

Senate File 549 - Reprinted

SENATE FILE 549

BY COMMITTEE ON WAYS AND MEANS

(SUCCESSOR TO SF 509)

(SUCCESSOR TO SF 424)

(As Amended and Passed by the Senate March 14, 2023)

A BILL FOR

1 An Act relating to captive insurance companies, and including
2 applicability provisions.

3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. NEW SECTION. 432.1A Tax on premiums — captive
2 insurance companies.

3 1. a. Each captive company under chapter 521J shall pay
4 on or before March 1 of each year a tax on the direct premiums
5 collected or contracted for on policies or contracts of
6 insurance written by the captive company during the immediately
7 preceding calendar year, after deducting from the direct
8 premiums the amounts paid to policyholders as return premiums,
9 including dividends on unabsorbed premiums or premium deposits
10 returned or credited to policyholders.

11 b. The tax due under paragraph "a" on direct premiums
12 collected or contracted for by a captive company shall be
13 calculated as follows:

14 (1) Seven-twentieths of one percent on the first twenty
15 million dollars of direct premiums.

16 (2) One-quarter of one percent on each dollar of direct
17 premiums after the first twenty million dollars collected under
18 subparagraph (1).

19 2. a. Each captive company under chapter 521J shall pay
20 on or before March 1 of each year a tax on assumed reinsurance
21 premiums. A reinsurance tax shall not apply to premiums for
22 risks or portions of risks that are subject to taxation on a
23 direct basis pursuant to subsection 1.

24 b. A reinsurance premium tax shall not be payable by a
25 captive company in connection with the receipt by the captive
26 company of assets in exchange for the assumption of loss
27 reserves and other liabilities of another insurer under common
28 ownership and control if the transaction is part of a plan
29 to discontinue the operations of the other insurer, and if
30 the intent of the parties to the transaction is to renew or
31 maintain the other insurer's business with the captive company.

32 c. The amount of reinsurance tax due from a captive company
33 under paragraph "a" shall be calculated as follows:

34 (1) Two-tenths of one percent on the first twenty million
35 dollars of assumed reinsurance premiums.

1 (2) One-eighth of one percent on the twenty million
2 dollars of assumed reinsurance premiums collected after the
3 first twenty million dollars of assumed reinsurance premiums
4 collected under subparagraph (1).

5 (3) Five percent on each dollar of assumed reinsurance
6 premiums collected after the twenty millions dollars collected
7 under subparagraph (1) and the twenty million dollars collected
8 under subparagraph (2).

9 3. a. (1) Except as provided in subparagraphs (2) and
10 (3), if the aggregate taxes as calculated under subsections
11 1 and 2 that are payable by a captive company are less than
12 five thousand dollars for any one tax year, the captive company
13 shall pay five thousand dollars in tax for that tax year.

14 (2) If a captive company is subject to the minimum tax under
15 subparagraph (1) in the calendar year in which the company is
16 first granted a certificate of authority under section 521J.2,
17 the tax shall be prorated as follows:

18 (a) If a certificate of authority is first granted in the
19 first quarter of the calendar year, the tax shall be five
20 thousand dollars.

21 (b) If a certificate of authority is first granted in the
22 second quarter of the calendar year, the tax shall be three
23 thousand seven hundred fifty dollars.

24 (c) If a certificate of authority is first granted in
25 the third quarter of the calendar year, the tax shall be two
26 thousand five hundred dollars.

27 (d) If a certificate of authority is first granted in the
28 fourth quarter of the calendar year, the tax shall be one
29 thousand five hundred dollars.

30 (3) If a captive company that is subject to the minimum tax
31 under subparagraph (1) surrenders the company's certificate of
32 authority in the year that the captive company is subject to
33 the minimum tax, the tax shall be prorated on a quarterly basis
34 as follows:

35 (a) If the certificate of authority is surrendered in

1 the first quarter of the calendar year, the tax shall be one
2 thousand dollars.

3 (b) If the certificate of authority is surrendered in the
4 second quarter of the calendar year, the tax shall be two
5 thousand five hundred dollars.

6 (c) If the certificate of authority is surrendered in the
7 third quarter of the calendar year, the tax shall be three
8 thousand seven hundred fifty dollars.

9 (d) If the certificate of authority is surrendered in the
10 fourth quarter of the calendar year, the tax shall be five
11 thousand dollars.

12 b. Each protected cell in a protected cell captive company
13 shall be considered separately in determining the aggregate
14 tax to be paid by the protected cell captive company. If the
15 protected cell captive company insures any risks in addition
16 to the protected cells, the determination of the aggregate tax
17 shall, in addition to the protected cells, also include the
18 premium on all insured risks.

19 c. Each series of members of a limited liability company
20 formed as a special purpose captive company shall be considered
21 separately under this section, except that the minimum tax as
22 described in paragraph "a" shall be considered in the aggregate.

23 4. Under this section, a captive company, other than a
24 protected cell captive company, shall not be required to pay
25 aggregate taxes that exceed one hundred thousand dollars in any
26 one tax year.

27 5. Two or more captive companies under common ownership
28 and control shall be taxed as a single captive company. For
29 the purposes of this subsection, "*common ownership and control*"
30 means either of the following:

31 a. In the case of a stock corporation, the direct or
32 indirect ownership of eighty percent or more of the outstanding
33 voting stock of two or more corporations by the same
34 shareholder or shareholders.

35 b. In the case of a mutual insurer, the direct or indirect

1 ownership of eighty percent or more of the surplus, and the
2 voting power of two or more insurers, by the same member or
3 members.

4 6. Only the branch business of a branch captive company
5 shall be subject to taxation under this section.

6 7. The tax provided for in this section shall be calculated
7 on an annual basis notwithstanding a policy or a contract
8 of insurance, or a contract of reinsurance, that is issued
9 on a multiyear basis. In the case of a multiyear policy or
10 a multiyear contract, the premium shall be prorated for the
11 purpose of calculating the appropriate tax.

12 Sec. 2. Section 507C.3, Code 2023, is amended by adding the
13 following new subsection:

14 NEW SUBSECTION. 8. Captive companies under chapter 521J.

15 Sec. 3. NEW SECTION. 521J.1 **Definitions.**

16 As used in this chapter, unless the context otherwise
17 requires:

18 1. "*Affiliated company*" means a company that is in the
19 same corporate system as a parent, an industrial insured, or
20 a member based on common ownership, control, operation, or
21 management.

22 2. "*Association*" means a legal entity comprised of sole
23 proprietorships or of business entities that has been in
24 continuous existence for a minimum of one consecutive year,
25 unless the one-year requirement is waived by the commissioner,
26 and all of the members collectively, or the legal entity
27 itself, meets either of the following requirements:

28 a. Owns, controls, or holds with power to vote all of
29 the outstanding voting securities of an association captive
30 company incorporated as a stock insurer; or has complete voting
31 control over an association captive company incorporated as a
32 mutual insurer; or constitutes all of the subscribers of an
33 association captive company formed as a reciprocal insurer.

34 b. Owns, controls, or holds with power to vote all of the
35 outstanding ownership interests of an association captive

1 company organized as a limited liability company.

2 3. "*Association captive company*" means an insurance company
3 that insures risks of the association's members and the risks
4 of the association's affiliated companies of members.

5 4. "*Branch business*" means any insurance business transacted
6 by a branch captive company in this state.

7 5. "*Branch captive company*" means a foreign captive company
8 authorized by the commissioner by rule to transact the business
9 of insurance in this state through a business entity with a
10 principal place of business in this state.

11 6. "*Branch operations*" means any business operations of a
12 branch captive company.

13 7. "*Business entity*" means a corporation, a limited
14 liability company, or other legal entity formed by an
15 organizational document. "*Business entity*" does not include a
16 sole proprietor.

17 8. "*Captive company*" means any pure insurance company,
18 association captive company, protected cell captive company,
19 special purpose captive company, or industrial insured captive
20 company formed or authorized under this chapter.

21 9. "*Captive reinsurance company*" means a captive insurance
22 company in this state, as authorized by the commissioner by
23 rule, that reinsures the risk ceded by any other insurer.

24 10. "*Captive risk retention group*" means a captive insurance
25 risk retention group formed under this chapter and that is
26 subject to chapter 515E.

27 11. "*Cash equivalent*" means any short-term, highly liquid
28 investment with an original maturity of three months or less
29 that is all of the following:

30 a. Readily convertible to known amounts of cash.

31 b. Close enough to maturity that the investment presents
32 insignificant risk of change in value if interest rates
33 fluctuate.

34 12. "*Commissioner*" means the commissioner of insurance.

35 13. "*Controlled unaffiliated business entity*" means a

1 business entity or sole proprietorship that meets all of the
2 following requirements:

3 *a.* The business entity or sole proprietorship is not in a
4 parent's corporate system that consists of the parent and any
5 affiliated companies.

6 *b.* The business entity or sole proprietorship has an
7 existing, controlling contractual relationship with the parent
8 or an affiliated company.

9 *c.* The business entity's or sole proprietorship's risks are
10 managed by a pure captive insurance company.

11 14. "*Excess workers' compensation insurance*" means, for
12 an employer that has insured or self-insured the employer's
13 workers' compensation risks in accordance with applicable state
14 or federal law, insurance in excess of a specified per-incident
15 or aggregate limit as established by the commissioner by rule.

16 15. "*Foreign captive company*" means a captive insurance
17 company formed under the laws of a jurisdiction other than this
18 state.

19 16. "*Industrial insured*" means an insured that meets all of
20 the following requirements:

21 *a.* The insured procures the insurance of any risk by use
22 of the services of a full-time employee acting as an insurance
23 manager or buyer.

24 *b.* The insured's aggregate annual premiums for insurance on
25 all risks are at least twenty-five thousand dollars.

26 *c.* The insured employs a minimum of twenty-five full-time
27 employees.

28 17. "*Industrial insured captive company*" means an insurance
29 company that insures the risks of the industrial insureds that
30 is comprised of the industrial insured group and the industrial
31 insured group's affiliated companies.

32 18. "*Industrial insured group*" means a group that meets
33 either of the following requirements:

34 *a.* The group collectively owns, controls, or holds with
35 the power to vote all of the outstanding voting securities of

1 an industrial insured captive company incorporated as a stock
2 insurer; or has complete voting control over an industrial
3 insured captive company incorporated as a mutual insurer.

4 *b.* The group is a captive risk retention group.

5 19. "*Member*" means a sole proprietorship or a business
6 entity that belongs to an association.

7 20. "*Mutual insurer*" means a business entity that does not
8 have capital stock, and that has a governing body elected by
9 the insurer's policyholders.

10 21. "*Organizational document*" means articles of
11 incorporation, articles of organization, a subscribers'
12 agreement, a charter, or any other document that can legally
13 establish a business entity in this state.

14 22. "*Parent*" means a sole proprietorship, a business entity,
15 or an individual that directly or indirectly owns, controls,
16 or holds with power to vote more than fifty percent of the
17 outstanding voting securities of a captive company.

18 23. "*Participant*" means a sole proprietorship or a business
19 entity and any affiliates that are insured by a protected cell
20 captive company and whose losses are limited by a participant
21 contract.

22 24. "*Participant contract*" means a contract by which
23 a protected cell captive company insures the risks of a
24 participant and limits the losses of each participant in the
25 contract to the participant's share of the assets of one or
26 more protected cells as identified in the participant contract.

27 25. "*Protected cell*" means a separate account established
28 by a protected cell captive company formed or authorized
29 under this chapter, in which an identified pool of assets
30 and liabilities are segregated and insulated, as provided in
31 section 521J.17, from the remainder of the protected cell
32 captive company's assets and liabilities in accordance with
33 the terms of one or more participant contracts to fund the
34 liability of the protected cell captive company with respect to
35 the participants.

1 26. "*Protected cell assets*" means all assets, contract
2 rights, and general intangibles identified and attributable to
3 a specific protected cell of a protected cell captive company.

4 27. "*Protected cell captive company*" means a captive company
5 that meets all of the following requirements:

6 a. The minimum legally required capital and surplus of the
7 company is provided by one or more sponsors.

8 b. The company is formed or authorized under this chapter.

9 c. The company insures the risks of separate participants
10 through participant contracts.

11 d. The company funds the company's liability to each
12 participant through one or more protected cells, and segregates
13 the assets of each protected cell from the assets of other
14 protected cells, and from the assets of the protected cell
15 captive company's general account.

16 e. The company is incorporated or formed as a limited
17 liability company.

18 28. "*Protected cell liabilities*" means all liabilities
19 and other obligations identified with and attributable to a
20 specific protected cell of a protected cell captive company.

21 29. "*Public records*" means the same as defined in section
22 22.1.

23 30. "*Pure captive company*" means an insurance company that
24 insures the risks of the company's parent and the parent's
25 affiliated companies, and the risks of controlled unaffiliated
26 business entities.

27 31. "*Series of members*" means a group or collection of
28 members of a limited liability company who share interests
29 and who have separate rights, powers, or duties with respect
30 to property, obligations, or profits and losses associated
31 with property or obligations and who are specified in the
32 articles of organization or operating agreement of the limited
33 liability company, or that are specified by one or more members
34 or managers of the limited liability company or other persons
35 as provided in the articles of organization or operating

1 agreement.

2 32. "*Sole proprietorship*" means an individual who does
3 business in a noncorporate form.

4 33. "*Special purpose captive company*" means a captive
5 company that is formed or authorized under this chapter that
6 does not meet the definition of any other type of captive
7 company as defined in this section, or that is formed by, on
8 behalf of, or for the benefit of a political subdivision of
9 this state.

10 34. "*Sponsor*" means an entity that meets the requirements
11 of sections 521J.17 and 521J.18, and that is approved by the
12 commissioner to do all of the following:

13 a. Provide all or part of the capital and surplus required
14 of a protected cell captive company by applicable law.

15 b. Organize and operate a protected cell captive company.

16 Sec. 4. NEW SECTION. 521J.2 **Certificate of authority.**

17 1. If permitted by its organizational document, a captive
18 company may apply to the commissioner for a certificate of
19 authority to provide property insurance, casualty insurance,
20 life insurance, disability income insurance, surety insurance,
21 marine insurance, health insurance, or a group health plan,
22 with the following exceptions:

23 a. A pure captive company shall not insure any risks other
24 than those of the company's parent and affiliated companies,
25 and of the company's controlled unaffiliated business entities.

26 b. An industrial insured captive company shall only insure
27 risks of the industrial insured company, comprised of the
28 industrial insured group and the industrial insured group's
29 affiliated companies.

30 c. An association captive company shall not insure any risks
31 other than those of the members or affiliated companies of
32 members.

33 d. A special purpose captive company shall not provide
34 insurance or reinsurance for risks unless approved by the
35 commissioner.

1 e. A captive company or a branch captive company shall not
2 do any of the following:

3 (1) Provide personal lines of insurance, including but not
4 limited to motor vehicle insurance, homeowner's insurance,
5 or any component of motor vehicle insurance or homeowner's
6 insurance.

7 (2) Accept or cede reinsurance except as established by the
8 commissioner by rule.

9 (3) Provide health insurance coverage or a group health
10 plan unless the captive company or the branch captive company
11 is providing the health insurance coverage or the group health
12 plan only for the parent company and the parent company's
13 affiliated companies.

14 (4) Write workers' compensation insurance on a direct
15 basis.

16 f. A protected cell captive company shall not insure any
17 risks other than those of the protected cell captive company's
18 participants.

19 2. A captive company shall not write any insurance business
20 unless the captive company complies with all of the following:

21 a. The captive company first obtains a certificate of
22 authority from the commissioner.

23 b. The captive company's board of directors, board of
24 managing members, or a reciprocal insurer's subscribers'
25 advisory committee holds at least one annual meeting in this
26 state.

27 c. The captive company maintains its principal place of
28 business in this state.

29 d. The captive company designates a registered agent
30 to accept service of process, files the name and contact
31 information and any subsequent changes regarding the
32 registered agent with the commissioner, and agrees that if the
33 registered agent cannot be found with reasonable diligence,
34 the commissioner may act as an agent of the captive company
35 with respect to any action or proceeding and may be served in

1 accordance with section 505.30.

2 3. *a.* Prior to receiving a certificate of authority, a
3 captive company formed as a business entity shall do all of the
4 following:

5 (1) File with the commissioner a certified copy of the
6 business entity's organizational documents, a statement under
7 oath of an officer of the business entity showing the business
8 entity's financial condition, and any other statement or
9 document required by the commissioner as established by rule.

10 (2) Submit a description of coverages, deductibles,
11 coverage limits, and rates to the commissioner for approval.

12 (3) Provide a statement to the commissioner that describes
13 all of the following:

14 (a) The character, reputation, and financial standing of
15 the organizers of the business entity.

16 (b) The character, reputation, financial responsibility,
17 insurance experience, and business qualifications of all
18 officers, directors, and managing members of the business
19 entity.

20 (c) Any other information required by the commissioner as
21 established by rule.

22 *b.* If there is a subsequent material change in the
23 information provided to the commissioner under paragraph
24 "*a*", the captive company shall submit appropriate supporting
25 documentation to the commissioner for approval. The captive
26 company shall not offer any additional lines of insurance until
27 on or after the date on which the commissioner approves the
28 supporting documentation. The captive company shall inform the
29 commissioner of any change in rates within thirty calendar days
30 of the captive company's adoption of a change in rate.

31 *c.* In addition to the information required under paragraphs
32 "*a*" and "*b*", each applicant captive company shall file with the
33 commissioner evidence of all of the following:

34 (1) The amount and liquidity of the captive company's assets
35 relative to the risks to be assumed by the captive company.

1 (2) The adequacy of the expertise, experience, and
2 character of the persons who will manage the captive company.

3 (3) The overall soundness of the captive company's plan of
4 operation.

5 (4) The adequacy of the loss prevention program of the
6 captive company's parent, members, or industrial insureds, as
7 applicable.

8 (5) Any other factors deemed relevant as established by
9 the commissioner by rule to ascertain if the proposed captive
10 company will be able to meet the company's policy obligations.

11 d. In addition to the information required under paragraph
12 "a", each applicant that is a protected cell captive company
13 shall file with the commissioner all of the following:

14 (1) A business plan that demonstrates at a level of detail
15 deemed sufficient by the commissioner how the applicant will
16 account for the loss and expense experience of each protected
17 cell, and how the applicant will report the loss and expense
18 experience to the commissioner.

19 (2) A statement that acknowledges that all financial
20 records of the protected cell captive company, including
21 records pertaining to any protected cells, shall be made
22 available, upon request, for inspection or examination by the
23 commissioner or the commissioner's designated agent.

24 (3) A copy of each participant contract.

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

27 e. In addition to the requirements of paragraph "a", a
28 captive company formed as a reciprocal insurer shall file with
29 the commissioner a certified copy of the power of attorney of
30 the reciprocal insurer's attorney-in-fact, a certified copy of
31 the reciprocal insurer's subscribers' agreement, a statement
32 under oath of the reciprocal insurer's attorney-in-fact that
33 shows the reciprocal insurer's financial condition, and any
34 other statements or documents required by the commissioner as
35 established by rule.

1 *f.* All documents and information submitted pursuant to this
2 subsection shall be confidential and shall not be made public
3 without the advance written consent of the submitting company,
4 with the following exceptions:

5 (1) The documents and information shall be discoverable by
6 a party in a civil action or in a contested case to which the
7 captive company that submitted the information is a party upon
8 a showing by the party seeking to discover the information that
9 the information sought is relevant to, and necessary for, the
10 furtherance of the action or case; the information sought is
11 unavailable from other nonconfidential sources; and a subpoena
12 issued by a judicial or an administrative officer has been
13 submitted to the commissioner.

14 (2) The commissioner may, in the commissioner's discretion,
15 disclose the documents and information to a public official
16 having jurisdiction over the regulation of insurance in another
17 state, or to a public official of the federal government,
18 provided that the public official agrees in writing to maintain
19 the confidentiality of the information, and that the laws of
20 the state in which the public official serves require that the
21 information remain confidential.

22 4. *a.* Each captive company, individual series of members
23 of a limited liability company, and protected cell shall pay
24 to the commissioner a nonrefundable fee of two hundred dollars
25 for the examination, investigation, and processing of its
26 application for a certificate of authority. The commissioner
27 shall be authorized to retain legal, financial, and examination
28 services from outside the department as necessary for review of
29 the application, the reasonable cost of which may be charged
30 to the applicant.

31 *b.* (1) Chapter 507 shall apply to examinations conducted
32 under this chapter.

33 (2) Each captive insurance company, each individual series
34 of members of a limited liability company, and each protected
35 cell shall pay an initial registration fee, and an annual

1 renewal registration fee, of three hundred dollars.

2 5. If the commissioner is satisfied with the documents
3 and statements that an applicant captive company has filed in
4 compliance with this chapter, and the applicable provisions of
5 Title XII, subtitle 1, the commissioner may grant a certificate
6 of authority to the captive company that permits the company to
7 do the business of insurance in this state. The certificate of
8 authority may be renewed if the applicant is in compliance with
9 this chapter and the certificate must be renewed annually.

10 Sec. 5. NEW SECTION. 521J.3 **Captive companies — names.**

11 A captive company shall not adopt a name that is the same,
12 deceptively similar, or likely to be confused with or mistaken
13 for any other existing business name already registered in this
14 state.

15 Sec. 6. NEW SECTION. 521J.4 **Minimum capital and surplus**
16 **requirements.**

17 1. The commissioner shall not issue a certificate of
18 authority to a captive company unless the captive company
19 possesses and maintains unimpaired paid-in capital and surplus
20 that meets the following requirements:

21 a. Is not less than two hundred fifty thousand dollars for
22 a pure captive company.

23 b. Is not less than five hundred thousand dollars for an
24 industrial insured captive company, including a captive risk
25 retention group.

26 c. Is not less than five hundred thousand dollars for an
27 association captive company.

28 d. Is an amount as determined by the commissioner after
29 giving due consideration to the company's business plan,
30 feasibility study, and pro forma documents, including the
31 nature of the risks to be insured, for a special purpose
32 captive company.

33 e. Is not less than five hundred thousand dollars for a
34 protected cell captive company. If, however, the protected
35 cell captive company does not assume any risks, the risks

1 insured by the protected cells are homogenous, and if there are
2 not more than ten cells, the commissioner may reduce the amount
3 to an amount not less than two hundred fifty thousand dollars.

4 *f.* Is not less than the applicable amount of capital and
5 surplus required in paragraphs "a" through "e", as determined
6 based upon the organizational form of the foreign captive
7 company, for a branch captive company. The minimum capital
8 and surplus shall be jointly held by the commissioner and the
9 branch captive company in a bank of the federal reserve system
10 as approved by the commissioner by rule.

11 *g.* Is not less than fifty percent of the capital required
12 for that type of captive company for a captive reinsurance
13 company.

14 2. The commissioner may require additional capital and
15 surplus for a captive company under subsection 1 based upon the
16 type, volume, and nature of the insurance business transacted
17 by the captive company.

18 3. The capital and surplus required under subsection 1 and
19 subsection 2, if applicable, shall be in the form of cash,
20 cash equivalent, or an irrevocable letter of credit on a form
21 as prescribed by the commissioner by rule and as issued by
22 a bank chartered by the state of Iowa, a member bank of the
23 federal reserve system, or a bank chartered by another state if
24 approved by the commissioner.

25 **Sec. 7. NEW SECTION. 521J.5 Captive companies — formation.**

26 1. A captive company must be formed or organized as a
27 business entity as provided under this chapter.

28 2. An association captive company, or an industrial insured
29 captive company, shall be formed or organized in one of the
30 following ways:

31 *a.* Incorporated as a stock insurer with the stock insurer's
32 capital divided into shares and held by the stockholders.

33 *b.* Incorporated as a mutual insurer without capital stock,
34 the governing body of which is elected by the members of the
35 mutual insurer's association or associations.

1 *c.* Organized as a reciprocal insurer as permitted by the
2 commissioner by rule.

3 *d.* Organized as a manager-managed limited liability company.

4 3. A captive company incorporated or organized in this state
5 shall be incorporated or organized by at least one incorporator
6 or organizer who is a resident of this state.

7 4. The capital stock of a captive company incorporated as a
8 stock insurer may be authorized with no par value.

9 5. *a.* At least one of the members of the board of directors
10 of a captive company shall be a resident of this state. A
11 captive risk retention group shall have a minimum of five
12 directors.

13 *b.* A captive company formed as a limited liability company
14 shall have at least one manager who is a resident of the state.
15 A captive risk retention group formed as a limited liability
16 company shall not be required to have a manager who is a
17 resident of this state; however, the company shall maintain a
18 board of directors of which at least one board member shall be
19 a resident of this state.

20 *c.* A reciprocal insurer shall have at least one member
21 of the subscribers' advisory committee who is a resident
22 of this state. A captive risk retention group formed as a
23 reciprocal insurer shall have a minimum of five members of
24 the subscribers' advisory committee who are residents of this
25 state.

26 6. *a.* A captive company formed as a corporation or another
27 business entity shall have the privileges of, and shall be
28 subject to, state laws governing corporations or other business
29 entities, and the applicable provisions of this chapter.

30 *b.* In the event of a conflict between a state law governing
31 corporations or other business entities and this chapter, this
32 chapter shall control.

33 7. *a.* A subscribers' agreement, or other organizing
34 document of a captive company formed as a reciprocal insurer,
35 shall authorize a quorum of a subscribers' advisory committee

1 to consist of at least one-third of the number of members on
2 the advisory committee.

3 *b.* In addition to this chapter, a captive risk retention
4 group shall be subject to chapter 515E. In the event of a
5 conflict between chapter 515E and this chapter, this chapter
6 shall prevail.

7 8. Except as provided in section 521J.11, applicable
8 provisions of chapter 508B shall apply to a merger,
9 consolidation, conversion, mutualization, or voluntary
10 dissolution by a captive company.

11 9. *a.* A foreign captive company must apply to the secretary
12 of state for a certificate of authority for the foreign captive
13 company's branch captive company to transact business in this
14 state.

15 *b.* A branch captive company established under this chapter
16 to write, in this state, only insurance or reinsurance of the
17 employee benefit business of the branch captive company's
18 parent and affiliated companies shall be subject to the federal
19 Employee Retirement Income Security Act of 1974, 29 U.S.C.
20 §1001, et seq.

21 *c.* A branch captive company shall not do any insurance
22 business in this state unless the branch captive company
23 maintains the principal place of business for the company's
24 branch operations in this state.

25 **Sec. 8. NEW SECTION. 521J.6 Dividends.**

26 1. A captive company shall not pay a dividend out of, or
27 other distribution with respect to, the minimum capital or
28 surplus required under section 521J.4 without the prior written
29 approval of the commissioner.

30 2. The commissioner's approval of an ongoing plan for
31 the payment of dividends or other distributions shall be
32 conditioned upon retention, at the time of each payment, of
33 capital surplus in excess of the amounts specified by, or
34 determined in accordance with, a formula as approved by the
35 commissioner by rule.

1 Sec. 9. NEW SECTION. 521J.7 Reports.

2 1. A captive company shall be required to file an annual
3 report with the commissioner under the following circumstances:

4 *a.* Except as provided in paragraph "b", on or before April
5 1 of each year, each captive company and each captive risk
6 retention group shall submit to the commissioner a report on
7 the company's financial condition, in a form and manner as
8 prescribed by the commissioner by rule, and as verified by oath
9 of two of the company's or group's executive officers.

10 *b.* A captive company, other than a captive risk retention
11 group, may apply to the commissioner to file the report
12 required under paragraph "a" on a fiscal year-end basis. If
13 the commissioner grants the captive company an alternative
14 reporting date, the company shall comply with all of the
15 following requirements:

16 (1) Subject to subparagraph (2), the report shall be filed
17 no later than ninety calendar days after the close of the
18 company's fiscal year.

19 (2) A report covering the immediately preceding calendar
20 year shall be filed with the commissioner prior to April 1 of
21 each year to provide sufficient information to support the
22 captive company's premium tax return under section 432.1A.

23 *c.* Each captive company shall use generally accepted
24 accounting principles, unless the commissioner requires the use
25 of statutory accounting principles, for the company's report.
26 The report may include letters of credit that are established,
27 issued, or confirmed by a bank chartered in this state, a
28 member of the federal reserve system, or a bank chartered by
29 another state if acceptable to the commissioner.

30 *d.* On or before April 1 of each year, each branch captive
31 company shall submit to the commissioner a copy of all reports
32 required to be filed under the laws of the branch captive
33 company's domiciliary jurisdiction, and as verified by oath of
34 two of the branch captive company's executive officers. If the
35 commissioner is satisfied that the annual report filed by the

1 foreign branch captive company in the company's domiciliary
2 jurisdiction provides adequate information concerning the
3 financial condition of the branch captive company, the
4 commissioner may waive the requirement for completion of
5 the branch captive insurance company's annual statement for
6 business written in the foreign jurisdiction.

7 2. All reports filed pursuant to this section shall be
8 considered confidential and shall not be a public record under
9 chapter 22.

10 Sec. 10. NEW SECTION. 521J.8 Examinations.

11 1. a. Except for captive risk retention groups as provided
12 under paragraph "b", the commissioner may examine the affairs,
13 transactions, accounts, records, and assets of each captive
14 company as the commissioner deems necessary.

15 b. The commissioner shall examine the affairs, transactions,
16 accounts, records, and assets of each captive risk retention
17 group as the commissioner deems necessary, but no less
18 frequently than every three calendar years.

19 2. A report produced pursuant to the examination of a
20 captive risk retention group under this section shall be a
21 public record.

22 3. Except as provided in subsection 4, this section shall
23 apply to all business written by a captive company.

24 4. A branch captive company examination shall only be
25 conducted on the branch business and branch operations if
26 the branch captive company has satisfied the requirements
27 of section 521J.7, subsection 1, paragraph "d", to the
28 satisfaction of the commissioner.

29 5. As a condition of authorization of a branch captive
30 company, the foreign captive company shall grant authority to
31 the commissioner for examination of the affairs of the foreign
32 captive company in the foreign captive company's domiciliary
33 jurisdiction.

34 6. The applicable provisions of chapter 507 shall apply to
35 examinations conducted under this chapter.

1 Sec. 11. NEW SECTION. 521J.9 **Suspension or revocation.**

2 1. A captive company's certificate of authority to conduct
3 the business of insurance in this state may be suspended by the
4 commissioner for any of the following reasons:

5 *a.* Insolvency or impairment of capital or surplus.

6 *b.* Failure to meet and maintain the minimum capital and
7 surplus requirements under section 521J.4.

8 *c.* Refusal or failure to submit an annual report pursuant
9 to section 521J.7, or to submit any other report or statement
10 required by law or by lawful order of the commissioner.

11 *d.* Failure to comply with the captive company's own charter,
12 bylaws, or other organizational document.

13 *e.* Failure to submit to an examination as required under
14 section 521J.8.

15 *f.* Use of methods that render the captive company's
16 operation detrimental, or the company's condition unsound, with
17 respect to the public or to the company's policyholders.

18 *g.* Failure to pay tax on premiums as required under chapter
19 432.1A.

20 *h.* Failure to comply with applicable laws of this state.

21 2. *a.* If the commissioner finds upon examination, hearing,
22 or other review that a captive company has committed an
23 act specified in subsection 1, the commissioner may suspend
24 or revoke the company's certificate of authority if the
25 commissioner deems it in the best interest of the public or of
26 the policyholders of the captive company.

27 *b.* If the commissioner does not revoke a captive company's
28 certificate of authority during a suspension imposed by the
29 commissioner under paragraph "a", the company's certificate of
30 authority may be reinstated if the commissioner finds that the
31 cause of the suspension has been rectified.

32 Sec. 12. NEW SECTION. 521J.10 **Excess workers' compensation**
33 **insurance.**

34 1. A captive company may provide excess workers'
35 compensation insurance to the captive company's parent and

1 affiliated companies unless the laws of the state that has
2 jurisdiction over the transaction prohibits the captive company
3 from providing excess workers' compensation insurance.

4 2. A captive company may reinsure workers' compensation of
5 a qualified self-insured plan of the captive company's parent
6 and affiliated companies.

7 Sec. 13. NEW SECTION. 521J.11 **Captive mergers.**

8 1. A merger between captive stock insurers, or a merger
9 between captive mutual insurers, shall meet the requirements
10 of chapter 521 and section 521J.5, as applicable. The
11 commissioner may, at the commissioner's discretion, provide
12 notice to the public of a proposed merger prior to approval or
13 disapproval of a merger.

14 2. An association captive company, or an industrial insured
15 group formed as a stock insurer or as a mutual insurer, may be
16 converted to or merged with a reciprocal insurer under this
17 section.

18 3. A plan for conversion or merger shall meet all of the
19 following requirements:

20 a. (1) The plan shall be fair and equitable to the
21 shareholders in the case of a stock insurer, or to the
22 policyholders in the case of a mutual insurer.

23 (2) The plan shall provide for the purchase of the shares
24 of any nonconsenting shareholder of a stock insurer, or of the
25 policyholder interests of any nonconsenting policyholder of a
26 mutual insurer.

27 b. A plan for conversion to a reciprocal insurer must be
28 approved by the commissioner. The commissioner shall not
29 approve a plan unless the plan meets all of the following
30 requirements:

31 (1) The plan provides for a hearing upon notice to the
32 insurer, directors, officers, and stockholders or policyholders
33 who have the right to appear at the hearing, unless the
34 commissioner waives or modifies the requirements for the
35 hearing.

1 (2) (a) In the case of a stock insurer, the plan provides
2 for the conversion of the existing stockholder interests into
3 subscriber interests in the resulting reciprocal insurer
4 proportionate to the existing stockholder interests, and is
5 approved by a majority of the shareholders who are entitled to
6 vote and who are represented at a regular or special meeting at
7 which a quorum is present either in person or by proxy.

8 (b) In the case of a mutual insurer, the plan provides
9 for the conversion of the existing policyholder interests
10 into subscriber interests in the resulting reciprocal insurer
11 proportionate to the existing policyholder interests, and
12 is approved by a majority of the voting interests of the
13 policyholders who are represented at a regular or special
14 meeting at which a quorum is present either in person or by
15 proxy.

16 (3) The plan meets the applicable requirements of section
17 521J.5.

18 c. If the commissioner approves a plan of conversion, the
19 certificate of authority for the converting insurer shall be
20 amended to state that the converting insurer is a reciprocal
21 insurer. The conversion shall be effective and the corporate
22 existence of the converting entity shall cease to exist on the
23 date on which the amended certificate of authority is issued to
24 the attorney-in-fact for the reciprocal insurer. The resulting
25 reciprocal insurer shall file the articles of merger or the
26 articles of conversion with the secretary of state.

27 Sec. 14. NEW SECTION. 521J.12 **Captive insurance regulatory**
28 **and supervision account.**

29 1. A captive insurance regulatory and supervision account
30 is established in the state general fund under the control
31 of the division and moneys in the account shall be used to
32 provide the financial means for the division to administer
33 this chapter, and for the reimbursement of reasonable expenses
34 incurred by the division to promote captive insurance in this
35 state.

1 2. All fees, assessments, fines, and administrative
2 penalties collected under this chapter shall be deposited in
3 the captive insurance regulatory and supervision account.

4 3. All payments from the captive insurance regulatory
5 and supervision account that are made for the maintenance of
6 staff and associated expenses, including necessary contractual
7 services, shall only be disbursed from the state treasury
8 upon a warrant issued by the commissioner, after receipt by
9 the commissioner of proper documentation regarding services
10 rendered and expenses incurred.

11 4. The balance in the captive insurance regulatory and
12 supervision account at the end of each fiscal year shall revert
13 to the general fund.

14 Sec. 15. NEW SECTION. 521J.13 Legal investments.

15 1. a. Industrial insured captive companies, association
16 captive companies, and captive risk retention groups shall
17 comply with investment requirements as established by the
18 commissioner by rule. The commissioner may approve the use of
19 alternative reliable methods of valuation and rating.

20 b. If a captive company's admitted assets total less
21 than five million dollars, the commissioner may approve an
22 investment of up to twenty percent of the captive company's
23 admitted assets in rated credit instruments in any one
24 investment that meets the requirements as established by the
25 commissioner by rule.

26 2. A pure captive company, or a protected cell captive
27 company, shall not be subject to any restrictions on allowable
28 investments, except that the commissioner may prohibit or limit
29 any investment that threatens the solvency or liquidity of the
30 pure captive company.

31 3. Any captive company may make loans to any of the captive
32 company's affiliates with prior written approval of the
33 commissioner, and each loan must be evidenced by a note in a
34 form as approved by the commissioner by rule. Loans made from
35 minimum capital and surplus funds required by section 521J.4

1 are prohibited.

2 Sec. 16. NEW SECTION. 521J.14 Reinsurance.

3 1. Subject to the prior approval of the commissioner, a
4 captive company may provide reinsurance on risks ceded by any
5 other insurer.

6 2. Any captive company may take credit for reserves on
7 risks, or portions of risks, ceded to reinsurers as provided
8 under chapter 521B.

9 Sec. 17. NEW SECTION. 521J.15 Rating organizations.

10 A captive company shall not be required to join a rating
11 organization.

12 Sec. 18. NEW SECTION. 521J.16 Compulsory organizations.

13 A captive company shall not join or contribute financially
14 to any plan, pool, association, or guaranty or insolvency fund
15 in this state; and a captive company, a captive company's
16 insureds, a captive company's parent, any company affiliated
17 with a captive company, and any member of an association shall
18 not receive any benefit from a plan, pool, association, or
19 guaranty or insolvency fund for claims arising out of the
20 operations of the captive company.

21 Sec. 19. NEW SECTION. 521J.17 Protected cell captive
22 companies.

23 1. One or more sponsors may form a protected cell captive
24 company.

25 2. A protected cell captive company formed or authorized
26 under this chapter shall be subject to all of the following
27 requirements:

28 a. (1) A protected cell captive company may establish one
29 or more protected cells subject to the prior written approval
30 of the commissioner of a plan of operation submitted by the
31 protected cell captive company for each protected cell. The
32 plan of operation shall include but is not limited to the
33 specific business objectives and investment guidelines of the
34 protected cell.

35 (2) Upon the commissioner's approval of the protected cell

1 captive company's plan of operation, the company, in accordance
2 with the approved plan of operation, may attribute insurance
3 obligations with respect to its insurance business to the
4 protected cell.

5 (3) A protected cell captive company shall transfer
6 all assets attributable to a protected cell to one or more
7 separately established and separately identified protected cell
8 accounts bearing the name or designation of that protected
9 cell. Each protected cell shall have a distinct name or
10 designation that must include the words "protected cell".
11 Protected cell assets shall be held in the protected cell
12 accounts for the purpose of satisfying the obligations of the
13 specific protected cell.

14 (4) Each protected cell must be incorporated. An
15 incorporated protected cell may be organized and operated
16 in any form of business organization as authorized by the
17 commissioner by rule. Each protected cell of a protected
18 cell captive company shall be treated as a captive insurance
19 company under this chapter, except that the limit on maximum
20 yearly aggregate taxes paid under section 432.1A, subsection 4,
21 shall not apply. Unless otherwise permitted by the articles of
22 incorporation or other organizational document of a protected
23 cell captive company, each protected cell of the protected cell
24 captive company must have the same directors, secretary, and
25 registered office as the protected cell captive company.

26 *b.* All attributions of assets and liabilities between a
27 protected cell and the protected cell captive company's general
28 account shall be in accordance with the plan of operation and
29 the participant contracts as approved by the commissioner. No
30 other attribution of assets and liabilities shall be made by
31 a protected cell captive company between the protected cell
32 captive company's general account and the company's protected
33 cells. Any attribution of assets and liabilities between the
34 general account and a protected cell shall be in cash or in
35 readily marketable securities with established market values.

1 *c.* The establishment of a protected cell shall create, with
2 respect to that protected cell, a legal person separate from
3 the protected cell captive company. Amounts attributed to a
4 protected cell under this chapter, including assets transferred
5 to a protected cell account, shall be owned by the protected
6 cell and the protected cell captive company shall not be a
7 trustee, or hold itself out to be a trustee, with respect
8 to the protected cell assets of that protected cell account.
9 A protected cell captive company may allow for a security
10 interest to attach to protected cell assets or to a protected
11 cell account if the security interest is in favor of a creditor
12 of the protected cell and is otherwise allowed under applicable
13 law.

14 *d.* A protected cell captive company may contract with or
15 arrange for an investment adviser, commodity trading adviser,
16 or other third party to manage the protected cell assets of
17 a protected cell if all remuneration, expenses, and other
18 compensation of the third party are paid from the protected
19 cell assets of that protected cell, and not from the protected
20 cell assets of other protected cells or the assets of the
21 protected cell captive company's general account.

22 *e.* (1) A protected cell captive company shall establish
23 the administrative and accounting procedures necessary to
24 properly identify each protected cell of the protected cell
25 captive company, and the protected cell assets and protected
26 cell liabilities attributable to each protected cell. The
27 directors of a protected cell captive company shall do all of
28 the following:

29 (i) Maintain the assets and liabilities of protected cells
30 separately, and separately identifiable, from the assets and
31 liabilities of the protected cell captive company's general
32 account.

33 (ii) Maintain protected cell assets and protected cell
34 liabilities attributable to one protected cell separate,
35 and separately identifiable, from protected cell assets and

1 protected cell liabilities attributable to another protected
2 cell.

3 (2) If a protected cell captive company fails to comply with
4 subparagraph (1), the remedy of tracing shall be applicable to
5 protected cell assets commingled with protected cell assets of
6 other protected cells, or commingled with the assets of the
7 protected cell captive company's general account. The remedy
8 of tracing shall not be the exclusive remedy.

9 *f.* When establishing a protected cell, a protected cell
10 captive company shall attribute assets with a value at least
11 equal to the reserves attributed to that protected cell to the
12 protected cell.

13 3. Each protected cell shall be accounted for separately
14 on the books and records of the protected cell captive company
15 to reflect the financial condition and result of operations of
16 the protected cell, including but not limited to the net income
17 or loss, dividends or other distributions to participants, and
18 any other factor provided in the participant contract or as
19 required by the commissioner by rule.

20 4. The assets of a protected cell shall not be chargeable
21 with liabilities arising from any other insurance business of
22 the protected cell captive company.

23 5. A sale, exchange, or other transfer of assets shall
24 not be made by a protected cell captive company among any
25 of the company's protected cells without the consent of the
26 participants of each affected protected cell.

27 6. A sale, exchange, transfer of assets, dividend, or
28 distribution shall not be made from a protected cell to a
29 sponsor or to a participant without the commissioner's prior
30 written approval, which shall not be given if the sale,
31 exchange, transfer, dividend, or distribution will result in
32 the insolvency or impairment of the protected cell.

33 7. A protected cell captive company shall annually file
34 with the commissioner any financial reports required by the
35 commissioner as established by rule, and shall include, without

1 limitation, accounting statements detailing the finances of
2 each protected cell.

3 8. A protected cell captive company shall notify the
4 commissioner in writing within twenty business days from the
5 date that a protected cell has become impaired or insolvent, or
6 is otherwise unable to meet its claim or expense obligations.

7 9. A participant contract shall not take effect without the
8 commissioner's prior written approval.

9 10. An addition of any new protected cell, or the withdrawal
10 of any participant of an existing protected cell, shall
11 constitute a change in the business plan of the protected cell
12 captive company and the change shall not become effective
13 without the prior written approval of the commissioner.

14 11. With respect to each protected cell, business written
15 by a protected cell captive company shall be fronted by an
16 insurance company authorized under the laws of any state, or as
17 approved by the commissioner.

18 12. If a protected cell captive company's business is
19 reinsured, with respect to each protected cell, the protected
20 cell captive company shall comply with at least one of the
21 following requirements:

22 a. The business shall be reinsured by a reinsurer authorized
23 or approved by the commissioner.

24 b. The business shall be secured by a trust fund that is
25 located in the United States for the benefit of policyholders
26 and claimants, and which is funded by an irrevocable letter of
27 credit or other asset that is acceptable to the commissioner,
28 and that is subject to all of the following:

29 (1) The amount of security provided by the trust fund shall
30 not be less than the reserves associated with the liabilities
31 that are not fronted or reinsured, including but not limited
32 to reserves for losses that are allocated for loss adjustment
33 expenses, incurred but not reported losses, and unearned
34 premiums for business written through the participant's
35 protected cell.

1 (2) The commissioner may require the protected cell captive
2 company to increase the funding of any trust.

3 (3) If the form of security in the trust is a letter of
4 credit, the letter of credit shall be established, issued, or
5 confirmed by a bank chartered in this state, a member of the
6 federal reserve system, or a bank chartered by another state if
7 the bank is approved by the commissioner.

8 (4) The commissioner shall approve the form and terms of the
9 trust and trust instrument.

10 Sec. 20. NEW SECTION. 521J.18 **Sponsors — qualifications.**

11 A sponsor of a protected cell captive company must
12 be an insurer authorized under the laws of any state, a
13 reinsurer authorized under the laws of any state, a captive
14 insurance company formed or authorized under this chapter, an
15 insurance producer licensed in this state and approved by the
16 commissioner, or any other person approved by the commissioner.

17 Sec. 21. NEW SECTION. 521J.19 **Delinquency.**

18 If delinquency proceedings are initiated against a protected
19 cell captive company, the assets of a protected cell shall
20 not be used to pay any expenses other than those attributable
21 to the protected cell, and the capital and surplus of the
22 protected cell captive company shall be available at all times
23 to pay expenses of, or claims against, the protected cell
24 captive company.

25 Sec. 22. NEW SECTION. 521J.20 **Participants.**

26 Individuals, business entities, and sponsors may be a
27 participant in a protected cell captive company. A participant
28 shall not be required to be a shareholder of a protected cell
29 captive company or of the protected cell captive company's
30 affiliate.

31 Sec. 23. NEW SECTION. 521J.21 **Investments — combined**
32 **assets.**

33 The assets of two or more protected cells may be combined
34 for the purpose of investment by a protected cell captive
35 company, and combining the protected cells' assets shall not

1 be construed as defeating the segregation of the assets for
2 accounting or any other purpose.

3 Sec. 24. NEW SECTION. 521J.22 **Dormant captive companies.**

4 1. As used in this section, "*dormant captive company*" means
5 a captive company, other than a captive risk retention group,
6 that meets all of the following:

7 a. The captive company has ceased transacting the business
8 of insurance, including the issuance of insurance policies.

9 b. The captive company does not have any remaining
10 liabilities associated with its insurance business transactions
11 or insurance policies issued prior to the captive company's
12 filing of an application for a certificate of dormancy under
13 subsection 2.

14 2. Any captive company that is domiciled in this state and
15 that complies with this section may apply to the commissioner
16 for a certificate of dormancy. A certificate of dormancy shall
17 be subject to expiration on or after five calendar years from
18 the date that the certificate is issued, and the commissioner
19 shall not renew a certificate of dormancy.

20 3. a. A captive company that has been issued a certificate
21 of dormancy shall comply with all of the following:

22 (1) The dormant captive company shall possess and maintain
23 unimpaired, paid-in capital and surplus of not less than
24 twenty-five thousand dollars.

25 (2) Within ninety calendar days of the dormant captive
26 company's fiscal year end, the company shall annually submit to
27 the commissioner a report on the company's financial condition,
28 verified by oath of two of the company's executive officers, in
29 the form and manner as established by the commissioner by rule.

30 (3) The dormant captive company shall pay a one thousand
31 dollar dormancy tax, due annually on or before March 1, if
32 for any portion of the immediately preceding calendar year
33 the captive company held a certificate of dormancy. Each
34 series of members and each protected cell shall be considered
35 separate for purposes of paying the annual dormancy tax under

1 a certificate of dormancy. A dormant captive company is not
2 otherwise liable for any annual renewal as provided in section
3 521J.2, subsection 4, paragraph "b", subparagraph (2).

4 *b.* A dormant captive insurance company that has been issued
5 a certificate of dormancy shall not be subject to or liable
6 for the payment of tax under section 432.1A, or be subject to
7 examination under section 521J.8, from the date the certificate
8 is issued through the date the certificate expires.

9 4. Prior to a dormant captive company issuing an
10 insurance policy, the dormant captive company shall apply
11 to the commissioner for approval to surrender the company's
12 certificate of dormancy and to resume conducting the business
13 of insurance.

14 5. A dormant captive company's certificate of dormancy
15 shall be revoked if the company violates this section.

16 **Sec. 25. NEW SECTION. 521J.23 Workers' compensation —**
17 **compliance with state and federal laws.**

18 This chapter shall not be construed to exempt a captive
19 company, a captive company's parent, or a captive company's
20 affiliated companies from compliance with applicable state and
21 federal laws governing workers' compensation insurance.

22 **Sec. 26. NEW SECTION. 521J.24 Rules.**

23 The commissioner shall adopt rules pursuant to chapter 17A
24 to implement and administer the provisions of this chapter.

25 **Sec. 27. FUTURE REPEAL.** Chapter 521G, Code 2023, is
26 repealed effective January 1, 2025.

27 **Sec. 28. APPLICABILITY.** The following applies January 1,
28 2025, to protected cell captive companies formed, authorized,
29 or continued on or after that date:

30 The section of this Act enacting section 521J.17.