December thirty-first immediately preceding,
18 including all of the following:

19 (a) Report of an independent certified public accountant.

20 (b) Balance sheet.

21 (c) Income statement.

22 (d) Statement of cash flows.

23 (e) Statement of changes in capital and surplus.

24 (f) Notes to financial statements.

25 (g) Report of evaluation of internal controls.

26 (h) Accountant's letter.

27 (i) Actuarial analysis application.

28 (3) An annual actuarial certification of loss reserves and loss expense
29 reserves which includes an opinion of the adequacy of the loss reserves and loss
30 expense reserves of the captive insurance company, in a format acceptable to the

1 commissioner. The person that certifies the reserves shall be approved by the
2 commissioner and shall be a qualified actuary as defined in the National Association
3 of Insurance Commissioners Quarterly and Annual Statement
4 Instructions—Property/Casualty.

5 §550.22. Examination by commissioner

6 A. If the commissioner determines it to be prudent, but not less frequently
7 than once every five years, the commissioner shall cause an examination of each
8 captive insurance company under the provisions of Chapter 8 of this Title, R.S.
9 22:1981 et seq. The company or companies examined pursuant to R.S. 22:1981 et
10 seq. shall pay the expenses and charges of the examination to the commissioner. The
11 Louisiana Public Records Law, R.S. 44:1 et seq., and confidentiality provisions in
12 this Title apply to all documents, materials, information, privileged documents,
13 examination reports, preliminary examination reports or results, working papers,
14 recorded information and copies thereof, or other information that is produced by,
15 obtained by, or disclosed to the commissioner or any other person in the course of
16 an examination made pursuant to this Subpart.

17 B. In furtherance of the commissioner's duties, the commissioner may share
18 and receive documents, materials, or other information pursuant to R.S. 22:2 and
19 R.S. 22:1981 et seq.

20 §550.23. Taxes on premiums and assessments

21 A. Each captive insurance company shall pay to the commissioner on or
22 before March first of each year a tax at the rate of fifteen-hundredths of one percent
23 on the direct premiums collected or contracted for on policies or contracts of
24 insurance written by the captive insurance company during the year ending the prior
25 December thirty-first, after deducting from the direct premiums subject to the tax the
26 amounts paid to policyholders as return premiums which shall include dividends on
27 unabsorbed premiums or premium deposits returned or credited to policyholders.

28 B. Each captive insurance company shall pay to the commissioner on or
29 before March first of each year a tax at the rate of two hundred fourteen-thousandths
30 of one percent on the first twenty million dollars of assumed reinsurance premium,

1 one hundred forty-three-thousandths of one percent on the next twenty million
2 dollars, forty-eight-thousandths of one percent on the next twenty million dollars,
3 and twenty-four-thousandths of one percent on each dollar thereafter. However, no
4 reinsurance tax applies to premiums for risks or portions of risks that are subject to
5 taxation on a direct basis pursuant to Subsection A of this Section. No reinsurance
6 premium tax shall be payable in connection with the receipt of assets in exchange for
7 the assumption of loss reserves and other liabilities of another insurer under common
8 ownership and control if such transaction is part of a plan to discontinue the
9 operations of such other insurer, and if the intent of the parties to such transaction
10 is to renew or maintain such business with the captive insurance company. No
11 reinsurance premium tax shall be payable in connection with the receipt of assets in
12 exchange for the assumption of loss reserves and other liabilities of a captive
13 insurance company's parent or affiliates if the intent of such exchange is to renew or
14 maintain such business with the captive insurance company.

15 C. The annual minimum aggregate tax to be paid by a captive insurance
16 company calculated pursuant to Subsections A and B of this Section is seven
17 thousand five hundred dollars. The annual maximum aggregate tax to be paid by a
18 captive insurance company calculated pursuant to Subsections A and B of this
19 Section is two hundred thousand dollars.

20 D. The reduction of tax in accordance with R.S. 22:832 does not apply to
21 captive insurance companies.

22 E. A captive insurance company failing to make returns as required by this
23 Section or failing to pay within the time required for all taxes assessed pursuant to
24 this Section shall be subject to the provisions of R.S. 22:846.

25 F. Subject to the provisions of Subsection C of this Section, two or more
26 captive insurance companies under common ownership and control shall be taxed
27 as though they are a single captive insurance company.

28 G. The tax provided for in this Section constitutes all taxes collectible under
29 the laws of this state from any captive insurance company, and no other occupation
30 tax or other taxes shall be levied or collected from any captive insurance company

1 by the state or any parish, city, or municipality within this state, except meals and
2 rooms taxes, sales and use taxes, and ad valorem taxes on real and personal property
3 used in the production of income.

4 H. The premium tax revenues collected pursuant to this Section shall be
5 transferred annually to the department for the regulation of captive insurance
6 companies pursuant to this Subpart.

7 I. The tax provided for in this Section shall be calculated on an annual basis,
8 notwithstanding policies or contracts of insurance or contracts of reinsurance issued
9 on a multi-year basis. In the case of multi-year policies or contracts, the premium
10 shall be prorated for purposes of determining the tax pursuant to this Section.

11 J. As used in this Section, the following terms have the following meanings:

12 (1) "Common ownership and control" means ownership and control of two
13 or more captive insurance companies by the same person or group of persons.

14 (2) "Ownership and control" means the following:

15 (a) In the case of a stock corporation, the direct or indirect ownership of
16 eighty percent or more of the outstanding voting stock of the corporation.

17 (b) In the case of a mutual or nonprofit corporation, the direct or indirect
18 ownership of eighty percent or more of the surplus and the voting power of such
19 corporation.

20 (c) In the case of a limited liability company, the direct or indirect ownership
21 of eighty percent or more of the membership interests in the limited liability
22 company.

23 §550.24. Rates

24 A. Each captive insurance company shall file rates for property and casualty
25 lines of insurance in accordance with Subpart O of Part IV of Chapter 4 of this Title,
26 R.S. 22:1451 et seq., on an actuarially justified basis with the department and may
27 use the rates forty-five days after filing, unless the department disapproves the use
28 of rates within the forty-five-day period. For all other lines of insurance, captive
29 insurance companies shall file rates on an actuarially justified basis with the
30 department and may use the rates within the forty-five-day period.

1 B. A captive insurance company shall not be required to join a rating
2 organization.

3 §550.25. Policy forms

4 A. A captive insurance company shall not issue, deliver, or use a policy form
5 unless it has been filed with and approved by the commissioner.

6 B. Every such filing shall be made not less than forty-five days in advance
7 for any lines of insurance of any such issuance, delivery, or use. At the expiration
8 of forty-five days, the filed form shall be deemed approved unless prior thereto it has
9 been affirmatively approved or disapproved by order of the commissioner. The
10 commissioner may extend by not more than an additional fifteen days the period
11 within which he may affirmatively approve or disapprove a form by giving notice
12 of the extension before expiration of the initial forty-five-day period. At the
13 expiration of any extended period, and in the absence of prior affirmative approval
14 or disapproval, a form shall be deemed approved. The commissioner may withdraw
15 approval at any time for cause. Approval of a form by the commissioner constitutes
16 a waiver of any unexpired portion of the initial fifteen-day waiting period.

17 §550.26. Conflict of interest

18 Each captive insurance company shall adopt a conflict of interest policy
19 whereby officers, directors, and key personnel annually file a conflict of interest
20 disclosure statement with the board of directors.

21 §550.27. Redomestication

22 A. Any foreign or alien insurer that qualifies for licensure as a captive
23 insurance company in this state may redomesticate to this state by complying with
24 all of the requirements of R.S. 22:550.5(B). A redomesticating captive insurance
25 company shall ensure that its articles of incorporation, amendments, charter, and
26 other organizational documents comply with R.S. 22:550.5(B) and any other
27 applicable state law, and shall provide a certificate of compliance issued by the
28 commissioner and a filing fee of ten dollars for each request. An insurer becoming
29 a domestic captive insurance company through the redomestication process pursuant
30 to this Section shall pay to the commissioner the fees as would otherwise be payable

1 by a captive insurance company in accordance with R.S. 22:821 for organizing and
2 becoming licensed or transacting business in this state. The commissioner may issue
3 a conditional certificate of authority prior to the effective date of the redomestication
4 in order to facilitate the transaction and provide notice of approval of the transaction
5 to the outgoing jurisdiction.

6 B. Upon the approval of and compliance with conditions as may be imposed
7 by the commissioner, any domestic captive insurance company may transfer its
8 domicile, in accordance with the laws thereof, to any other state or jurisdiction and
9 upon such a transfer, shall cease to be a domestic captive insurance company, and
10 its corporate or other legal existence in this state shall cease upon the filing of
11 articles of incorporation with the commissioner, or upon a later date if a delayed
12 effective date is specified in the articles of incorporation, accompanied by a
13 certificate of approval of redomestication issued by the commissioner or analogous
14 officer of the jurisdiction to which the captive insurance company is redomesticating,
15 and upon payment of a filing fee to the commissioner. The redomesticating entity
16 shall include, at a minimum, all of the following in its articles of incorporation:

17 (1) The name, organizational form, date of formation, and jurisdiction of
18 formation of the redomesticating entity.

19 (2) The jurisdiction to which the redomesticating entity will be transferring
20 its domicile and its name following the redomestication date.

21 (3) The registered office and agent of the redomesticating entity following
22 the redomestication date.

23 (4) A statement that the redomestication has been approved by the
24 appropriate vote of the shareholders or other owners of the redomesticating entity.

25 C. Upon redomestication in accordance with this Section, the foreign or alien
26 insurer shall become a domestic captive insurance company organized under the
27 laws of this state with all rights, privileges, immunities, and powers to continue its
28 business and transact business in this state, and is subject to all applicable laws,
29 duties, and liabilities of a domestic captive insurance company in this state. The
30 redomesticated captive insurance company possesses all rights that were obtained

1 prior to the redomestication to the extent permitted by the laws of this state and is
2 responsible and liable for all liabilities and obligations that were obtained prior to the
3 redomestication. The certificate of authority, agents, appointments and licenses,
4 rates, and other items that the commissioner allows, in his discretion, that are in
5 existence at the time any insurer transfers its corporate domicile to this or any other
6 state or jurisdiction by redomestication pursuant to this Section, shall continue in full
7 force and effect upon the transfer. All outstanding policies of any transferring
8 insurer shall remain in full force and effect.

9 §550.28. Rules for controlled unaffiliated businesses

10 The commissioner may adopt rules establishing standards to ensure that a
11 parent or its affiliated company is able to exercise control of the risk management
12 function of any controlled unaffiliated business to be insured by a pure captive
13 insurance company, provided that until such time as rules pursuant to this Section
14 are adopted by the commissioner, the commissioner may approve the coverage of
15 such risks by a pure captive insurance company.

16 §550.29. Branch captive insurance companies

17 A. As used in this Section, unless the context requires otherwise, the
18 following definitions apply:

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

24 (2) "Branch business" means any insurance business transacted by a branch
25 captive insurance company in this state.

26 (3) "Branch captive insurance company" means any alien captive insurance
27 company that has obtained a certificate of authority from the commissioner to
28 transact the business of insurance in this state through a business unit with a
29 principal place of business in this state.

1 (4) "Branch operations" mean any business operations of a branch captive
2 insurance company in this state.

3 B. In the case of a branch captive insurance company, as security for the
4 payment of liabilities attributable to the branch operations, the commissioner shall
5 require that either a trust fund funded by assets acceptable to the commissioner or
6 an irrevocable letter of credit be established and maintained in the United States for
7 the benefit of United States policyholders and United States ceding insurers under
8 insurance policies issued or reinsurance contracts issued or assumed by the branch
9 captive insurance company through its branch operations. The amount of such
10 security shall be no less than the amount set forth in R.S. 22:550.10 and the reserves
11 on such insurance policies or reinsurance contracts, including reserves for losses,
12 allocated loss adjustment expenses, incurred but not reported losses, and unearned
13 premiums with regard to business written through the branch operations; however,
14 the commissioner may permit a branch captive insurance company that is required
15 to post security for loss reserves on branch business by its reinsurer to reduce the
16 funds in the trust account or the amount payable under the irrevocable letter of credit
17 described in Subsection E of this Section by the same amount if the security remains
18 posted with the reinsurer. If the form of security selected is a letter of credit, the
19 letter of credit shall be established, issued, or confirmed by a bank chartered in this
20 state or a member bank of the Federal Reserve System.

21 C. A branch captive insurance company shall not be issued a certificate of
22 authority unless it possesses and thereafter maintains, as security for the payment of
23 liabilities attributable to the branch operations, both of the following:

24 (1) An amount equal to the amount set forth in R.S. 22:550.10 as the
25 minimum capital requirement for a pure captive insurance company.

26 (2) Reserves on such insurance policies or such reinsurance contracts as may
27 be issued or assumed by the branch captive insurance company through its branch
28 operations, including reserves for losses, allocated loss adjustment expenses,
29 incurred but not reported losses, and unearned premiums with regard to business
30 written through the branch operations; however, the commissioner may permit a

1 branch captive insurance company to credit against any such reserve requirement any
2 security for loss reserves that the branch captive insurance company may post with
3 a ceding insurer or that may be posted by a reinsurer with the branch captive
4 insurance company, in either case as long as such security remains posted.

5 D. A branch captive insurance company is considered a pure captive
6 insurance company with respect to operations in this state.

7 E. Subject to the prior approval of the commissioner, the amounts required
8 in Subsection B of this Section may be held in the form of any of the following:

9 (1) A trust formed under a trust agreement and funded by assets acceptable
10 to the commissioner.

11 (2) An irrevocable letter of credit issued or confirmed by a bank in this state
12 and approved by the commissioner.

13 (3) With respect to the amounts required in Subsection B of this Section
14 only, cash on deposit with the commissioner.

15 (4) Any combination of the funds prescribed in this Subsection.

16 F. Prior to March first of each year, or by March fifteenth after its fiscal year
17 end with the approval of the commissioner, a branch captive insurance company
18 shall file with the commissioner a copy of all reports and statements required to be
19 filed under the laws of the jurisdiction in which the alien captive insurance company
20 is formed, verified by oath of two of its executive officers. If the commissioner is
21 satisfied that the annual report filed by the alien captive insurance company in its
22 domiciliary jurisdiction provides adequate information concerning the financial
23 condition of the alien captive insurance company, the commissioner may waive the
24 requirement for completion of the captive annual statement for business written in
25 the alien jurisdiction.

26 G.(1) The examination of a branch captive insurance company pursuant to
27 R.S. 22:550.22 shall be of branch business and branch operations only, as long as the
28 branch captive insurance company provides annually to the commissioner a
29 certificate of compliance, or its equivalent, issued by or filed with the licensing
30 authority of the jurisdiction in which the branch captive insurance company is

1 formed, and demonstrates to the commissioner's satisfaction that it is operating in
2 sound financial condition in accordance with all applicable laws and regulations of
3 such jurisdiction.

4 (2) As a condition of licensure, the alien captive insurance company shall
5 grant authority to the commissioner for examination of the affairs of the alien captive
6 insurance company in the jurisdiction in which the alien captive insurance company
7 is formed.

8 H. In the case of a branch captive insurance company, the tax provided for
9 in R.S. 22:550.23 applies only to the branch business of the company.

10 I. All documents, materials, or other information, including confidential and
11 privileged documents, examination reports, preliminary examination reports or
12 results, working papers, recorded information, and copies thereof that are produced
13 or obtained by, or disclosed to the commissioner or any other person in the course
14 of an examination pursuant to this Subpart, are confidential and privileged in
15 accordance with the Louisiana Public Records Law, R.S. 44:1 et seq., examinations
16 pursuant to Chapter 8 of this Title, R.S. 22:1981 et seq., and confidentiality
17 provisions in this Title.

18 J. In furtherance of the commissioner's duties, the commissioner may share
19 and receive documents, materials, or other information pursuant to Louisiana Public
20 Records Law, R.S. 44:1 et seq., examinations pursuant to Chapter 8 of this Title, R.S.
21 22:1981 et seq., and confidentiality provisions in this Title.

22 §550.30. Affiliated reinsurance companies

23 A. An affiliated reinsurance company is subject to the provisions of this
24 Subpart and applicable department rules and regulations. If there is a conflict
25 between the provisions of this Subpart and the provisions of this Section, the
26 provisions of this Section shall control.

27 B. As used in this Section, the following definitions apply:

28 (1) "Affiliated reinsurance company" means a company licensed by the
29 commissioner pursuant to this Subpart to reinsure risks ceded by one or more ceding
30 insurers that are affiliated companies. Subject to the prior approval of the

1 commissioner, not more than ten percent of the risks reinsured may be ceded by
2 ceding insurers that are not affiliated companies.

3 (2) "Ceding insurer" means an insurance company approved by the
4 commissioner and licensed or otherwise authorized to transact the business of
5 insurance or reinsurance in its state or country of domicile, which cedes risk to an
6 affiliated reinsurance company pursuant to a reinsurance contract.

7 (3) "Organizational documents" means the affiliated reinsurance company's
8 articles of incorporation and bylaws and such other documents subject to approval
9 by the commissioner.

10 (4) "Reinsurance contract" means a contract between an affiliated reinsurance
11 company and a ceding insurer in which the affiliated reinsurance company agrees to
12 provide reinsurance to the ceding insurer.

13 C.(1) An affiliated reinsurance company shall only reinsure the risks of a
14 ceding insurer. An affiliated reinsurance company may cede the risks assumed under
15 a reinsurance contract to another reinsurer, subject to the prior approval of the
16 commissioner.

17 (2) In conjunction with the issuance of a certificate of authority to an
18 affiliated reinsurance company, the commissioner may issue an order that includes
19 any provisions, terms, and conditions regarding the organization, licensing, and
20 operation of the affiliated reinsurance company that are deemed appropriate by the
21 commissioner and that are not inconsistent with the provisions of this Subpart.

22 (3) To qualify for a certificate of authority, an affiliated reinsurance company
23 is subject to, in addition to the requirements of R.S. 22:550.5, 550.7, 550.13, and
24 550.14, disclosing of all of the following:

25 (a) The source and form of the affiliated reinsurance company's capital and
26 surplus.

27 (b) The investment policy of the affiliated reinsurance company, which shall
28 provide for a diversified investment portfolio both as to type and issue and shall
29 include a requirement for liquidity and for the reasonable preservation,

1 administration, and management of such assets with respect to the risks associated
2 with any reinsurance transactions.

3 (c) Copies of all agreements and documentation, including reinsurance
4 agreements unless otherwise approved by the commissioner, and any other
5 statements or documents required by the commissioner to evaluate the affiliated
6 reinsurance company's application for a certificate of authority.

7 D.(1) An affiliated reinsurance company may be incorporated as a stock
8 insurer with its capital divided into shares, or in such other organizational form as
9 may be approved by the commissioner.

10 (2) An affiliated reinsurance company's organizational documents shall limit
11 the affiliated reinsurance company's authority to the transaction of the business of
12 insurance or reinsurance and to those activities that the affiliated reinsurance
13 company conducts to accomplish its purposes as expressed in this Subpart.

14 E. An affiliated reinsurance company shall not be issued a certificate of
15 authority unless it possesses and thereafter maintains unimpaired paid-in capital and
16 surplus of not less than five million dollars. The commissioner may prescribe
17 additional capital and surplus based upon the type, volume, and nature of reinsurance
18 business transacted. Except as otherwise provided in this Section, the provisions of
19 risk-based capital provided for in Subpart C of Part III of this Chapter, R.S. 22:611
20 et seq., apply in full to an affiliated reinsurance company.

21 F.(1) An affiliated reinsurance company shall only reinsure the risks of a
22 ceding insurer, pursuant to a reinsurance contract. An affiliated reinsurance company
23 shall not issue a contract of insurance or a contract for assumption of risk or
24 indemnification of loss other than a reinsurance contract.

25 (2) The reinsurance contract shall contain all provisions reasonably required
26 or approved by the commissioner, which requirements shall take into account the
27 laws applicable to the ceding insurer in this Title regarding the ceding insurer's
28 taking credit for the reinsurance provided under the reinsurance contract.

29 (3) An affiliated reinsurance company may cede risks assumed through a
30 reinsurance contract to one or more reinsurers through the purchase of reinsurance,

1 subject to the prior approval of the commissioner. Except as otherwise provided in
2 this Section, the provisions for reinsurance of risks apply in full to an affiliated
3 reinsurance company.

4 (4) Unless otherwise approved in advance by the commissioner, a reinsurance
5 contract shall not contain any provision for payment by the affiliated reinsurance
6 company in discharge of its obligations under the reinsurance contract to any person
7 other than the ceding insurer or any receiver of the ceding insurer.

8 (5) An affiliated reinsurance company shall notify the commissioner
9 immediately of any action by a ceding insurer or any other person to foreclose on or
10 otherwise take possession of collateral provided by the affiliated reinsurance
11 company to secure any obligation of the affiliated reinsurance company.

12 G.(1) The assets of an affiliated reinsurance company shall be preserved and
13 administered by or on behalf of the affiliated reinsurance company to satisfy the
14 liabilities and obligations of the affiliated reinsurance company incident to the
15 reinsurance contract and other related agreements.

16 (2) The commissioner may prohibit or limit any investment that threatens the
17 solvency or liquidity of the affiliated reinsurance company unless the investment is
18 otherwise approved in its plan of operation or in an order issued to the affiliated
19 reinsurance company pursuant to Subsection C of this Section.

20 H.(1) For the purposes of R.S. 22:550.21, both of the following apply:

21 (a) Each affiliated reinsurance company shall file its report in the form
22 required by examinations and reports in this Title, and each affiliated reinsurance
23 company shall comply with the requirements set forth in National Association of
24 Insurance Commissioners filing requirements provided for in this Title.

25 (b) An affiliated reinsurance company shall report using statutory accounting
26 principles in accordance with the National Association of Insurance Commissioner's
27 Accounting Practices and Procedures Manual. Reporting shall be in the general form
28 and context, as approved by, and shall contain any other information required by, the
29 National Association of Insurance Commissioners, with any useful or necessary
30 modifications or adaptations thereof approved or accepted by the commissioner for the

1 type of insurance and kinds of insurers to be reported upon, and as supplemented by
2 additional information required by the commissioner.

3 (2) Unless otherwise approved in advance by the commissioner, an affiliated
4 reinsurance company shall maintain its books, records, documents, accounts,
5 vouchers, and agreements in this state. An affiliated reinsurance company shall make
6 its books, records, documents, accounts, vouchers, and agreements available for
7 inspection by the commissioner at any time. An affiliated reinsurance company shall
8 keep its books and records in a manner that its financial condition, affairs, and
9 operations can be readily ascertained so that the commissioner may readily verify its
10 financial statements and determine its compliance with this Subpart.

11 (3) Unless otherwise approved in advance by the commissioner, all books,
12 records, documents, accounts, vouchers, and agreements shall be preserved and kept
13 available in this state for the purpose of examination and inspection and until such
14 time as the commissioner approves the destruction or other disposition of such
15 books, records, documents, accounts, vouchers, and agreements. If the commissioner
16 approves the keeping outside this state of the items listed in this Paragraph, the
17 affiliated reinsurance company shall maintain in this state a complete and true copy
18 of each such item. Books, records, documents, accounts, vouchers, and agreements
19 may be photographed, reproduced on film, or electronically stored and reproduced.

20 (4) The provisions of annual financial reporting and qualified accountants of
21 this Title apply in full to an affiliated reinsurance company in accordance with this
22 Subpart.

23 I. Except as otherwise provided in this Section, the provisions of holding
24 companies and subsidiaries in this Title apply in full to an affiliated reinsurance
25 company.

26 J. Except as otherwise provided in this Section, the provisions of corporate
27 governance and disclosure in this Title apply in full to an affiliated reinsurance
28 company.

1 K. Except as otherwise provided in this Section, the provisions of own risk
2 and solvency assessment in this Title apply in full to an affiliated reinsurance
3 company.

4 L. Except as otherwise provided in this Section, the provisions of
5 requirements for actuarial opinions in this Title apply in full to an affiliated
6 reinsurance company.

7 M.(1) The examination provisions of R.S. 22:1981 and the confidentiality
8 provisions of this Title and the Louisiana Public Records Law, R.S. 44:1 et seq.,
9 apply to all documents, materials, and other information, including confidential and
10 privileged documents, examination reports, preliminary examination reports or
11 results, working papers, recorded information, and copies of any of these produced
12 or obtained by, or disclosed to the commissioner or any other person in the course
13 of an examination made pursuant to this Subpart.

14 (2) In furtherance of the commissioner's regulatory duties, the commissioner
15 may share and receive documents, materials, or other information pursuant to
16 relevant provisions of confidentiality and information-sharing agreements in
17 accordance with this Subpart.

18 §550.31. Dormant captive insurance companies

19 A. As used in this Section, unless the context requires otherwise, "dormant
20 captive insurance company" means a captive insurance company that has ceased
21 transacting the business of insurance, including the issuance of insurance policies,
22 and has no remaining liabilities associated with insurance business transactions or
23 insurance policies issued prior to the filing of its application for a certificate of
24 dormancy pursuant to this Section.

25 B. A captive insurance company domiciled in this state that meets the criteria
26 of Subsection A of this Section may apply to the commissioner for a certificate of
27 dormancy. The certificate of dormancy is subject to renewal every five years and
28 shall be forfeited if not renewed within such time.

29 C. A dormant captive insurance company that has been issued a certificate
30 of dormancy shall do all of the following:

(1) Possess and thereafter maintain unimpaired, paid-in capital and surplus of not less than twenty-five thousand dollars; however, if the dormant captive insurance company had never capitalized, it is not required to add capital upon entering dormancy.

(2) Prior to March first of each year, submit to the commissioner a report of its financial condition, verified by oath of two of its executive officers, in a form that may be prescribed by the commissioner.

(3) Pay a certificate of authority reactivation application fee of five hundred dollars in accordance with R.S. 22:821.

D. A dormant captive insurance company is not subject to or liable for the payment of any tax pursuant to R.S. 22:550.23 of this Subpart.

E. A dormant captive insurance company shall apply to the commissioner for approval to surrender its certificate of dormancy and resume conducting the business of insurance prior to issuing any insurance policies.

F. The commissioner shall revoke a certificate of dormancy if a dormant captive insurance company no longer meets the criteria of Subsection A of this Section.

§550.32. Names of companies

A captive insurance company shall adopt a name for the captive insurance
company only after such name is approved by the commissioner.

* * *

§821. Fees

* * *

B. The commissioner shall collect the following fees in advance:

* * *

(40) For captive insurance companies:

(a) Fee for initial application for certificate of authority.....\$500.00

(b) Fee for application of actuarial review\$6,000.00

* * *

1 Section 3. R.S. 44:4.1(B)(11) is hereby amended and reenacted to read as follows:

2 §4.1. Exceptions

3 * * *

B. The legislature further recognizes that there exist exceptions, exemptions, and limitations to the laws pertaining to public records throughout the revised statutes and codes of this state. Therefore, the following exceptions, exemptions, and limitations are hereby continued in effect by incorporation into this Chapter by citation:

9 * * *

(11) R.S. 22:2, 14, 31, 42.1, 88, 244, 263, 265, 461, 550.7, 550.22, 550.29,
550.30, 571, 572, 572.1, 572.2, 574, 601.3, 618, 639, 691.4, 691.5, 691.6, 691.7,
691.8, 691.9, 691.9.1, 691.10, 691.38, 691.56, 732, 752, 753, 771, 834, 972(D), 976,
1008, 1019.2, 1203, 1460, 1464, 1466, 1483.1, 1488, 1546, 1559, 1566(D), 1644,
1656, 1657.1, 1660.7, 1723, 1796, 1801, 1808.3, 1927, 1929, 1983, 1984, 2036,
2045, 2056, 2085, 2091, 2293, 2303, 2508

16 * * *

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 635 Re-Reengrossed

2025 Regular Session

Bamburg

Abstract: Renames the "Captive Insurers Law" as the "Creating Holistic Options in Coverage for Enterprise and Self-Insurance (CHOICES) Law and provides regulations for domestic captive insurance companies and affiliated entities.

Present law provides regulations for the authorization and operation of domestic captive insurers within the state. Proposed law generally retains the structure of present law but makes modifications.

Present law provides certain definitions. Proposed law retains present law and modifies the definitions of "captive insurance company", "excess workers' compensation insurance", and "parent". Defines "controlled unaffiliated business", "branch captive insurer", and "risk retention group".

Present law defines a captive insurer as an insurance company that only insures all or part of the risks of its parent company. Proposed law retains present law but changes all references from "captive insurer" to "captive insurance company." Further provides that a

captive insurance company includes an association captive insurance company, risk retention group, or affiliated reinsurance company.

Proposed law requires a captive insurance company to be incorporated as a stock insurer with articles of incorporation subject to approval by the commissioner of insurance (commissioner). Proposed law modifies present law by authorizing a captive insurance company to incorporate as a stock corporation or nonstock corporation.

Present law requires captive insurance companies to receive approval by the commissioner to transact business in the state of La. Provides a listing of items for inclusion in the application for a certificate of authority, including but not limited to articles of incorporation and bylaws, financial statements, and a plan of operation. Proposed law retains present law.

Present law provides regulations regarding rehabilitation, liquidation, conservation, dissolution, administrative supervision, acquisition of control or merger, and conversion to captive insurance companies. Proposed law retains present law.

Present law requires that the information submitted in the application be kept confidential except that it may be discoverable by a party in a civil action or contested case. Provides for disclosure by the commissioner, at his discretion, to a public officer having jurisdiction over the regulation of insurance in another state as long as the public officer agrees in writing to maintain the confidentiality of such information. Proposed law retains present law.

Present law provides a public records exception for certain records described in present law. Proposed law retains present law and extends the public records exception to books and other materials for examination described in proposed law.

Present and proposed law requires captive insurance companies and affiliated entities to maintain certain capital and surpluses.

Present law requires a pure captive insurance company to maintain unimpaired paid-in capital and surplus of not less than \$500,000. Proposed law reduces the minimum amount from \$500,000 to \$250,000.

Present law requires an association captive insurance company to maintain unimpaired paid-in capital and surplus of not less than \$1,000,000. Proposed law reduces the minimum amount from \$1,000,000 to \$500,000.

Proposed law requires a risk retention group to maintain unimpaired paid-in capital and surplus of not less than \$1,000,000.

Proposed law requires a branch captive insurance company to maintain unimpaired paid-in capital and surplus of not less than \$250,000.

Present law requires unimpaired paid-in capital and surplus funds to be in the form of cash, cash equivalents, or bonds or evidences of indebtedness which are direct general obligations of the U.S. government. Proposed law retains present law.

Present law authorizes the commissioner to prescribe additional requirements relating to capital and surplus based on the type, volume, and nature of the insurance business transacted. Proposed law retains present law.

Present law requires a captive insurance company to deposit with the commissioner a trust receipt from a bank doing business within the state indicating that the company has deposited \$100,000 in money or bonds before receiving a certificate of authority. Proposed law requires the bank to also be located in the state. Otherwise retains present law.

Present law permits the commissioner to refuse, suspend, or revoke the certificate of authority of a captive insurance company for specific reasons provided for in present law. Proposed law retains present law.

Present law prohibits a captive insurance company from directly providing insurance classified as life, health and accident, title, credit life, credit property and casualty, or annuity; directly providing personal motor vehicle, homeowners' insurance coverage, or any other noncommercial line of coverage; directly providing workers' compensation or employers' liability insurance coverage, except in connection with a self-funded insurance program as prescribed in present law; and accepting or ceding reinsurance, except as otherwise provided in present law.

Proposed law retains present law.

Present law permits a captive insurance company to provide excess workers' compensation insurance to its parent and affiliated companies, unless otherwise prohibited by the laws of the state in which the insurance is transacted. Provides other provisions related to workers' compensation insurance. Proposed law retains present law.

Present law prohibits a captive insurance company from insuring any risks other than those of its parent company, member organization, or affiliated companies of the member organization. Restricts an association captive insurer from exposing itself to loss on any one risk in an amount exceeding 10% of the captive insurer's capital and surplus. Requires an association captive insurer to maintain a ratio of actual annual premiums written to current capital and surplus less than or equal to four to one. Proposed law retains present law.

Present law authorizes the commissioner to license a captive insurance company to provide coverage for unrelated risks if it is appropriate and in the best interest of the public. Proposed law retains present law.

Present law requires a captive insurance company to maintain its principal place of business in the state; make adequate arrangements with a bank located in the state that is authorized to transfer money; employ or enter into a contract with a natural person or business organization to manage the affairs of the company; and employ or enter into a contract with a certified public accountant and an experienced actuary. Proposed law retains present law.

Proposed law prohibits a captive insurance company from doing business in state of La. unless it first obtains a certificate of authority from the commissioner. Requires its board of directors and other stakeholders to hold at least 1 annual meeting in the state, except for an association captive insurance company, whose board of directors is required to meet at least quarterly each year. Further requires the company to appoint a registered agent to accept service of process and to otherwise act on its behalf, authorizing the commissioner as agent if the appointed agent cannot be located.

Present law prohibits a captive insurance company from paying dividends out of its capital or surplus without prior approval from the commissioner. Exempts a pure captive insurance company from any restrictions on allowable investments except that the commissioner may prohibit or limit any investment that threatens the solvency or liquidity of the pure captive insurer. Authorizes a pure captive insurance company to make a loan to its parent or affiliated company if the loan is approved by the commissioner, is evidenced by a note that it is in the approved form, and does not include any money that has been set aside as capital or surplus. Proposed law retains present law.

Present law prohibits a captive insurance company from providing reinsurance on risks ceded by any other insurer without approval of the commissioner. Authorizes a captive insurer to take credit for reserves on risks or portions of risks ceded to a pool. Provides provisions for workers' compensation deemed as reinsurance. Prohibits a captive insurance company from joining or contributing financially to any risk-sharing plan, risk pool, or insurance insolvency guaranty fund. Proposed law retains present law.

Present law requires any policy issued by an association captive insurance company to include, on the front page in 12-point boldface capital letters, a notice that the policy is issued by a captive insurance company that may not be subject to all of the insurance laws and regulations of the state and that state insurance insolvency funds are not available to the policyholders. Proposed law increases the font size from 12-point to 14-point font and otherwise retains present law.

Present law prohibits a captive insurance company's solicitation or sale of insurance by an association captive insurance company to any person who is not eligible for membership. Further prohibits the solicitation or sale of insurance by a captive insurance company that is in a hazardous financial condition.

Proposed law retains present law.

Present law restricts a captive insurance company from doing business in the state if the insurance company is directly or indirectly a member or owner of the company, unless in the case of a captive insurance company whose total membership consists of insurance companies. Proposed law retains present law.

Proposed law requires licensed captive insurance companies to file a statement of its financial condition, any amendment to the plan of operation, and other financial statements that show the condition of the company. Proposed law retains present law.

Present law requires the commissioner to perform an examination, at least once every 5 years, of the captive insurance company as prescribed in present law. Proposed law retains present law but provides the types of documentation to be examined and provisions regarding confidentiality.

Present law subjects captive insurance companies to taxation at the same rate and the same interest, fines, and penalties for nonpayment as domestic insurers. Applies provisions related to assessments of the La. Citizens Property Insurance Corp.

Proposed law deletes present law and requires 0.15% on direct premiums, with deductions for return premiums. Provides for tax rates on premiums with tiers of certain percentages.

Present law requires policy forms to be filed and approved by the commissioner not less than 45 days in advance of any such issuance, delivery, or use. Authorizes the commissioner to extend the approval or disapproval period by 15 days. Further authorizes the commissioner to withdraw any approval at any time for cause. Proposed law lessens the timeframe from 45 days to 30 days with respect to the 45-day references in present law. Otherwise retains present law.

Present law requires a captive insurance company to adopt a conflict of interest policy that requires officers, directors and key personnel to annually file a conflict of interest disclosure statement with the board of directors. Proposed law retains present law.

Proposed law authorizes redomestication of a foreign or alien insurer as a captive insurance company in the state of La. Requires the company to meet state licensing and filing requirements for operation. Proposed law also authorizes a domestic captive insurance company to transfer its domicile to another jurisdiction by following the applicable laws of redomestication. Requires the insurer to remain responsible for its liabilities and existing policies in effect.

Proposed law defines and regulates branch captive insurance companies. Requires the companies to maintain financial security through trust funds or letters of credit to cover liabilities for branch business. Requires certain capital and reserves, file reports, and financial examinations.

Proposed law defines and regulates affiliated reinsurance companies. Limits their activities to reinsuring affiliated insurers, subject to the commissioner's approval, and establishes requirements for licensure, capital, operations, and financial reporting.

Proposed law defines and regulates dormant captive insurance companies and provides a certificate of dormancy. Provides that such companies are those no longer transacting in the business of insurance and with no remaining liabilities associated with insurance business transactions or insurance policies. Provides for other certain conditions and reports to be submitted to the commissioner.

Present law authorizes the commissioner to collect certain fees pursuant to present law. Requires captive insurance companies to pay a \$500 fee for the initial application for a certificate of authority. Requires a \$6,000 fee for the accompanying application for actuarial review.

Present law authorizes the commissioner to promulgate rules pursuant to the APA for implementation and enforcement of regulations necessary for captive insurance companies and affiliated entities. Proposed law retains present law.

(Amends R.S. 22:550.1-550.32 and R.S. 44:4.1(B)(11); Adds R.S. 22:821(40))

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Insurance to the original bill:

1. Change references from "articles of association" to "articles of incorporation" regarding the filings of redomesticating alien and foreign insurers.
2. Correct citations relative to public records exceptions.
3. Make technical changes.

The Committee Amendments Proposed by House Committee on House and Governmental Affairs to the engrossed bill:

1. Make technical changes.

The House Floor Amendments to the reengrossed bill:

1. Increase the timeframe for captive insurance companies to file rates and policy forms with the commissioner from 30 days to 45 days prior to use of rates or policies.
2. Change references from "articles of redomestication" to "articles of incorporation."