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## DIGEST

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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."