

HOUSE BILL 70

By McCormick

AN ACT to amend Tennessee Code Annotated, Title 56,
relative to captive insurance companies.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 56-5-313, is amended by adding a new subsection (c):

Notwithstanding any other provision in this chapter, the commissioner may approve any rating plan submitted by a captive insurance company that is formed under chapter 13 of this title and is authorized to provide workers' compensation coverage, so long as the captive insurance company demonstrates to the commissioner's satisfaction that the proposed rating plan does not endanger the solvency of the company and adequately protects the insureds.

SECTION 2. Tennessee Code Annotated, Section 56-13-103(a)(8), is amended by deleting the subdivision in its entirety and substituting instead the following language:

(a)(8) Except as provided in subdivision (a)(9), a captive insurance company may only issue policies of workers' compensation insurance to an insured or an affiliate who otherwise qualifies and maintains its qualifications as a self-insured under title 50, chapter 6; provided, that a captive insurance company may provide excess or stop-loss workers' compensation coverage for those insureds not qualifying as self-insureds. The commissioner has the discretion to waive the requirements of this subdivision (a)(8) and the self-insurance requirements of § 50-6-405(b) and (c), according to guidelines established through the promulgation of rules or regulations; and

SECTION 3. Tennessee Code Annotated, Section 56-13-103(b)(2), is amended by inserting the phrase “members or” after the phrase “directors or committee of” and before the phrase “managers or”.

SECTION 4. Tennessee Code Annotated, Section 56-13-105(c), is amended by inserting the phrase “, or cash equivalent,” after the phrase “in the form of cash” and before the phrase “or an irrevocable letter of credit”.

SECTION 5. Tennessee Code Annotated, Section 56-13-107(a) and (b)(4), are amended by deleting the phrase “manager-managed” wherever it appears.

SECTION 6. Tennessee Code Annotated, Section 56-13-107(e)(3), is amended by inserting the phrase “members or” after the phrase “at least one (1) of the” and before the word “managers”.

SECTION 7. Tennessee Code Annotated, Section 56-13-108(b), is amended by inserting the phrase “, including risk retention groups organized under this chapter,” after the phrase “Each captive insurance company” and before the phrase “shall report using generally accepted accounting principles”.

SECTION 8. Tennessee Code Annotated, Section 56-13-111(b), is amended by adding the following sentence to the end of the subsection:

Companies under this subsection (b) must file with the commissioner a statement of investment policy approved by its governing body that describes the types of investments that the company may elect to undertake and may not make investments that materially deviate from the statement of investment policy that is on file with the commissioner.

SECTION 9. Tennessee Code Annotated, Section 56-13-114(e), is amended by deleting the subsection in its entirety and substituting instead the following language:

(e) Captive insurance companies, protected cells of captive insurance companies, and incorporated protected cells of captive insurance companies shall be subject to the fees in § 56-4-101.

SECTION 10. Tennessee Code Annotated, Section 56-13-114(f), is amended by adding the phrase “and for promoting the Tennessee captive insurance industry” after the phrase “for the purpose of administering this chapter” and before the period at the end of the subsection.

SECTION 11. Tennessee Code Annotated, Section 56-13-115, is amended by adding the following sentence to the end of the section:

The commissioner may adopt emergency rules related to captive insurance companies in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, if the commissioner finds that such rules are necessary to maintain Tennessee’s position in the captive insurance industry.

SECTION 12. Tennessee Code Annotated, Section 56-13-116, is amended by adding the following sentence to the end of the section:

Section 56-2-801 applies to this chapter.

SECTION 13. Tennessee Code Annotated, Section 56-13-201(b), is amended by striking the language “manager-managed”.

SECTION 14. Tennessee Code Annotated, Section 56-13-204(1)(C), is amended by adding the following sentence to the end of the subdivision:

provided, an incorporated cell formed as a series of a limited liability company, if formed after July 1, 2015, shall bear a distinct name or designation as reflected in its formation documents and shall include the words “series cell”;

SECTION 15. Tennessee Code Annotated, Section 56-13-204(1)(E), is amended by deleting the subdivision in its entirety and substituting instead the following language:

(1)(E) An incorporated protected cell may be organized and operated in any form of business organization authorized by the commissioner, including, but not limited to, an individual series of a limited liability company as provided for in title 48, chapter 249. Each incorporated protected cell of a protected cell captive insurer shall be treated

as a captive insurer for purposes of this chapter. Unless otherwise permitted by the organizational documents of a protected cell captive insurer, each incorporated protected cell of the protected cell captive insurer must have the same directors, secretary, and registered office as the protected cell captive insurer;

SECTION 16. Tennessee Code Annotated, Section 56-13-206, is amended by deleting the second sentence.

SECTION 17. Tennessee Code Annotated, Section 56-4-101(a)(1), is amended by adding the phrase “captive insurance companies, protected cells of captive insurance companies, and incorporated protected cells of captive insurance companies,” after the phrase “including application for eligibility of surplus lines insurers,” and before the phrase “six hundred seventy-five dollars (\$675);”.

SECTION 18. Tennessee Code Annotated, Section 56-4-101(a), is amended by adding the following new, appropriately designated subdivisions:

() For receiving and reviewing each change of business plan or change in ownership for a captive insurance company, four hundred dollars (\$400);

() For receiving and reviewing each change of ownership for a protected cell of a captive insurance company or an incorporated protected cell of a captive insurance company, one hundred twenty-five dollars (\$125).

SECTION 19. This act shall take effect upon becoming a law, the public welfare requiring it.