

THE INSURANCE CODE OF 1956 (EXCERPT)
Act 218 of 1956

500.4601 Definitions.

Sec. 4601. As used in this chapter:

(a) "Affiliated company" means a 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.

(b) "Alien captive insurance company" means an insurer formed to write insurance business for its parents and affiliates and licensed pursuant to the laws of a country other than the United States or a state, district, commonwealth, territory, or possession of the United States.

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

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

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

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

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

(h) "Captive insurance company" means a pure captive insurance company, association captive insurance company, sponsored captive insurance company, special purpose captive insurance company, or industrial insured captive insurance company authorized under this chapter. For purposes of this chapter, a branch captive insurance company must be a pure captive insurance company with respect to operations in this state, unless otherwise permitted by the director.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

mutual insurer under this chapter.

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

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

(r) "Office" means the department.

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

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

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

(v) "Participant contract" means a contract by which a sponsored captive insurance company insures the risks of a participant and limits the recovery of the participant to the assets of a protected cell.

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

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

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

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

(aa) "Special purpose captive insurance company" means a captive insurance company that is authorized under this chapter and chapter 47 that does not meet the definition of any other type of captive insurance company defined in this section.

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

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

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

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

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

History: Add. 2008, Act 29, Imd. Eff. Mar. 13, 2008;—Am. 2016, Act 276, Imd. Eff. July 1, 2016.

Compiler's note: For references to office of financial and insurance regulation to be deemed as department of insurance and financial services, and abolishment of office of financial and insurance regulation, see E.R.O. No. 2013-1, compiled at MCL 550.991.

For references to commissioner of office of financial and insurance regulation to be deemed as references to director of department of insurance and financial services, and abolishment of office of commissioner of office of financial and insurance regulation, see E.R.O. No. 2013-1, compiled at MCL 550.991.

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