

FIRST REGULAR SESSION  
[TRULY AGREED TO AND FINALLY PASSED]  
SENATE COMMITTEE SUBSTITUTE FOR

# SENATE BILL NO. 287

97TH GENERAL ASSEMBLY

2013

1373S.02T

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## AN ACT

To repeal sections 379.1300, 379.1306, 379.1310, 379.1312, and 379.1326, RSMo, and to enact in lieu thereof six new sections relating to captive insurance companies.

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*Be it enacted by the General Assembly of the State of Missouri, as follows:*

Section A. Sections 379.1300, 379.1306, 379.1310, 379.1312, and 379.1326, RSMo, are repealed and six new sections enacted in lieu thereof, to be known as sections 379.1300, 379.1306, 379.1310, 379.1312, 379.1326, and 379.1351, to read as follows:

379.1300. As used in sections 379.1300 to [379.1350] **379.1351**, the following terms shall mean:

(1) "Affiliated company", any company in the same corporate system as a parent, an industrial insured, or a member organization by virtue of common ownership, control, operation, or management;

(2) "Alien captive insurance company", any insurance company formed to write insurance business for its parents and affiliates and licensed under the laws of an alien jurisdiction that imposes statutory or regulatory standards in a form acceptable to the director on companies transacting the business of insurance in such jurisdiction;

(3) "Annuity", a contract issued for a valuable consideration under which the obligations are assumed with respect to periodic payments for a specified term or terms or where the making or continuance of all or of some of such payments, or the amount of any such payments, is dependent upon the continuance of human life;

**EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.**

16 (4) "Association", any legal association of individuals, corporations, limited  
17 liability companies, partnerships, associations, or other entities that has been in  
18 continuous existence for at least one year, the member organizations of which or  
19 which does itself, whether or not in conjunction with some or all of the member  
20 organizations:

21 (a) Own, control, or hold with power to vote all of the outstanding voting  
22 securities of an association captive insurance company incorporated as a stock  
23 insurer; [or]

24 (b) Have complete voting control over an association captive insurance  
25 company incorporated as a mutual insurer; [or]

26 (c) Constitute all of the subscribers of an association captive insurance  
27 company formed as a reciprocal insurer; **or**

28 **(d) Have complete voting control over an association captive**  
29 **insurance company formed as a limited liability company;**

30 (5) "Association captive insurance company", any company that insures  
31 risks of the member organizations of the association and their affiliated  
32 companies; except that, association captive insurance company shall not include,  
33 without limitation, any reciprocal insurer that has not chosen to apply for and is  
34 not licensed as a captive insurance company under section 379.1302;

35 (6) "Branch business", any insurance business transacted by a branch  
36 captive insurance company in this state;

37 (7) "Branch captive insurance company", any alien captive insurance  
38 company licensed by the director to transact the business of insurance in this  
39 state through a business unit with a principal place of business in this state;

40 (8) "Branch operations", any business operations of a branch captive  
41 insurance company in this state;

42 (9) "Captive insurance company", any pure captive insurance company,  
43 association captive insurance company, **sponsored captive insurance**  
44 **company**, or industrial insured captive insurance company formed or licensed  
45 under sections 379.1300 to [379.1350] **379.1351**. For purposes of sections  
46 379.1300 to [379.1350] **379.1351**, a branch captive insurance company shall be  
47 a pure captive insurance company with respect to operations in this state, unless  
48 otherwise permitted by the director;

49 (10) "Controlled unaffiliated business", any company:

50 (a) That is not in the corporate system of a parent and affiliated  
51 companies;

52 (b) That has an existing contractual relationship with a parent or  
53 affiliated company; and

54 (c) Whose risks are managed by a pure captive insurance company in  
55 accordance with section 379.1338;

56 (11) "Director", the director of the department of insurance, financial  
57 institutions and professional registration;

58 (12) "Excess workers' compensation insurance", in the case of an employer  
59 that has insured or self-insured its workers' compensation risks in accordance  
60 with applicable state or federal law, insurance in excess of a specified  
61 per-incident or aggregate limit established by the director;

62 (13) "Industrial insured", an insured:

63 (a) Who procures the insurance of any risk or risks by use of the services  
64 of a full-time employee acting as an insurance manager or buyer;

65 (b) Whose aggregate annual premiums for insurance on all risks total at  
66 least twenty-five thousand dollars; and

67 (c) Who has at least twenty-five full-time employees;

68 (14) "Industrial insured captive insurance company", any company that  
69 insures risks of the industrial insureds that comprise the industrial insured  
70 group and their affiliated companies;

71 (15) "Industrial insured group", any group of industrial insureds that  
72 collectively:

73 (a) Own, control, or hold with power to vote all of the outstanding voting  
74 securities of an industrial insured captive insurance company incorporated as a  
75 stock insurer; [or]

76 (b) Have complete voting control over an industrial insured captive  
77 insurance company incorporated as a mutual insurer;

78 **(c) Constitute all of the subscribers of an industrial insured**  
79 **captive insurance company formed as a reciprocal insurer; or**

80 **(d) Have complete voting control over an industrial captive**  
81 **insurance company formed as a limited liability company;**

82 (16) "Member organization", any individual, corporation, limited liability  
83 company, partnership, association, or other entity that belongs to an association;

84 (17) "Mutual corporation", a corporation organized without stockholders  
85 and includes a nonprofit corporation with members;

86 (18) "Parent", a corporation, limited liability company, partnership, other  
87 entity, or individual that directly or indirectly owns, controls, or holds with power

88 to vote more than fifty percent of the outstanding voting:

89 (a) Securities of a pure captive insurance company organized as a stock  
90 corporation; or

91 (b) Membership interests of a pure captive insurance company organized  
92 as a nonprofit corporation;

93 (19) "Pure captive insurance company", any company that insures risks  
94 of its parent and affiliated companies or controlled unaffiliated business.

379.1306. 1. No captive insurance company shall be issued a license  
2 unless it shall possess and thereafter maintain unimpaired paid-in capital and  
3 surplus of:

4 (1) In the case of a pure captive insurance company, not less than two  
5 hundred fifty thousand dollars;

6 (2) In the case of an association captive insurance company, not less than  
7 [seven] **five** hundred [fifty] thousand dollars; [and]

8 (3) In the case of an industrial insured captive insurance company, not  
9 less than five hundred thousand dollars; **and**

10 **(4) In the case of a sponsored captive insurance company, not**  
11 **less than five hundred thousand dollars.**

12 2. The director may prescribe additional capital and surplus based upon  
13 the type, volume, and nature of insurance business transacted.

14 3. Capital and surplus may be in the form of cash or an irrevocable letter  
15 of credit issued by a bank chartered by the state of Missouri or a member bank  
16 of the Federal Reserve System, and approved by the director.

379.1310. 1. A pure captive insurance company may be incorporated as  
2 a stock insurer with its capital divided into shares and held by the stockholders  
3 as a nonprofit corporation with one or more members, or as a manager-managed  
4 limited liability company.

5 2. An association captive insurance company or an industrial insured  
6 captive insurance company may be:

7 (1) Incorporated as a stock insurer with its capital divided into shares and  
8 held by the stockholders;

9 (2) Incorporated as a mutual insurer without capital stock, the governing  
10 body of which is elected by its insureds;

11 (3) Organized as a manager-managed limited liability company; or

12 (4) Organized as a reciprocal insurer in accordance with sections 379.650  
13 to 379.790.

14           3. A captive insurance company incorporated or organized in this state  
15 shall have not less than three incorporators or three organizers of whom not less  
16 than one shall be a resident of this state.

17           4. In the case of a captive insurance company:

18           (1) Formed as a corporation, before the articles of incorporation are  
19 transmitted to the secretary of state, the incorporators shall petition the director  
20 to issue a certificate setting forth the director's finding that the establishment  
21 and maintenance of the proposed corporation will promote the general good of the  
22 state. In arriving at such a finding the director shall consider:

23           (a) The character, reputation, financial standing and purposes of the  
24 incorporators;

25           (b) The character, reputation, financial responsibility, insurance  
26 experience, and business qualifications of the officers and directors; and

27           (c) Such other aspects as the director shall deem advisable.

28 The articles of incorporation, such certificate, and the organization fee shall be  
29 transmitted to the secretary of state, who shall thereupon record both the articles  
30 of incorporation and the certificate;

31           (2) Formed as a limited liability company, before the articles of  
32 organization are transmitted to the secretary of state, the organizers shall  
33 petition the director to issue a certificate setting forth the director's finding that  
34 the establishment and maintenance of the proposed company will promote the  
35 general good of the state. In arriving at such a finding, the director shall  
36 consider the items set forth in paragraphs (a) to (c) of subdivision (1) of this  
37 subsection;

38           (3) Formed as a reciprocal insurer, the organizers shall petition the  
39 director to issue a certificate setting the director's finding that the establishment  
40 and maintenance of the proposed association will promote the general good of the  
41 state. In arriving at such a finding the director shall consider the items set forth  
42 in paragraphs (a) to (c) of subdivision (1) of this subsection.

43           5. The capital stock of a captive insurance company incorporated as a  
44 stock insurer may be authorized with no par value.

45           6. In the case of a captive insurance company:

46           (1) Formed as a corporation, at least one of the members of the board of  
47 directors shall be a resident of this state;

48           (2) Formed as a limited liability company, at least one of the managers  
49 shall be a resident of this state;

50 (3) Formed as a reciprocal insurer, at least one of the members of the  
51 subscribers' advisory committee shall be a resident of this state.

52 7. Other than captive insurance companies formed as limited liability  
53 companies under chapter 347, or as nonprofit corporations under chapter 355,  
54 captive insurance companies formed as corporations under sections 379.1300 to  
55 [379.1350] **379.1351** shall have the privileges and be subject to chapter 351 as  
56 well as the applicable provisions contained in sections 379.1300 to 379.1308. In  
57 the event of conflict between the provisions of such general corporation law and  
58 sections 379.1300 to [379.1350] **379.1351**, sections 379.1300 to [379.1350]  
59 **379.1351** shall control.

60 8. Captive insurance companies formed under sections 379.1300 to  
61 [379.1350] **379.1351**:

62 (1) As limited liability companies shall have the privileges and be subject  
63 to the provisions of chapter 347 as well as the applicable provisions contained in  
64 sections 379.1300 to [379.1350] **379.1351**. In the event of a conflict between  
65 chapter 347 and sections 379.1300 to [379.1350] **379.1351**, sections 379.1300 to  
66 [379.1350] **379.1351** shall control; or

67 (2) As nonprofit corporations shall have the privileges and be subject to  
68 the provisions of chapter 355 as well as the applicable provisions contained in  
69 sections 379.1300 to [379.1350] **379.1351**. In the event of conflict between  
70 chapter 355 and sections 379.1300 to [379.1350] **379.1351**, sections 379.1300 to  
71 [379.1350] **379.1351** shall control.

72 9. The provisions of section 375.355, section 375.908, sections 379.980 to  
73 379.988, and chapter 382, pertaining to mergers, consolidations, conversions,  
74 mutualizations, redomestications, and mutual holding companies shall apply in  
75 determining the procedures to be followed by captive insurance companies in  
76 carrying out any of the transactions described therein; except that:

77 (1) The director may waive or modify the requirements for public notice  
78 and hearing, **or** in accordance with rules which the director may adopt  
79 addressing categories of transactions, **modify the requirements for public**  
80 **notice and hearing**. If a notice of public hearing is required, but no one  
81 requests a hearing **ten days before the day set for the hearing**, then the  
82 director may cancel the hearing;

83 (2) An alien insurer may be a party to a merger or a redomestication  
84 authorized under this subsection, if approved by the director; **and**

85 (3) **The director may issue a certificate of general good to permit**

86 **the formation of a captive insurance company that is established for**  
87 **the sole purpose of consolidating or merging with or assuming existing**  
88 **insurance or reinsurance business from an existing Missouri licensed**  
89 **captive insurance company. The director may, upon a request of such**  
90 **newly formed captive insurance company, waive or modify the**  
91 **requirements of paragraph (b) of subdivision (1) and subdivision (2) of**  
92 **subsection 3 of section 379.1302.**

93 10. The articles of incorporation or bylaws of a captive insurance company  
94 formed as a corporation may authorize a quorum of its board of directors to  
95 consist of no fewer than one-third of the full board of directors [determined],  
96 provided that a quorum shall not consist of fewer than two directors.

97 11. Captive insurance companies formed as reciprocal insurers under the  
98 provisions of sections 379.1300 to [379.1350] **379.1351** shall have the privileges  
99 and be subject to the provisions of sections 379.650 to 379.790 in addition to the  
100 applicable provisions of sections 379.1300 to [379.1350] **379.1351**. In the event  
101 of a conflict between the provisions of sections 379.650 to 379.790 and the  
102 provisions of sections 379.1300 to [379.1350] **379.1351**, the latter shall control,  
103 to the extent a reciprocal insurer is made subject to other provisions of chapters  
104 374, 375, and 379 under sections 379.650 to 379.790, such provisions shall not be  
105 applicable to a reciprocal insurer formed under sections 379.1300 to [379.1350]  
106 **379.1351** unless such provisions are expressly made applicable to captive  
107 insurance companies under sections 379.1300 to [379.1350] **379.1351**.

108 12. The subscribers' agreement or other organizing document of a captive  
109 insurance company formed as a reciprocal insurer may authorize a quorum of its  
110 subscribers' advisory committee to consist of no fewer than one-third of the  
111 number of its members.

379.1312. 1. Captive insurance companies shall not be required to make  
2 any annual report except as provided in sections 379.1300 to [379.1350]  
3 **379.1351**.

4 2. Prior to March first of each year, each captive insurance company shall  
5 submit to the director a report of its financial condition, verified by oath of two  
6 of its executive officers. Each captive insurance company shall report using  
7 generally accepted accounting principles, unless the director approves the use of  
8 statutory accounting principles, with any appropriate or necessary modifications  
9 or adaptations thereof required or approved or accepted by the director for the  
10 type of insurance and kinds of insurers to be reported upon, and as supplemented

11 by additional information required by the director. Except as otherwise provided,  
12 each association captive insurance company shall file its report in the form  
13 required by section 375.041. The director shall by rule propose the forms in  
14 which pure captive insurance companies and industrial insured captive insurance  
15 companies shall report. Subdivision (3) of subsection [2] 3 of section 379.1302  
16 shall apply to each report filed under this section.

17 3. Any pure captive insurance company or an industrial insured captive  
18 insurance company may make written application for filing the required report  
19 on a fiscal year end. If an alternative reporting date is granted:

20 (1) The annual report is due sixty days after the fiscal year end; and

21 (2) In order to provide sufficient detail to support the premium tax return,  
22 the pure captive insurance company or industrial insured captive insurance  
23 company shall file prior to March first of each year for each calendar year end its  
24 balance sheet, income statement and statement of cash flows, verified by oath of  
25 two of its executive officers.

379.1326. 1. Each captive insurance company shall pay to the director of  
2 revenue, on or before May first of each year, a premium tax at the rate of  
3 thirty-eight-hundredths of one percent on the first twenty million dollars and two  
4 hundred eighty-five-thousandths of one percent on the next twenty million dollars  
5 and nineteen-hundredths of one percent on the next twenty million dollars and  
6 seventy-two-thousandths of one percent on each dollar thereafter on the direct  
7 premiums collected or contracted for on policies or contracts of insurance written  
8 by the captive insurance company during the year ending December thirty-first  
9 next preceding, after deducting from the direct premiums subject to the tax the  
10 amounts paid to policyholders as return premiums which shall include dividends  
11 on unabsorbed premiums or premium deposits returned or credited to  
12 policyholders; provided, however, that no tax shall be due or payable as to  
13 considerations received for annuity contracts.

14 2. Each captive insurance company shall pay to the director of revenue on  
15 or before May first of each year a premium tax at the rate of two hundred  
16 fourteen-thousandths of one percent on the first twenty million dollars of  
17 assumed reinsurance premium, and one hundred forty-three-thousandths of one  
18 percent on the next twenty million dollars and forty-eight-thousandths of one  
19 percent on the next twenty million dollars and twenty-four-thousandths of one  
20 percent of each dollar thereafter. However, no reinsurance premium tax applies  
21 to premiums for risks or portions of risks which are subject to taxation on a direct

22 basis under subsection 1 of this section. No reinsurance premium tax shall be  
23 payable in connection with the receipt of assets in exchange for the assumption  
24 of loss reserves and other liabilities of another insurer under common ownership  
25 and control if such transaction is part of a plan to discontinue the operations of  
26 such other insurer, and if the intent of the parties to such transaction is to renew  
27 or maintain such business with the captive insurance company.

28 3. The annual:

29 (1) Minimum aggregate tax to be paid by a captive insurance company  
30 calculated under subsections 1 and 2 of this section shall be seven thousand five  
31 hundred dollars, and the annual maximum aggregate tax shall be two hundred  
32 thousand dollars;

33 (2) **Minimum aggregate tax to be paid by a sponsored captive**  
34 **insurance company shall be seven thousand five hundred dollars and**  
35 **shall apply to the sponsored captive insurance company as a whole and**  
36 **not to each protected cell, and such cells shall not be subject to the**  
37 **minimum tax;**

38 (3) **Maximum tax to be paid by a protected cell shall be as**  
39 **calculated under subsection 1 of this section. The annual maximum tax**  
40 **to be remitted by a sponsored captive insurance company shall be the**  
41 **aggregate of the tax liabilities of each protected cell.**

42 4. Every captive insurance company shall, on or before February first each  
43 year, make a return on a form provided by the director, verified by the affidavit  
44 of the company's president and secretary or other authorized officers, to the  
45 director stating the amount of all direct premiums received and assumed  
46 reinsurance premiums received, whether in cash or in notes, during the year  
47 ending on December thirty-first next preceding. Upon receipt of such returns, the  
48 director of the department of insurance, financial institutions and professional  
49 registration shall verify the same and certify the amount of tax due from the  
50 various companies on the basis and at the rate provided in subsections 1 to 3 of  
51 this section, and shall certify the same to the director of revenue, on or before  
52 March thirty-first of each year. The director of revenue shall immediately  
53 thereafter notify and assess each company the amount of tax due.

54 5. A captive insurance company failing to make returns as required by  
55 subsection 4 of this section or failing to pay within the time required all taxes  
56 assessed by this section shall be subject to the provisions of sections 148.375 and  
57 148.410.

58           6. Two or more captive insurance companies under common ownership  
59 and control shall be taxed as though they were a single captive insurance  
60 company.

61           7. For the purposes of this section, **the following terms shall mean:**

62           **(1) "Common ownership and control" [shall mean] ownership and**  
63 **control of two or more captive insurance companies by the same person**  
64 **or group of persons;**

65           **(2) "Ownership and control":**

66           **[(1)] (a) In the case of stock corporations, the direct or indirect ownership**  
67 **of eighty percent or more of the outstanding voting stock of [two or more**  
68 **corporations by the same shareholder or shareholders; and] the corporation;**

69           **[(2)] (b) In the case of mutual or nonprofit corporations, the direct or**  
70 **indirect ownership of eighty percent or more of the surplus and the voting power**  
71 **of [two or more corporations by the same member or members] the corporation;**

72           **(c) In the case of a limited liability company, the direct or**  
73 **indirect ownership of eighty percent or more of the membership**  
74 **interest in the limited liability company; and**

75           **(d) In the case of a sponsored captive insurance company and for**  
76 **purposes of this section, a protected cell shall be treated as a separate**  
77 **captive insurance company owned and controlled by the protected**  
78 **cell's participant, but only if:**

79           **a. The participant is the only participant with respect to such**  
80 **protected cell; and**

81           **b. The participant is the sponsor or is affiliated with the sponsor**  
82 **of the sponsored captive insurance company through common**  
83 **ownership and control.**

84           8. The tax provided for in this section shall constitute all taxes collectible  
85 under the laws of this state from any captive insurance company, and no other  
86 occupation tax or other taxes shall be levied or collected from any captive  
87 insurance company by the state or any county, city, or municipality within this  
88 state, except ad valorem taxes on real and personal property used in the  
89 production of income.

90           9. Upon receiving the taxes collected under this section from the director  
91 of revenue, the state treasurer shall receipt ten percent thereof into the insurance  
92 dedicated fund established under section 374.150, subject to a maximum of three  
93 percent of the current fiscal year's appropriation from such fund, and he or she

94 shall place the remainder of such taxes collected to the general revenue fund of  
95 the state.

96 10. The tax provided for in this section shall be calculated on an annual  
97 basis, notwithstanding policies or contracts of insurance or contracts of  
98 reinsurance issued on a multiyear basis. In the case of multiyear policies or  
99 contracts, the premium shall be prorated for purposes of determining the tax  
100 under this section.

101 11. A captive insurance company may deduct from premium taxes payable  
102 to this state, in addition to all other credits allowed by law, license fees and  
103 renewal fees payable under section 379.1302. A deduction for fees which exceeds  
104 a captive insurance company's premium tax liability for the same tax year shall  
105 not be refundable, but may be carried forward to any subsequent tax year, not to  
106 exceed five years, until the full deduction is claimed.

**379.1351. 1. One or more sponsors may form a sponsored captive  
2 insurance company under sections 379.1300 to 379.1351. In addition to  
3 the general provisions of sections 379.1300 to 379.1351, the provisions  
4 of this section shall apply to sponsored captive insurance companies.  
5 A sponsored captive insurance company shall be incorporated as a  
6 stock insurer with its capital divided into shares and held by the  
7 stockholders, as a mutual corporation, as a nonprofit corporation with  
8 one or more members, or as a manager-managed limited liability  
9 company.**

10 2. As used in this section, unless the context requires otherwise,  
11 the following terms shall mean:

12 (1) "Incorporated protected cell", a protected cell that is  
13 established as a corporation or limited liability company separate from  
14 the sponsored captive insurance company, of which it is a part;

15 (2) "Participant", an entity described in subsection 7 of this  
16 section and any affiliates thereof that is insured by a sponsored captive  
17 insurance company, where the losses of the participant are limited  
18 through a participant contract to such participant's pro rata share of  
19 the assets of one or more protected cells identified in such participant  
20 contract;

21 (3) "Participant contract", a contract by which a sponsored  
22 captive insurance company insures the risks of a participant and limits  
23 the losses of each such participant to its pro rata share of the assets of

24 one or more protected cells identified in such participant contract;

25 (4) "Protected cell", a separate account established by a  
26 sponsored captive insurance company formed or licensed under this  
27 chapter in which assets are maintained for one or more participants in  
28 accordance with the terms of one or more participant contracts to fund  
29 the liability of the sponsored captive insurance company assumed on  
30 behalf of such participants as set forth in such participant contracts,  
31 and shall include an incorporated protected cell, as defined in this  
32 section;

33 (5) "Sponsor", any entity that meets the requirements of  
34 subsection 6 of this section and is approved by the director to provide  
35 all or part of the capital and surplus required by applicable law and to  
36 organize and operate a sponsored captive insurance company;

37 (6) "Sponsored captive insurance company", any captive  
38 insurance company:

39 (a) In which the minimum capital and surplus required by  
40 applicable law is provided by one or more sponsors;

41 (b) That is formed or licensed under the provisions of sections  
42 379.1300 to 379.1351;

43 (c) That insures the risks only of its participants through  
44 separate participant contracts; and

45 (d) That funds its liability to each participant through one or  
46 more protected cells and segregates the assets of each protected cell  
47 from the assets of other protected cells and from the assets of the  
48 sponsored captive insurance company's general account.

49 3. In addition to the information required by subsection 3 of  
50 section 379.1302, each applicant-sponsored captive insurance company  
51 shall file with the director the following:

52 (1) Materials demonstrating how the applicant will account for  
53 the loss and expense experience of each protected cell at a level of  
54 detail found to be sufficient by the director, and how it will report such  
55 experience to the director;

56 (2) A statement acknowledging that all financial records of the  
57 sponsored captive insurance company, including records pertaining to  
58 protected cells, shall be made available for inspection or examination  
59 by the director or the director's designated agent;

60 (3) All contracts or sample contracts between the sponsored

61 captive insurance company and any participants; and

62 (4) Evidence that expenses shall be allocated to each protected  
63 cell in a fair and equitable manner.

64 4. A sponsored captive insurance company formed or licensed  
65 under this chapter may establish and maintain one or more protected  
66 cells to insure risks of one or more participants, subject to the  
67 following conditions:

68 (1) The shareholders of a sponsored captive insurance company  
69 shall be limited to its participants and sponsors, provided that a  
70 sponsored captive insurance company may issue nonvoting securities  
71 to other persons on terms approved by the director;

72 (2) Each protected cell shall be accounted for separately on the  
73 books and records of the sponsored captive insurance company to  
74 reflect the financial condition and results of operations of such  
75 protected cell, net income or loss, dividends, or other distributions to  
76 participants, and such other factors as may be provided in the  
77 participant contract or required by the director;

78 (3) The assets of a protected cell shall not be chargeable with  
79 liabilities arising out of any other insurance business the sponsored  
80 captive insurance company may conduct;

81 (4) No sale, exchange, transfer of assets, dividend, or distribution  
82 may be made by such sponsored captive insurance company between  
83 or among any of its protected cells without the consent of such  
84 protected cells;

85 (5) No sale, exchange, transfer of assets, dividend, or distribution  
86 may be made from a protected cell to a sponsor or participant without  
87 the director's approval and in no event shall such approval be given if  
88 the sale, exchange, transfer, dividend, or distribution would result in  
89 insolvency or impairment with respect to a protected cell;

90 (6) All attributions of assets and liabilities to the protected cells  
91 and the general account shall be in accordance with the plan of  
92 operation approved by the director. No other attribution of assets or  
93 liabilities may be made by a sponsored captive insurance company  
94 between its general account and any protected cell or between any  
95 protected cells. The sponsored captive insurance company shall  
96 attribute all insurance obligations, assets, and liabilities relating to a  
97 reinsurance contract entered into with respect to a protected cell to

98 such protected cell. The performance under such reinsurance contract  
99 and any tax benefits, losses, refunds, or credits allocated under a tax  
100 allocation agreement to which the sponsored captive insurance  
101 company is a party, including any payments made by or due to be made  
102 to the sponsored captive insurance company under the terms of such  
103 agreement, shall reflect the insurance obligations, assets, and liabilities  
104 relating to the reinsurance contract that are attributed to such  
105 protected cell;

106 (7) In connection with the conservation, rehabilitation, or  
107 liquidation of a sponsored captive insurance company, the assets and  
108 liabilities of a protected cell shall, to the extent the director determines  
109 they are separable, at all times be kept separate from and shall not be  
110 commingled with those of other protected cells and the sponsored  
111 captive insurance company;

112 (8) The "general account" of a sponsored captive insurance  
113 company means all assets and liabilities of the sponsored captive  
114 insurance company not attributable to a protected cell;

115 (9) Each sponsored captive insurance company shall annually  
116 file with the director such financial reports as the director shall  
117 require, which shall include, without limitation, accounting statements  
118 detailing the financial experience of each protected cell. Each  
119 sponsored captive insurance company shall be subject to the provisions  
120 of section 374.190 and sections 374.202 to 374.207, and to the extent  
121 applicable, sections 375.930 to 375.948 and sections 375.1000 to 375.1018;

122 (10) Each sponsored captive insurance company shall notify the  
123 director in writing within ten business days of any protected cell that  
124 is insolvent or otherwise unable to meet its claim or expense  
125 obligations;

126 (11) No participant contract shall take effect without the  
127 director's prior written approval, and the addition of each new  
128 protected cell and withdrawal of a participant or termination of any  
129 existing protected cell shall constitute a change in the business plan  
130 requiring the director's prior written approval. Each participant  
131 contract shall state that under section 379.1324 no benefit shall be paid  
132 to the participant or any other party from any state guaranty fund  
133 based on a claim against the assets of the participant's protected cell  
134 in which such assets are insufficient to satisfy the claim;

135           **(12) At the discretion of the director, the business written by a**  
136 **sponsored captive, with respect to each cell, shall be:**

137           **(a) Fronted by an insurance company licensed under the laws of**  
138 **any state;**

139           **(b) Reinsured by reinsurer authorized or approved by the state**  
140 **of Missouri; or**

141           **(c) Secured by a trust fund in the United States for the benefit**  
142 **of policyholders and claimants or funded by an irrevocable letter of**  
143 **credit or other arrangement that is acceptable to the director.**

144 **The director may require the sponsored captive to increase the funding**  
145 **of any security arrangement established under this subdivision. If the**  
146 **form of security is a letter of credit, the letter of credit shall be issued**  
147 **or confirmed by a bank approved by the director. A trust maintained**  
148 **under this subdivision shall be established in a form and upon such**  
149 **terms approved by the director;**

150           **(13) Notwithstanding the provisions of sections 375.1150 to**  
151 **375.1246 or other laws of this state, and in addition to the provisions of**  
152 **subsection 9 of this section, in the event of an insolvency of a sponsored**  
153 **captive insurance company where the director determines that one or**  
154 **more protected cells remain solvent, the director may separate such**  
155 **cells from the sponsored captive insurance company, and may allow, on**  
156 **application of the sponsor for the conversion of such protected cells**  
157 **into one or more new or existing sponsored captive insurance**  
158 **companies with a sponsor or sponsors, or one or more other captive**  
159 **insurance companies, under such plan or plans of operation as the**  
160 **director deems acceptable.**

161           **5. A protected cell of a sponsored captive insurance company**  
162 **may be formed as an incorporated protected cell, as described in**  
163 **subdivision (1) of subsection 4 of this section. The articles of**  
164 **incorporation or articles of organization of an incorporated protected**  
165 **cell shall refer to the sponsored captive insurance company for which**  
166 **it is a protected cell and shall state that the protected cell is**  
167 **incorporated or organized for the limited purposes authorized by the**  
168 **sponsored captive insurance company's license. A copy of the prior**  
169 **written approval of the director to add the incorporated protected cell,**  
170 **required by subdivision (11) of subsection 4 of this section, shall be**  
171 **attached to and filed with the articles of incorporation or articles of**

172 organization. It is the intent of the general assembly under this  
173 subsection to provide sponsored captive insurance companies with the  
174 option to establish one or more protected cells as a separate  
175 corporation formed under chapter 351 or limited liability company  
176 formed under chapter 347. This section shall not be construed to limit  
177 any rights or protections applicable to protected cells not established  
178 as corporations or limited liability companies.

179         6. A sponsor of a sponsored captive insurance company may be  
180 any person approved by the director in the exercise of the director's  
181 discretion, based on a determination that the approval of such person  
182 as sponsor is consistent with the purposes of sections 379.1300 to  
183 379.1351. In evaluating the qualifications of a proposed sponsor, the  
184 director shall consider the type and structure of the proposed sponsor  
185 entity, its experience in financial operations, financial stability, and  
186 strength of business reputation and such other facts deemed relevant  
187 by the director. A risk retention group shall not be either a sponsor or  
188 a participant of a sponsored captive insurance company.

189         7. Associations, corporations, limited liability companies,  
190 partnerships, trusts, and other business entities may be participants in  
191 any sponsored captive insurance company formed or licensed under  
192 this chapter. A sponsor may be a participant in a sponsored captive  
193 insurance company. A participant need not be a shareholder of the  
194 sponsored captive insurance company or an affiliate thereof. A  
195 participant shall insure only its own risks through a sponsored captive  
196 insurance company.

197         8. Notwithstanding the provisions of subsection 4 of this section,  
198 the assets of two or more protected cells may be combined for purposes  
199 of investment and such combination shall not be construed as defeating  
200 the segregation of such assets for accounting or other  
201 purposes. Sponsored captive insurance companies shall comply with  
202 the investment requirements contained in sections 379.080 and 379.082,  
203 as applicable; provided, however, that compliance with such investment  
204 requirements shall be waived for sponsored captive insurance  
205 companies to the extent that credit for reinsurance ceded to reinsurers  
206 is allowed under section 379.1320 or to the extent otherwise deemed  
207 reasonable and appropriate by the director. The director shall exercise  
208 his or her discretion in approving the accounting standards in use by

209 the company. Notwithstanding any other provision of this chapter, the  
210 director may approve the use of alternative reliable methods of  
211 valuation and rating.

212       **9. Except as otherwise provided in this section, the provisions of**  
213 **sections 375.1150 to 375.1246 shall apply in full to a sponsored captive**  
214 **insurance company. Upon any order of supervision, rehabilitation, or**  
215 **liquidation of a sponsored captive insurance company, the receiver**  
216 **shall manage the assets and liabilities of the sponsored captive**  
217 **insurance company under this section. Notwithstanding the provisions**  
218 **of sections 375.1150 to 375.1246:**

219       **(1) The assets of a protected cell shall not be used to pay any**  
220 **expense or claims other than those attributable to such protected cell;**  
221 **and**

222       **(2) A sponsored captive insurance company's capital and surplus**  
223 **shall at all times be available to pay any expenses of or claims against**  
224 **the sponsored captive insurance company.**

Bill ✓

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