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AN ACT

D.C. ACT 13-420

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

AUGUST 4, 2000

To permit the chartering and operation of captive insurance companies in the District of Columbia; to provide for the regulation of captive insurers; to establish minimum amounts of capital and surplus that must be maintained by a captive insurer; to provide for a premium tax and exempt licensed captive insurers from certain taxes; and to authorize the Commissioner to promulgate rules and regulations.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Captive Insurance Company Act of 2000".

Sec. 2. Definitions.

For the purposes of this act, the term:

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

(2) "Agency captive insurer" means a captive insurer that is owned by an insurance agency or brokerage and that only insures risks of policies that are placed by or through the agency or brokerage.

(3) "Alien captive insurer" means a captive insurer formed to write insurance 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 Commissioner on companies transacting the business of insurance in such jurisdiction.

(4) "Association" means a legal entity consisting of 2 or more corporations, partnerships, associations, or other forms of business organizations.

(5) "Association captive insurer" means a captive insurer that only insures risks of the member organizations of an association and the affiliated companies of those members, including groups formed under the Product Liability Risk Retention Act of 1981.

(6) "Branch business" means insurance business transacted by a branch captive insurer in the District of Columbia ("District").

(7) "Branch captive insurer" means an alien captive insurer licensed by the Commissioner to transact the business of insurance in the District through a business unit with a

principal place of business in the District.

(8) "Branch operations" means business operations of a branch captive insurer in the District.

(9) "Captive insurer" means an insurer that insures the risks of its parent or affiliated companies of its parent, member organizations of an association and the affiliated companies of such members, or other policyholders or participants that have entered into a contractual relationship with the insurer for the purchase of insurance. The term includes a pure captive insurer, association captive insurer, agency captive insurer, sponsored captive insurer, and rental captive insurer licensed under this act. For the purposes of this act, a branch captive insurer shall be a pure captive insurer with respect to operations in the District, unless otherwise permitted by the Commissioner.

(10) "Commissioner" means the Commissioner of the Department of Insurance and Securities Regulation.

(11) "Common ownership and control" means:

(A) In the case of a stock insurer, the direct or indirect ownership of 51% or more of the voting stock of 2 or more corporations by the same member or members; and

(B) In the case of a mutual insurer, the direct or indirect ownership of 51% or more of the surplus and the voting power of 2 or more corporations by the same member or members.

(12) "Department" means the Department of Insurance and Securities Regulation.

(13) "Excess workers' compensation insurance" means insurance in excess of the specified per-incident or aggregate limit, if any, established by:

(A) The Commissioner, if the insurance is being transacted in the District; or

(B) The chief insurance regulatory official in the state in which the insurance is being contracted for.

(14) "Member organization" means an individual, corporation, partnership, association, or other form of business organization that belongs to an association.

(15) "Mutual insurer" means an incorporated insurer without issued and outstanding stock whose capital and surplus are owned by its policyholders.

(16) "Net direct premiums" means the direct premiums collected or contracted for on policies or contracts of insurance written by a captive insurer during the preceding calendar year, less the amounts paid to policyholders as return premiums, including dividends on unabsorbed premiums or premium deposits returned or credited to policyholders.

(17) "Parent" means a corporation, partnership, association, or other form of business organization that directly or indirectly owns, controls, or holds power to vote more than 50% of the outstanding voting securities of a pure captive insurer.

(18) "Participant" means an individual or organization, and any of their affiliates,

that are insured by a sponsored captive insurer, where the losses of the participant are limited through a participant contract.

(19) "Participant contract" means a contract by which a sponsored captive insurer insures the risks of a participant and limits the losses of the participant to the assets of the protected cell.

(20) "Protected cell" means a separate account established and maintained by a sponsored captive insurance company for one participant.

(21) "Pure captive insurer" means a captive insurer that only insures risks of its parent and affiliated companies.

(22) "Reciprocal insurer" means either an interinsurance exchange or a risk retention group, as defined in section 2(12) of the Risk Retention Act of 1993.

(23) "Rental captive insurer" means a captive insurer formed to contact with policyholders or associations to provide some or all of the benefits of a program of captive insurance and that only insures the risks of such policyholders or associations.

(24) "Sponsor" means an entity that meets the requirements of section 7(c) and is approved by the Commissioner to provide all or part of the capital and surplus required by applicable law and to organize and operate a sponsored captive insurer.

(25) "Sponsored captive insurer" means a captive insurance company:

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

(B) That is formed or licensed under this act;

(C) That insures risks of separate participants; and

(D) That segregates each participant's liability through one or more protected cells.

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

Sec. 3. Authority to do business -- certificate of authority.

(a) A captive insurer shall not transact insurance in the District of Columbia ("District") unless the captive insurer first obtains a certificate of authority from the Commissioner.

(b) Except as otherwise provided in this section, a captive insurer may contract for any form of insurance. A captive insurer:

(1) Shall not directly provide personal motor vehicle or homeowners' insurance coverage, or any component thereof;

(2) Shall not accept or cede reinsurance, except as otherwise provided in section 13;

(3) May 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 contracted for;

(4) May reinsure workers' compensation insurance provided under a program of self-funded insurance of its parent and affiliated companies if:

(A) The parent or affiliated company which is providing the self-funded insurance is certified as a self-insured employer by the Commissioner, if the insurance is being contracted for in the District; or

(B) The program of self-funded insurance is otherwise qualified under, or in compliance with, the laws of the state in which the insurance is contracted for;

(5) Shall not insure any risks other than those of its parent and affiliated companies if it is a pure captive insurer;

(6) Shall not insure any risks other than those of the member organizations of its association and the affiliated companies of the member organizations if it is an association captive insurer;

(7) Shall not insure any risks other than those of the policies that are placed by or through the insurance agency or brokerage that owns the captive insurer if it is an agency captive insurer;

(8) Shall not insure any risks other than those of the policyholders or associations that have contracted with the rental captive insurer for the insurance of those risks if it is a rental captive insurer, and shall use a form approved by the Commissioner for such agreements;

(9) Shall not write insurance or reinsurance for employee benefits that are subject to the provisions of the Employee Retirement Income Security Act of 1974 for any entity except its parent and affiliated companies; and

(10) Shall not insure any risks other than those of its participants if it is a sponsored captive insurer.

Sec. 4. Same – application requirements.

(a) A captive insurer shall apply to the Commissioner for a certificate of authority. The application shall include:

(1) A certified copy of the charter and bylaws of the captive insurer;

(2) A pro forma financial statement for the captive insurer that has been prepared by a certified public accountant;

(3) Its business plan; and

(4) Any other statements or documents that the Commissioner requires to be filed with the application.

(b) A captive insurer shall include in its application for a certificate of authority evidence of:

(1) The amount of liquidity of its assets relative to the risks to be assumed by the captive insurer;

(2) The expertise, experience, and character of the persons who will manage the captive insurer;

(3) The overall soundness of the plan of operation of the captive insurer;

(4) The adequacy of the programs of the captive insurer providing for loss prevention by its parent or member organizations, as applicable;

(5) Minimum capital and surplus requirements as set forth in section 9(a) and (f); and

(6) Other information considered to be relevant by the Commissioner in ascertaining whether the proposed captive insurer will be able to meet its policy obligations.

(c) The application by a captive insurer for certificate of authority shall include a nonrefundable application fee of $500. The Commissioner may require the applicant to retain independent legal, financial, and examination services from outside the Department to review and make recommendations regarding the applicant's qualifications, and to submit those reports and recommendations to the Commissioner for his or her review. The cost of the services shall be paid by the applicant.

(d) If the Commissioner determines that the documents and statements filed by the captive insurer satisfy the requirements for a certificate of authority, the Commissioner shall issue the certificate of authority to the captive insurer. Each certificate of authority shall expire on the April 30th succeeding the date of its issuance.

(e) A captive insurer shall pay a fee of $300 for the issuance of a certificate of authority and an annual fee of $300 for the renewal of its certificate of authority.

(f) A captive insurer shall include its business plan with its application for the issuance and renewal of its certificate of authority. If a captive insurer makes any material change to the business plan, the captive insurer shall, as soon as practicable, file a copy of the updated business plan with the Commissioner.

Sec. 5. Same -- revocation or suspension.

The Commissioner may revoke or suspend the certificate of authority of a captive insurer which:

(1) Has failed or refused to comply with any provision of this act;

(2) Is impaired in capital or surplus;

(3) Is insolvent;

(4) Is determined, under the Standards to Identify Insurance Companies Deemed to be in Hazardous Financial Condition Act of 1993 to be in such condition that further transaction of business by the company will be hazardous to its policyholders, creditors, or the general public;

(5) Has failed or refused to submit a report or statement required by law or order of the Commissioner;

(6) Has failed or refused to comply with any provision of its charter or bylaws;

(7) Has used a method in transacting insurance business under this act which would be detrimental to the operation of the captive insurer or would make its condition

unsound with respect to its policyholders or the general public; or

(8) Has failed otherwise to comply with the law of the District or any state.

Sec. 6. Name.

A captive insurer shall not use or adopt a name that is the same as, deceptively similar to, or likely to be confused with or mistaken for any other existing business name in the District.

Sec. 7. Organizational requirements for transacting business; incorporation.

(a) A pure captive insurer, an agency captive insurer, sponsored captive insurer, or a rental captive insurer shall be incorporated as a stock insurer.

(b) An association captive insurer shall be formed as a:

(1) Stock insurer;

(2) Mutual insurer; or

(3) Reciprocal insurer, except that the attorney-in-fact of a reciprocal insurer shall be a corporation incorporated in the District.

(c) One or more sponsors may form a sponsored captive insurer under this act. A sponsored captive insurer formed or licensed under this act may establish and maintain one or more protected cells to insure the risks of one or more participants, subject to the following conditions:

(1) The shareholders of a sponsored captive insurance company shall be limited to its participants and sponsors.

(2) A protected cell shall be accounted for separately on the books and records of the sponsored captive insurer to reflect the financial condition and results of operations of the protected cell; the net income or loss, dividends, or other distributions to participants; and such other factors as may be provided by the participant contract or required by the Commissioner.

(3) The assets of a protected cell shall not be chargeable with liabilities arising out of any other insurance business which the sponsored captive insurer may conduct.

(4) A sale, exchange, or other transfer of assets shall not be made by a sponsored captive insurer between or among any of its protected cells without the written consent of the protected cells.

(5) A sale, exchange, transfer of assets, dividend, or distribution shall not be made from a protected cell to a sponsor or participant without the Commissioner's prior written approval. An approval shall not be given if the sale, exchange, transfer, dividend, or distribution would result in the insolvency or impairment of the protected cell.

(6) A sponsored captive insurance company shall annually file with the Commissioner such financial reports as the Commissioner shall require, which reports shall include accounting statements detailing the financial experience of each protected cell.

(7) A sponsored captive insurer shall notify the Commissioner within 10 business days if a protected cell is insolvent or otherwise unable to meet its claims or expense obligations.

(8) A participant contract shall not take effect without the Commissioner's prior written approval.

(9) The addition of a new protected cell and withdrawal of a participant of a existing protected cell shall constitute a change in the business plan requiring the Commissioner's prior written approval.

(d) A sponsor of a sponsored captive insurer shall be an insurer licensed under the law of any state or the District, a reinsurer authorized or approved under the laws of any state or the District, or a captive insurer formed or licensed under this act. A risk retention group shall not be a sponsor or a participant of a sponsored captive insurer.

(e) Associations, corporations, limited liability companies, partnerships, trusts, and other business entities may be a participant in a sponsored captive insurance company formed or licensed under this act.

(f) A sponsor may be a participant in a sponsored captive insurer.

(g) A participant need not be a shareholder of the sponsored captive insurer or its affiliate.

(h) A participant shall insure only its own risks through a sponsored captive insurer.

(i) A captive insurer shall not have less than 3 incorporators.

(j) The articles of incorporation of a captive insurer shall be effective when filed and approved by the Commissioner. In determining whether to grant such approval, the Commissioner shall consider:

(1) The character, reputation, financial standing, and purposes of the incorporators;

(2) The character, reputation, financial responsibility, experience relating to insurance, and business qualifications of the officers and directors of the captive insurer;

(3) The competence of any person who, under a contract with the captive insurer, will manage the affairs of the captive insurer;

(4) The competence, reputation, and experience of the legal counsel of the captive insurer relating to the regulation of insurance;

(5) If the captive insurer is a rental captive insurer, the competence, reputation, and experience of the underwriter of the captive insurer;

(6) The business plan of the insurer; and

(7) Such other aspects of the captive insurer as the Commissioner considers relevant.

(k) The capital stock of a captive insurer incorporated as a stock insurer shall be issued at not less than par value.

(l) To the extent not inconsistent with this act, a captive insurer formed under this act has the privileges of, and is subject to, the provisions of general corporation law set forth in the District of Columbia Business Corporation Act.

(m) The articles of association, articles of incorporation, charter, or bylaws of a captive

insurer shall require that a quorum of the board of directors consists of not less than 1/3 of the number of directors prescribed by the articles of association, articles of incorporation, charter, or bylaws.

Sec. 8. Requirements for transacting business.

(a) The board of directors of a captive insurer shall meet at least one time each year in the District. The captive insurer shall:

(1) Maintain its principal place of business in the District; and

(2) Appoint a person in the District of Columbia, as required by section 3 of the Insurers Service of Process Act of 1994 as the agent for service of process and otherwise act on behalf of the captive insurer in the District. If the registered agent cannot be located with reasonable diligence for the purpose of serving notice or demand on the captive insurer, the notice or demand may be served on the Commissioner, who shall be deemed to be the agent for the captive insurer.

(b) A captive insurer shall not transact business in the District unless:

(1) The captive insurer has made adequate arrangements with a bank which is located in the District and is authorized under District, state, or federal law to transfer money;

(2) If the captive insurer employs or has contracted with a natural person or business organization to manage the affairs of the captive insurer, the natural person or business organization meets the standards of competence and experience satisfactory to the Commissioner;

(3) The captive insurer employs or has entered into a contract with a qualified, experienced, certified public accountant or a firm of certified public accountants that is nationally recognized;

(4) The captive insurer employs or has contracted with qualified, experienced actuaries to perform reviews and evaluations of the operations of the captive insurer; and

(5) The captive insurer employs or has contracted with an attorney who is licensed to practice law in the District and who meets the standards of competence and experience in matters concerning the regulation of insurance in the District, as determined by the Commissioner.

Sec. 9. Minimum capital and surplus requirements.

(a) In addition to any other capital required to be maintained under subsection (c) of this section, a captive insurer shall at all times maintain a minimum unimpaired paid-in capital of:

(1) For a pure captive insurer, not less than $100,000;

(2) For an association captive insurer incorporated as a stock insurer, not less than $200,000; and

(3) For an agency captive insurer, a rental captive insurer, for a sponsored captive insurer, not less than $300,000.

(b) Except as otherwise provided by the Commissioner under subsection (c) of this section, the capital required to be maintained under subsection (a) of this section shall be in the form of cash or an irrevocable letter of credit.

(c) The Commissioner may require a captive insurer to maintain additional unimpaired paid-in capital based on the type, volume, and nature of the insurance business that is transacted by the captive insurer and may determine the amount of capital, if any, that shall be in the form of an irrevocable letter of credit.

(d) A letter of credit used by a captive insurer as evidence of capital required under subsection (a) of this section shall be:

(1) Issued by a bank chartered in the District, a bank that is a member of the United States Federal Reserve System, or a bank whose deposits are insured by the Federal Deposit Insurance;

(2) Issued on a form approved by the Commissioner; and

(3) Automatically renewed each year.

(e) The Commissioner may approve an ongoing plan for the payment of dividends or other distributions by a captive insurer if, at the time of the payment or distribution, the amount of capital retained by the captive insurer is in excess of the amount required by the Commissioner. The Commissioner shall prescribe by regulation:

(1) The specific amount that a captive insurer must have in excess capital for the approval of an ongoing plan for the payment of dividends or other distributions; or

(2) A formula under which the specific amount of required excess capital may be calculated.

(f) A captive insurer shall not be issued a certificate of authority, and shall not retain its certificate of authority, unless the captive insurer has and maintains, in addition to any other surplus required to be maintained under to subsection (h) of this section, an unencumbered surplus of:

(1) For a pure captive insurer, not less than $150,000;

(2) For an association captive insurer incorporated as a stock insurer, an agency captive insurer, a rental captive insurer, or a sponsored captive insurer, not less than $300,000; and

(3) For an association captive insurer incorporated as a mutual insurer or reciprocal insurer, not less than $500,000.

(g) Except as otherwise provided by the Commissioner under subsection (c) of this section, the surplus required to be maintained under subsection (f) of this section shall be in the form of cash or an irrevocable letter of credit.

(h) The Commissioner may prescribe additional requirements relating to surplus based on the type, volume, and nature of the insurance business that is transacted by the captive insurer and requirements regarding which surplus, if any, shall be in the form of an irrevocable letter of credit.

(i) A letter of credit used by a captive insurer as evidence of surplus required under this section shall be:

(1) Issued by a bank chartered in the District, a bank that is a member of the United States Federal Reserve System, or a bank whose deposits are insured by the Federal Deposit Insurance Corporation;

(2) Issued on a form approved by the Commissioner; and

(3) Automatically renewed each year.

(j) A branch captive insurer shall be required to establish and maintain a trust fund, funded by irrevocable letters of credit or other acceptable assets, in the United States for the benefit of United States policyholders and United States ceding insurers under insurance policies issued or reinsurance contracts issued or assumed, as security for the payment of liabilities attributable to the branch. The amount of the security shall be at least the capital and surplus required under this act and the reserves on such insurance policies or such reinsurance contracts, including reserves for losses, allocated loss adjustment expenses, and incurred but not reported losses and unearned premiums with regard to business written through branch operations; provided, that the Commissioner may permit a branch captive insurer that is required to post security for loss reserves on branch business by its reinsurer to reduce the funds in the trust account required by this subsection by the same amount as long as the security remains posted with the reinsurer. If the form of the security selected is a letter of credit, the letter of credit must be established by, or issued or confirmed by, a bank chartered in the District, a member bank of the Federal Reserve System, or a bank whose deposits are insured by the Federal Deposit Insurance Corporation.

(k) Except as otherwise provided in this section, a captive insurer shall pay dividends out of, or make any other distribution from, its capital or surplus, or both, in accordance with section 9(e). A captive insurer shall not pay dividends out of, or make any other distribution with respect to, its capital or surplus, or make any other distribution with respect to, its capital or surplus, or both, in violation of this section unless the captive insurer has obtained the prior written approval of the Commissioner to make the a payment or distribution.

Sec. 10. Annual report.

(a) Before March 2 of each year, a captive insurer shall submit to the Commissioner, on a form prescribed by the Commissioner by regulation, a report of its financial condition, as prepared by a certified public accountant. A captive insurer shall be prepared in accordance with generally accepted accounting principles, subject to any useful or necessary modifications or adaptations thereof that have been approved or accepted by the Commissioner for the type of insurance and the nature of insurers involved, and as supplemented by additional information required by the Commissioner.

(b) A pure captive insurer may apply, in writing, for authorization to file its annual report based on a fiscal year that is consistent with the fiscal year of the parent company of the

pure captive insurer. If an alternative date is approved, the captive insurer shall file:

(1) The annual report not later than 60 days after the end of the fiscal year; and

(2) Before March 2 of each year, such forms as are required by the Commissioner by regulation to provide sufficient detail to support its premium tax return filed under section 16.

Sec.11. Financial examination.

(a) Except as otherwise provided in this section, at least once every 3 years, and at such other times as the Commissioner determines to be necessary, the Commissioner, or his designee, shall visit each captive insurer and thoroughly inspect and examine the affairs of the captive insurer to ascertain:

(1) The financial condition of the captive insurer;

(2) The ability of the captive insurer to fulfill its obligations; and

(3) Whether the captive insurer has complied with this act and the regulations promulgated hereunder.

(b) Upon the application of a captive insurer, the Commissioner may conduct the visits required under subsection (a) of this section every 5 years if the captive insurer conducts annual audits:

(1) The scope of which are satisfactory to the Commissioner; and

(2) Which are conducted by an independent auditor approved by the Commissioner.

(c) The Commissioner may require a captive insurer to retain qualified independent legal, financial, and examination services from outside the Department to conduct the examination and make recommendations to the Commissioner. The cost of the examination shall be paid by the captive insurer.

(d) The Law on Examinations Act of 1993 shall apply to examinations conducted under this section.

Sec. 12. Investments.

(a) Except as otherwise provided in this section, an association captive insurer, an agency captive insurer, or a rental captive insurer shall comply with the requirements relating to investments set forth in section 18 of Chapter 2 of the Fire and Casualty Act. Upon request of the association captive insurer, agency captive insurer, or a rental captive insurer, the Commissioner may approve the use of reliable, alternative methods of valuation and rating of investments.

(b) A pure captive insurer shall file with the Commissioner its proposed investments. The Commissioner may disapprove the investments if he or she determines that the investments threaten the solvency or liquidity of the pure captive insurer. The Commissioner shall not unreasonably disapprove the investments.

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(c) A pure captive insurer may make a loan to its parent or affiliated company if the loan:

(1) Is first approved in writing by the Commissioner;

(2) Is evidenced by a note that is in a form that is approved by the Commissioner; and

(3) Does not include any money that has been set aside as capital or surplus as required by section 9(a) or (f).

Sec. 13. Reinsurance.

(a) A captive insurer may provide reinsurance on risks ceded by another insurer.

(b) A captive insurer may take credit for reserves on risks or portions of risks ceded to a reinsurer which is in compliance with the Law of Credit for Reinsurance Act of 1993 ("Law of Credit Act"). A captive insurer shall not take credit for reserves on risks or portions of risks ceded to a reinsurer if the reinsurer is not in compliance with the Law of Credit Act.

(c) For the purposes of this act, insurance provided by a captive insurer of any plan for workers' compensation of its parent and affiliated companies that 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.

Sec. 14. Rating organization.

A captive insurer shall not be required to join a rating organization.

Sec. 15. Insolvency.

(a) A captive insurer shall not join or contribute financially to a risk-sharing plan, risk pool, or insurance insolvency guaranty fund in the District. A captive insurer or its insured, its parent or an affiliated company, or a 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 insurer.

(b) The provisions of the Insurers Rehabilitation and Liquidation Act of 1993 pertaining to insurer rehabilitation, insolvency, and receiverships, shall apply to captive insurance companies formed under this act.

Sec. 16. Tax on premiums collected.

(a) Except as otherwise provided in this section, a captive insurer shall pay to the District, before February 2 of each year, a tax at the rate of:

(1) Two-fifths of one percent on the first $20 million of its net direct premiums;

(2) One-fifth of one percent on the next $20 million of its net direct premiums; and

(3) Seventy-five thousandths of one percent on each additional dollar of its net direct premiums.

(b)(1) Except as otherwise provided in this section, a captive insurer shall pay to the Mayor, before February 2 of each year, a tax at the rate of:

(A) Two hundred twenty-five thousandths of one percent on the first $20 million of revenue from assumed reinsurance premiums;

(B) One hundred fifty thousandths of one percent on the next $20 million of revenue from assumed reinsurance premiums; and

(C) Twenty-five thousandths of one percent on each additional dollar of revenue from assumed reinsurance premiums.

(2) The tax on reinsurance premiums under paragraph (1) of this subsection shall not be levied on premiums for risks or portions of risks which are subject to taxation on a direct basis under subsection (a) of this section. A captive insurer shall not pay reinsurance premium tax under paragraph (1) of this subsection on revenue related to the receipt of assets by the captive insurer in exchange for the assumption of loss reserves and other liabilities of another insurer that is under common ownership and control with the captive insurer if the transaction is part of a plan to discontinue the operation of the other insurer and the intent of the parties to the transaction is to renew or maintain the business with the captive insurer.

(c) Notwithstanding subsections (a) and (b) of this section, a captive insurer shall pay an annual minimum tax of $5,000.

(d) Two or more captive insurers under common ownership and control shall be taxed as if they were a single captive insurer.

(e) In the case of a branch captive insurer, the tax provided for in this section shall apply only to the branch business of the branch captive insurer.

(f) Notwithstanding any law and except as otherwise provided in this subsection, the tax under this section shall be the only tax imposed upon a captive insurer by the District, except for real property taxes under Chapter 8 of Title 47 of the District of Columbia Code and personal property taxes under Chapter 15 of Title 47 of the District of Columbia Code.

(g) Ten percent of the revenues collected from the tax imposed pursuant to this section shall be credited to the Captive Insurance Regulatory and Supervision Trust Fund Account created under section 17. The remaining 90% of the revenues collected shall be deposited in, and credited to, the General Fund.

Sec. 17. Captive Insurance Regulatory and Supervision Trust Account.

(a) There is hereby created a separate account within the Insurance Regulatory Trust created by section 3 of the Insurance Regulatory Trust Fund Act of 1993 for the purpose of providing the financial means for the Commissioner to administer this act and for reasonable expenses incurred in promoting the captive insurance industry in the District ("Captive Insurance Regulatory and Supervision Trust Account" or "Account"). Captive insurers conducting business in the District under this act shall be exempt from the assessments imposed on insurers and health maintenance organizations under section 4 of the Insurance Regulatory Trust Fund

Act of 1993. Except as otherwise provided in section 16(g), all fees and assessments received by the Commissioner or Department under the administration of this act shall be credited to the Account. Not more than 2% of the tax collected and deposited in the Account in accordance with section 16(g) may be used by the Commissioner to promote the industry of captive insurance in the District.

(b) Subject to the applicable law relating to the appropriation of District funds, all funds in the Captive Insurance Regulatory and Supervision Trust Fund Account shall be disbursed only upon approval by the Commissioner and the Mayor and, in a control year, the Chief Financial Officer.

(c) At the end of each fiscal year, any funds in the Captive Insurance Regulatory and Supervision Fund Account shall be applied against the budget for the ensuing year.

Sec. 18. Regulations

The Commissioner may promulgate rules and regulations relating to captive insurance companies as are necessary to carry out this act.

Sec. 19. Laws applicable

Except as provided in this act, no other law relating to the insurance industry shall apply to captive insurers.

Sec. 20. Fiscal impact statement.

The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule, approved December 24, 1973 (87 Stat. 813; D.C. Code § 1-233(c)(3)).

Sec. 21. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), approval by the Financial Responsibility and Management Assistance Authority as provided in section 203 (a) of the District of Columbia Financial Responsibility and Management Assistance Act of 1995, approved April 17, 1995 (109 Stat. 116; D.C. Code § 47-392.3(a)), a 30-day period of Congressional review as provided in

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section 602 (c)(1) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Code § 1-233(c)(1)), and publication in the District of Columbia Register.

Linda W. Cropp

Chairman
Council of the District of Columbia

Anthony A. Williams

Mayor
District of Columbia
APPROVED: August 4, 2000