

HOUSE BILL NO. 6100

November 13, 2024, Introduced by Reps. Scott, Brenda Carter, Young, Tsernoglou, Pohutsky, McFall, O'Neal, Tyrone Carter, Neeley, Morgan, Dievendorf, McKinney, Fitzgerald and Brabec and referred to the Committee on Insurance and Financial Services.

A bill to amend 1956 PA 218, entitled
"The insurance code of 1956,"
by amending section 4601 (MCL 500.4601), as amended by 2016 PA 276.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 4601. As used in this chapter:

2 (a) "Affiliated company" means a company in the same corporate
3 system as a parent, an industrial insured, or a member organization
4 by virtue of common ownership, control, operation, or management.

5 (b) "Alien captive insurance company" means an insurer formed
6 to write insurance business for its parents and affiliates and
7 licensed pursuant to the laws of a country other than the United

1 States or a state, district, commonwealth, territory, or possession
2 of the United States.

3 (c) "Association" means a legal group of individuals,
4 corporations, limited liability companies, partnerships, political
5 subdivisions, or groups that has been in continuous existence for
6 at least 1 year and the member organizations of which collectively,
7 or that does itself, own, control, or hold, with power to vote, all
8 of the outstanding voting securities of an association captive
9 insurance company incorporated as a stock insurer or organized as a
10 limited liability company; or has complete voting control over an
11 association captive insurance company organized as a mutual
12 insurer.

13 (d) "Association captive insurance company" means a company
14 that insures risks of the member organizations of the association
15 and their affiliated companies.

16 (e) "Branch business" means any insurance business transacted
17 by a branch captive insurance company in this state.

18 (f) "Branch captive insurance company" means an alien captive
19 insurance company authorized by the director to transact the
20 business of insurance in this state through a business unit with a
21 principal place of business in this state.

22 (g) "Branch operations" means any business operations of a
23 branch captive insurance company in this state.

24 (h) "Captive insurance company" means a pure captive insurance
25 company, association captive insurance company, sponsored captive
26 insurance company, special purpose captive insurance company, or
27 industrial insured captive insurance company authorized under this
28 chapter. For purposes of this chapter, a branch captive insurance
29 company must be a pure captive insurance company with respect to

1 operations in this state, unless otherwise permitted by the
2 director.

3 (i) "Control", including the terms "controlling", "controlled
4 by", and "under common control with", means the possession, direct
5 or indirect, of the power to direct or cause the direction of the
6 management and policies of a person, whether through the ownership
7 of voting securities, by contract other than a commercial contract
8 for goods or nonmanagement services, or otherwise, unless the power
9 is the result of an official position with or corporate office held
10 by the person. Control is presumed to exist if a person, directly
11 or indirectly, owns, controls, holds with the power to vote, or
12 holds proxies representing 10% or more of the voting securities of
13 another person. A showing that control does not exist may rebut
14 this presumption.

15 (j) "Controlled unaffiliated business" means a company to
16 which all of the following apply:

17 (i) The company is not in the corporate system of a parent and
18 affiliated companies.

19 (ii) The company has an existing contractual relationship with
20 a parent or affiliated company.

21 (iii) The company has risks managed by a captive insurance
22 company in accordance with this chapter.

23 (k) "Foreign captive insurer" means an insurer formed under
24 the laws of the District of Columbia, or a state, commonwealth,
25 territory, or possession of the United States other than this
26 state.

27 (l) "GAAP" means generally accepted accounting principles.

28 (m) "Industrial insured" means an insured to which all of the
29 following apply:

1 (i) The insured procures insurance by use of the services of a
2 full-time employee acting as a risk manager or insurance manager or
3 utilizing the services of a regularly and continuously qualified
4 insurance consultant.

5 (ii) The insured's aggregate annual premiums for insurance on
6 all risks total at least \$25,000.00.

7 (iii) The insured has at least 25 full-time employees.

8 (n) "Industrial insured captive insurance company" means a
9 company that insures risks of the industrial insureds that comprise
10 the industrial insured group and their affiliated companies.

11 (o) "Industrial insured group" means a group that meets either
12 of the following criteria:

13 (i) The group is a group of industrial insureds that
14 collectively own, control, or hold, with power to vote, all of the
15 outstanding voting securities of an industrial insured captive
16 insurance company incorporated as a stock insurer or limited
17 liability company or have complete voting control over an
18 industrial insured captive insurance company incorporated as a
19 mutual insurer.

20 (ii) The group is a group created under the liability risk
21 retention act of 1986, 15 USC 3901 to 3906, and chapter 18, as a
22 corporation or other limited liability association taxable as a
23 stock insurance company or a mutual insurer under this chapter.

24 (p) "Irrevocable letter of credit" means a letter of credit
25 that meets the description in section 1105(c).

26 (q) "Member organization" means an individual, corporation,
27 limited liability company, partnership, or association that belongs
28 to an association.

29 (r) "Office" means the department.

1 (s) "Organizational document" means the articles of
2 incorporation, articles of organization, bylaws, operating
3 agreement, or other foundational documents that create a legal
4 entity or prescribe its existence.

5 (t) "Parent" means a corporation, limited liability company,
6 partnership, or individual that directly or indirectly owns,
7 controls, or holds with power to vote more than 50% of the
8 outstanding voting interests of a company.

9 (u) "Participant" means an entity **or entities** as described in
10 section 4667, and any affiliates, ~~of the entity,~~ that are insured
11 by a sponsored captive insurance company, if the recovery of the
12 ~~participant~~ **participants** is limited through a participant contract
13 to the assets of a protected cell.

14 (v) "Participant contract" means a contract by which a
15 sponsored captive insurance company insures the risks of a
16 ~~participant~~ **participants** and limits the recovery of the ~~participant~~
17 **participants** to the assets of a protected cell.

18 (w) "Protected cell" means a segregated account established
19 and maintained by a sponsored captive insurance company for 1
20 participant.

21 (x) "Pure captive insurance company" means a company that
22 insures risks of its parent, affiliated companies, controlled
23 unaffiliated businesses, or a combination of its parent, affiliated
24 companies, and controlled unaffiliated businesses.

25 (y) "Qualified United States financial institution" means that
26 term as defined in section 1101.

27 (z) "Safe, reliable, and entitled to public confidence" means
28 that term as defined in section 116.

29 (aa) "Special purpose captive insurance company" means a

1 captive insurance company that is authorized under this chapter and
2 chapter 47 that does not meet the definition of any other type of
3 captive insurance company defined in this section.

4 (bb) "Sponsor" means ~~an~~**any** entity that meets the requirements
5 of section 4665 and is approved by the director to provide all or
6 part of the capital and retained earnings required by applicable
7 law and to organize and operate a sponsored captive insurance
8 company.

9 (cc) "Sponsored captive insurance company" means a captive
10 insurance company in which the minimum capital and retained
11 earnings required by applicable law is provided by 1 or more
12 sponsors, that is authorized under this chapter, that insures the
13 risks of separate participants through the participant contract,
14 and that segregates each participant's liability through 1 or more
15 protected cells.

16 (dd) "Surplus" means unassigned funds for an entity using
17 statutory accounting principles, with capital and surplus including
18 all capital stock, paid in capital and contributed surplus, and
19 other surplus funds with corresponding items under GAAP consisting
20 of retained earnings and accumulated other comprehensive income,
21 with capital and retained earnings including all capital stock,
22 additional paid in capital, and other equity funds.

23 (ee) "Treasury rates" means the United States treasury strips
24 asked yield as published in the Wall Street Journal as of a balance
25 sheet date.

26 (ff) "Voting security" includes any security convertible into
27 or evidencing the right to acquire a voting security.