

SCS SB 287 -- CAPTIVE INSURANCE COMPANIES

This bill allows the Director of the Department of Insurance, Financial Institutions and Professional Registration to issue a certificate of general good to permit the formation of a sponsored captive insurance company that is established for the sole purpose of consolidating or merging with or assuming existing insurance or reinsurance business from an existing Missouri licensed captive insurance company. The director may, upon a request of the newly formed insurance company, waive or modify specified licensing requirements. The assets for one or more participants in a sponsored captive insurance company must be kept in a separate account to be known as a "protected cell." The assets of two or more protected cells may be combined for purposes of investment and the combination cannot be construed as defeating the segregation of the assets for accounting or other purposes.

One or more sponsors may form a sponsored captive insurance company to insure the risks of only its participants with separate contracts for each participant. A sponsored captive insurance company:

(1) Must possess and maintain an unimpaired paid-in capital and surplus of at least \$500,000 and pay an annual minimum aggregate tax of \$7,500 in order to be issued a license which must apply to the company as a whole and not to each protected cell. Each protected cell under a sponsoring captive insurance company is required to pay a portion of the tax as specified in the bill based on the amount of premiums collected. The bill reduces, from \$750,000 to \$500,000, the minimum amount of unimpaired paid-in capital and surplus that an association captive insurance company must possess and maintain in order to be issued a license;

(2) Must be subject to the reporting and operational requirements of the department;

(3) Can be sponsored by any person approved by the department director if the determination is consistent with specified purposes. A risk retention group cannot be a sponsor or a participant of a sponsored captive insurance company;

(4) Can have an association, corporation, limited liability company, partnership, trust, and other business entity as a participant. A sponsor may be a participant in a sponsored captive insurance company. A participant does not have to be a shareholder of the sponsored captive insurance company or an affiliate of the company. A participant must insure only its own risks through a sponsored captive insurance company;

- (5) Must comply with the specified investment requirements; and
- (6) Must have capital and surplus available at all times to pay any expenses of or claims against the sponsored captive insurance company. The assets of a protected cell cannot be used to pay any expense or claim other than those attributable to the protected cell.

A sponsored captive insurance company must be incorporated as a stock insurer with its capital divided into shares and held by the stockholders as a mutual corporation, a nonprofit corporation with one or more members, or as a manager-managed limited liability company. An applicant for a sponsored captive insurance company must file specified information with the department director. Each sponsored captive insurance company must notify the department director in writing within 10 business days of any protected cell that is insolvent or otherwise unable to meet its claim or expense obligations. A participant contract cannot take effect without the department director's prior written approval, and the addition of each new protected cell, withdrawal of a participant, or the termination of any existing protected cell constitutes a change in the business plan requiring the department director's prior written approval. Each participant contract must state that no benefit will be paid to the participant or any other party from any state guaranty fund based on a claim against the assets of the participant's protected cell in which the assets are insufficient to satisfy the claim. The sale, exchange, transfer of assets, dividend, or distribution between or among any of its protected cells without the consent of the cells and the approval of the department director is prohibited. The approval cannot be given if it would result in insolvency or impairment to a protected cell.