

FIRST REGULAR SESSION

SENATE BILL NO. 269

95TH GENERAL ASSEMBLY

INTRODUCED BY SENATORS RUPP AND CUNNINGHAM.

Read 1st time January 29, 2009, and ordered printed.

TERRY L. SPIELER, Secretary.

1441S.011

AN ACT

To repeal sections 379.1300, 379.1302, 379.1310, 379.1326, 379.1332, 379.1373, 379.1388, and 379.1412, RSMo, and to enact in lieu thereof nine new sections relating to captive insurance companies.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Sections 379.1300, 379.1302, 379.1310, 379.1326, 379.1332, 2 379.1373, 379.1388, and 379.1412, RSMo, are repealed and nine new sections 3 4 enacted in lieu thereof, to be known as sections 379.1300, 379.1302, 379.1310, 379.1326, 379.1332, 379.1339, 379.1373, 379.1388, and 379.1412, to read as 5 follows:

379.1300. As used in sections 379.1300 to 379.1350, the following terms 2 shall mean:

3 (1) "Affiliated company", any company in the same corporate system as a 4 parent, an industrial insured, or a member organization by virtue of common 5 ownership, control, operation, or management;

6 (2) "Alien captive insurance company", any insurance company formed to 7 write insurance business for its parents and affiliates and licensed under the laws 8 of an alien jurisdiction that imposes statutory or regulatory standards in a form 9 acceptable to the director on companies transacting the business of insurance in 10 such jurisdiction;

11 (3) "Annuity", a contract issued for a valuable consideration under which 12 the obligations are assumed with respect to periodic payments for a specified 13 term or terms or where the making or continuance of all or of some of such 14 payments, or the amount of any such payments, is dependent upon the 15 continuance of human life;

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

16 (4) "Association", any legal association of individuals, corporations, limited
17 liability companies, partnerships, associations, or other entities that has been in
18 continuous existence for at least one year, the member organizations of which or
19 which does itself, whether or not in conjunction with some or all of the member
20 organizations:

21 (a) Own, control, or hold with power to vote all of the outstanding voting
22 securities of an association captive insurance company incorporated as a stock
23 insurer; or

24 (b) Have complete voting control over an association captive insurance
25 company incorporated as a mutual insurer; or

26 **(c) Constitute all of the subscribers of an association captive**
27 **insurance company formed as a reciprocal insurer;**

28 (5) "Association captive insurance company", any company that insures
29 risks of the member organizations of the association and their affiliated
30 companies;

31 (6) "Branch business", any insurance business transacted by a branch
32 captive insurance company in this state;

33 (7) "Branch captive insurance company", any alien captive insurance
34 company licensed by the director to transact the business of insurance in this
35 state through a business unit with a principal place of business in this state;

36 (8) "Branch operations", any business operations of a branch captive
37 insurance company in this state;

38 (9) "Captive insurance company", any pure captive insurance company,
39 association captive insurance company, or industrial insured captive insurance
40 company formed or licensed under sections 379.1300 to 379.1350. For purposes
41 of sections 379.1300 to 379.1350, a branch captive insurance company shall be a
42 pure captive insurance company with respect to operations in this state, unless
43 otherwise permitted by the director;

44 (10) "Controlled unaffiliated business", any company:

45 (a) That is not in the corporate system of a parent and affiliated
46 companies;

47 (b) That has an existing contractual relationship with a parent or
48 affiliated company; and

49 (c) Whose risks are managed by a pure captive insurance company in
50 accordance with section 379.1338;

51 (11) "Director", the director of the department of insurance, financial

52 institutions and professional registration;

53 (12) "Excess workers' compensation insurance", in the case of an employer
54 that has insured or self-insured its workers' compensation risks in accordance
55 with applicable state or federal law, insurance in excess of a specified
56 per-incident or aggregate limit established by the director;

57 (13) "Industrial insured", an insured:

58 (a) Who procures the insurance of any risk or risks by use of the services
59 of a full-time employee acting as an insurance manager or buyer;

60 (b) Whose aggregate annual premiums for insurance on all risks total at
61 least twenty-five thousand dollars; and

62 (c) Who has at least twenty-five full-time employees;

63 (14) "Industrial insured captive insurance company", any company that
64 insures risks of the industrial insureds that comprise the industrial insured
65 group and their affiliated companies;

66 (15) "Industrial insured group", any group of industrial insureds that
67 collectively:

68 (a) Own, control, or hold with power to vote all of the outstanding voting
69 securities of an industrial insured captive insurance company incorporated as a
70 stock insurer; or

71 (b) Have complete voting control over an industrial insured captive
72 insurance company incorporated as a mutual insurer;

73 (16) "Member organization", any individual, corporation, limited liability
74 company, partnership, association, or other entity that belongs to an association;

75 (17) "Mutual corporation", a corporation organized without stockholders
76 and includes a nonprofit corporation with members;

77 (18) "Parent", a corporation, limited liability company, partnership, other
78 entity, or individual that directly or indirectly owns, controls, or holds with power
79 to vote more than fifty percent of the outstanding voting:

80 (a) Securities of a pure captive insurance company organized as a stock
81 corporation; or

82 (b) Membership interests of a pure captive insurance company organized
83 as a nonprofit corporation;

84 (19) "Pure captive insurance company", any company that insures risks
85 of its parent and affiliated companies or controlled unaffiliated business.

379.1302. 1. Any captive insurance company, when permitted by its
2 articles of association, charter, or other organizational document, may apply to

3 the director for a license to do any and all insurance and annuity contracts
4 comprised in section 376.010, RSMo, and subsection 1 of section 379.010, other
5 than workers' compensation and employers' liability; provided, however, that:

6 (1) No pure captive insurance company shall insure any risks other than
7 those of its parent and affiliated companies or controlled unaffiliated business;

8 (2) No association captive insurance company shall insure any risks other
9 than those of the member organizations of its association and their affiliated
10 companies;

11 (3) No industrial insured captive insurance company shall insure any
12 risks other than those of the industrial insureds that comprise the industrial
13 insured group and their affiliated companies;

14 (4) No captive insurance company shall provide personal motor vehicle or
15 homeowner's insurance coverage or any component thereof;

16 (5) No captive insurance company shall accept or cede reinsurance except
17 as provided in section 379.1320;

18 (6) Any captive insurance company may provide excess workers'
19 compensation insurance to its parent and affiliated companies, unless prohibited
20 by the federal law or laws of the state having jurisdiction over the
21 transaction. Any captive insurance company, unless prohibited by federal law,
22 may reinsure workers' compensation of a qualified self-insured plan of its parent
23 and affiliated companies, provided that sections 379.1300 to 379.1350 shall not
24 divest the division of workers' compensation of any jurisdiction, as authorized by
25 law, over workers' compensation self-insured plans;

26 (7) Any captive insurance company which insures life and accident and
27 health risks described in section 376.010, RSMo, and subdivision (4) of subsection
28 1 of section 379.010, shall comply with all applicable state and federal laws; and

29 (8) No captive insurance company shall transact business as a risk
30 retention group under sections 375.1080 to 375.1105, RSMo.

31 2. No captive insurance company shall do any insurance business in this
32 state unless:

33 (1) It first obtains from the director a license authorizing it to do
34 insurance business in this state;

35 (2) Its board of directors [or], committee of managers **or, in the case of**
36 **a reciprocal insurer, its subscribers' advisory committee**, holds at least
37 one meeting each year in this state;

38 (3) It maintains its principal place of business in this state; **and**

39 (4) It appoints a registered agent to accept service of process and to
40 otherwise act on its behalf in this state; provided that, whenever such registered
41 agent cannot with reasonable diligence be found at the registered office of the
42 captive insurance company, the secretary of state shall be an agent of such
43 captive insurance company upon whom any process, notice, or demand may be
44 served[; and

45 (5) It holds at least thirty-five percent of its assets either directly in this
46 state or through a financial institution located in this state and approved by the
47 director].

48 3. (1) Before receiving a license, a captive insurance company shall:

49 (a) File with the director a certified copy of its organizational documents,
50 a statement under oath of its president and secretary showing its financial
51 condition, and any other statements or documents required by the director; and

52 (b) Submit to the director for approval a description of the coverages,
53 deductibles, coverage limits, and rates, together with such additional information
54 as the director may reasonably require. In the event of any subsequent material
55 change in any item in such description, the captive insurance company shall
56 submit to the director for approval appropriate revision and shall not offer any
57 additional kinds of insurance until a revision of such description is approved by
58 the director. The captive insurance company shall inform the director of any
59 material change in rates within thirty days of the adoption of such change.

60 (2) Each applicant captive insurance company shall also file with the
61 director evidence of the following:

62 (a) The amount and liquidity of its assets relative to the risks to be
63 assumed;

64 (b) The adequacy of the expertise, experience, and character of the person
65 or persons who will manage it;

66 (c) The overall soundness of its plan of operation;

67 (d) The adequacy of the loss prevention programs of its insureds; and

68 (e) Such other factors deemed relevant by the director in ascertaining
69 whether the proposed captive insurance company will be able to meet its policy
70 obligations.

71 (3) Information submitted under this subsection shall be and remain
72 confidential, and shall not be made public by the director or an employee or agent
73 of the director without the written consent of the company; except that:

74 (a) Such information may be discoverable by a party in a civil action or

75 contested case to which the captive insurance company that submitted such
76 information is a party, upon a showing by the party seeking to discover such
77 information that:

78 a. The information sought is relevant to and necessary for the furtherance
79 of such action or case;

80 b. The information sought is unavailable from other nonconfidential
81 sources; and

82 c. A subpoena issued by a judicial or administrative officer of competent
83 jurisdiction has been submitted to the director; and

84 (b) The director may, in the director's discretion, disclose such information
85 to a public officer having jurisdiction over the regulation of insurance in another
86 state, provided that:

87 a. Such public official shall agree in writing to maintain the
88 confidentiality of such information;

89 b. The laws of the state in which such public official serves require such
90 information to be and to remain confidential; and

91 (c) The director may disclose information to the director of the division of
92 workers' compensation regarding any captive insurance company issuing excess
93 workers' compensation insurance provided that the director for the division of
94 workers' compensation agrees in writing to maintain the confidentiality of such
95 information provided by the director.

96 (4) Each captive insurance company shall pay to the director a
97 nonrefundable license fee of seven thousand five hundred dollars for examining,
98 investigating, and processing its application for license, and the director is
99 authorized to retain legal, financial, and examination services from outside the
100 department, the reasonable cost of which may be charged against the
101 applicant. The provisions of sections 374.160 to 374.162 and sections 374.202 to
102 374.207, RSMo, shall apply to examinations, investigations, and processing
103 conducted under the authority of this section. In addition, each captive insurance
104 company shall pay a renewal fee for each year thereafter of seven thousand five
105 hundred dollars. Each captive insurance company may deduct the license and
106 renewal fee paid from the premium taxes payable under section 379.1326.

107 (5) If the director is satisfied that the documents and statements that
108 such captive insurance company has filed comply with the provisions of sections
109 379.1300 to 379.1350, the director may grant a license authorizing it to do
110 insurance business in this state until April first, which license may be renewed.

379.1310. 1. A pure captive insurance company may be incorporated as
2 a stock insurer with its capital divided into shares and held by the stockholders
3 as a nonprofit corporation with one or more members, or as a manager-managed
4 limited liability company.

5 2. An association captive insurance company or an industrial insured
6 captive insurance company may be:

7 (1) Incorporated as a stock insurer with its capital divided into shares and
8 held by the stockholders;

9 (2) Incorporated as a mutual insurer without capital stock, the governing
10 body of which is elected by its insureds; [or]

11 (3) Organized as a manager-managed limited liability company; **or**

12 **(4) Organized as a reciprocal insurer in accordance with sections**
13 **379.650 to 379.790.**

14 3. A captive insurance company incorporated or organized in this state
15 shall have not less than three incorporators or three organizers of whom not less
16 than one shall be a resident of this state.

17 4. In the case of a captive insurance company:

18 (1) Formed as a corporation, before the articles of incorporation are
19 transmitted to the secretary of state, the incorporators shall petition the director
20 to issue a certificate setting forth the director's finding that the establishment
21 and maintenance of the proposed corporation will promote the general good of the
22 state. In arriving at such a finding the director shall consider:

23 (a) The character, reputation, financial standing and purposes of the
24 incorporators;

25 (b) The character, reputation, financial responsibility, insurance
26 experience, and business qualifications of the officers and directors; and

27 (c) Such other aspects as the director shall deem advisable.

28 The articles of incorporation, such certificate, and the organization fee shall be
29 transmitted to the secretary of state, who shall thereupon record both the articles
30 of incorporation and the certificate;

31 (2) Formed as a limited liability company, before the articles of
32 organization are transmitted to the secretary of state, the organizers shall
33 petition the director to issue a certificate setting forth the director's finding that
34 the establishment and maintenance of the proposed company will promote the
35 general good of the state. In arriving at such a finding, the director shall
36 consider the items set forth in paragraphs (a) to (c) of subdivision (1) of this

37 subsection;

38 **(3) Formed as a reciprocal insurer, the organizers shall petition**
39 **the director to issue a certificate setting the director's finding that the**
40 **establishment and maintenance of the proposed association will**
41 **promote the general good of the state. In arriving at such a finding the**
42 **director shall consider the items set forth in paragraphs (a) to (c) of**
43 **subdivision (1) of this subsection.**

44 5. The capital stock of a captive insurance company incorporated as a
45 stock insurer may be authorized with no par value.

46 6. In the case of a captive insurance company:

47 (1) Formed as a corporation, at least one of the members of the board of
48 directors shall be a resident of this state;

49 (2) Formed as a limited liability company, at least one of the managers
50 shall be a resident of this state;

51 **(3) Formed as a reciprocal insurer, at least one of the members**
52 **of the subscribers' advisory committee shall be a resident of this state.**

53 7. Other than captive insurance companies formed as limited liability
54 companies under chapter 347, RSMo, or as nonprofit corporations under chapter
55 355, RSMo, captive insurance companies formed as corporations under sections
56 379.1300 to 379.1350 shall have the privileges and be subject to chapter 351,
57 RSMo, as well as the applicable provisions contained in sections 379.1300 to
58 379.1308. In the event of conflict between the provisions of such general
59 corporation law and sections 379.1300 to 379.1350, sections 379.1300 to 379.1350
60 shall control.

61 8. Captive insurance companies formed under sections 379.1300 to
62 379.1350:

63 (1) As limited liability companies shall have the privileges and be subject
64 to the provisions of chapter 347, RSMo, as well as the applicable provisions
65 contained in sections 379.1300 to 379.1350. In the event of a conflict between
66 chapter 347, RSMo, and sections 379.1300 to 379.1350, sections 379.1300 to
67 379.1350 shall control; or

68 (2) As nonprofit corporations shall have the privileges and be subject to
69 the provisions of chapter 355, RSMo, as well as the applicable provisions
70 contained in sections 379.1300 to 379.1350. In the event of conflict between
71 chapter 355, RSMo, and sections 379.1300 to 379.1350, sections 379.1300 to
72 379.1350 shall control.

73 9. The provisions of section 375.355, RSMo, **section 375.908, RSMo,**
74 sections 379.980 to 379.988, and chapter 382, RSMo, pertaining to mergers,
75 consolidations, conversions, mutualizations, redomestications, and mutual holding
76 companies shall apply in determining the procedures to be followed by captive
77 insurance companies in carrying out any of the transactions described therein;
78 except that:

79 (1) The director may waive or modify the requirements for public notice
80 and hearing in accordance with rules which the director may adopt addressing
81 categories of transactions. If a notice of public hearing is required, but no one
82 requests a hearing, then the director may cancel the hearing;

83 (2) An alien insurer may be a party to a merger **or a redomestication**
84 authorized under this subsection, if approved by the director.

85 10. The articles of incorporation or bylaws of a captive insurance company
86 formed as a corporation may authorize a quorum of its board of directors to
87 consist of no fewer than one-third of the full board of directors determined,
88 provided that a quorum shall not consist of fewer than two directors.

89 **11. Captive insurance companies formed as reciprocal insurers**
90 **under the provisions of sections 379.1300 to 379.1350 shall have the**
91 **privileges and be subject to the provisions of sections 379.650 to 379.790**
92 **in addition to the applicable provisions of sections 379.1300 to 379.1350.**
93 **In the event of a conflict between the provisions of sections 379.650 to**
94 **379.790 and the provisions of sections 379.1300 to 379.1350, the latter**
95 **shall control, to the extent a reciprocal insurer is made subject to other**
96 **provisions of chapters 374, 375, and 379 under sections 379.650 to**
97 **379.790, such provisions shall not be applicable to a reciprocal insurer**
98 **formed under sections 379.1300 to 379.1350 unless such provisions are**
99 **expressly made applicable to captive insurance companies under**
100 **sections 379.1300 to 379.1350.**

101 **12. The subscribers' agreement or other organizing document of**
102 **a captive insurance company formed as a reciprocal insurer may**
103 **authorize a quorum of its subscribers' advisory committee to consist of**
104 **no fewer than one-third of the number of its members.**

379.1326. 1. Each captive insurance company shall pay to the director of
2 revenue, on or before May first of each year, a premium tax at the rate of
3 thirty-eight-hundredths of one percent on the first twenty million dollars and two
4 hundred eighty-five-thousandths of one percent on the next twenty million dollars

5 and nineteen-hundredths of one percent on the next twenty million dollars and
6 seventy-two-thousandths of one percent on each dollar thereafter on the direct
7 premiums collected or contracted for on policies or contracts of insurance written
8 by the captive insurance company during the year ending December thirty-first
9 next preceding, after deducting from the direct premiums subject to the tax the
10 amounts paid to policyholders as return premiums which shall include dividends
11 on unabsorbed premiums or premium deposits returned or credited to
12 policyholders; provided, however, that no tax shall be due or payable as to
13 considerations received for annuity contracts.

14 2. Each captive insurance company shall pay to the director of revenue on
15 or before May first of each year a premium tax at the rate of two hundred
16 fourteen-thousandths of one percent on the first twenty million dollars of
17 assumed reinsurance premium, and one hundred forty-three-thousandths of one
18 percent on the next twenty million dollars and forty-eight-thousandths of one
19 percent on the next twenty million dollars and twenty-four-thousandths of one
20 percent of each dollar thereafter. However, no reinsurance premium tax applies
21 to premiums for risks or portions of risks which are subject to taxation on a direct
22 basis under subsection 1 of this section. No reinsurance premium tax shall be
23 payable in connection with the receipt of assets in exchange for the assumption
24 of loss reserves and other liabilities of another insurer under common ownership
25 and control if such transaction is part of a plan to discontinue the operations of
26 such other insurer, and if the intent of the parties to such transaction is to renew
27 or maintain such business with the captive insurance company.

28 3. The annual minimum aggregate tax to be paid by a captive insurance
29 company calculated under subsections 1 and 2 of this section shall be seven
30 thousand five hundred dollars, and the annual maximum aggregate tax shall be
31 two hundred thousand dollars.

32 4. Every captive insurance company shall, on or before February first each
33 year, make a return on a form provided by the director, verified by the affidavit
34 of the company's president and secretary or other authorized officers, to the
35 director stating the amount of all direct premiums received and assumed
36 reinsurance premiums received, whether in cash or in notes, during the year
37 ending on December thirty-first next preceding. Upon receipt of such returns, the
38 director of the department of insurance, financial institutions and professional
39 registration shall verify the same and certify the amount of tax due from the
40 various companies on the basis and at the rate provided in subsections 1 to 3 of

41 this section, and shall certify the same to the director of revenue, on or before
42 March thirty-first of each year. The director of revenue shall immediately
43 thereafter notify and assess each company the amount of tax due.

44 5. A captive insurance company failing to make returns as required by
45 subsection 4 of this section or failing to pay within the time required all taxes
46 assessed by this section shall be subject to the provisions of sections 148.375 and
47 148.410, RSMo.

48 6. Two or more captive insurance companies under common ownership
49 and control shall be taxed as though they were a single captive insurance
50 company.

51 7. For the purposes of this section, "common ownership and control" shall
52 mean:

53 (1) In the case of stock corporations, the direct or indirect ownership of
54 eighty percent or more of the outstanding voting stock of two or more corporations
55 by the same shareholder or shareholders; and

56 (2) In the case of mutual or nonprofit corporations, the direct or indirect
57 ownership of eighty percent or more of the surplus and the voting power of two
58 or more corporations by the same member or members.

59 8. The tax provided for in this section shall constitute all taxes collectible
60 under the laws of this state from any captive insurance company, and no other
61 occupation tax or other taxes shall be levied or collected from any captive
62 insurance company by the state or any county, city, or municipality within this
63 state, except ad valorem taxes on real and personal property used in the
64 production of income.

65 9. [The state treasurer shall annually transfer the premium tax revenues
66 collected under this section to the general revenue fund, except as provided in
67 section 379.1332] **Upon receiving the taxes collected under this section**
68 **from the director of revenue, the state treasurer shall receipt ninety**
69 **percent thereof into the general revenue fund of the state, and he or**
70 **she shall place the remainder of such taxes collected to the credit of**
71 **the insurance dedicated fund established under section 374.150, RSMo.**

72 10. The tax provided for in this section shall be calculated on an annual
73 basis, notwithstanding policies or contracts of insurance or contracts of
74 reinsurance issued on a multiyear basis. In the case of multiyear policies or
75 contracts, the premium shall be prorated for purposes of determining the tax
76 under this section.

77 11. A captive insurance company may deduct from premium taxes payable
78 to this state, in addition to all other credits allowed by law, license fees and
79 renewal fees payable under section 379.1302. A deduction for fees which exceeds
80 a captive insurance company's premium tax liability for the same tax year shall
81 not be refundable, but may be carried forward to any subsequent tax year, not to
82 exceed five years, until the full deduction is claimed.

 379.1332. 1. (1) The insurance dedicated fund under section 374.150,
2 RSMo, shall be adequately funded through the collection of fees and taxes for the
3 purpose of providing the financial means for the director of the department of
4 insurance, financial institutions and professional registration to administer
5 sections 379.1300 to 379.1350 and for reasonable expenses incurred in promoting
6 the captive insurance industry in Missouri. All fees and assessments received by
7 the department for the administration of sections 379.1300 to 379.1350 shall be
8 paid into the fund. [In addition, the transfer of twenty percent of the premium
9 tax under section 375.1014, RSMo, shall be made to the insurance dedicated fund
10 until two hundred thousand dollars has been transferred. Thereafter, up to ten
11 percent of the premium tax under section 379.1326 may be transferred to the
12 insurance dedicated fund for the administration of sections 379.1300 to 379.1350,
13 and up to two percent of the premium tax under section 379.1326 may be
14 transferred to the department of economic development, with approval of the
15 commissioner of administration, for promotional expenses.] All fees received by
16 the department from reinsurers who assume risk solely from captive insurance
17 companies and are subject to the provisions of section 375.246, RSMo, shall be
18 deposited into the insurance dedicated fund.

19 (2) All payments from the insurance dedicated fund for the maintenance
20 of staff and expenses associated with the administration of sections 379.1300 to
21 379.1350, including contractual services as necessary, shall be disbursed from the
22 state treasury only upon warrants issued by the director, after receipt of proper
23 documentation regarding services rendered and expenses incurred.

24 2. The director may anticipate receipts to the insurance dedicated fund
25 through the administration of sections 379.1300 to 379.1350 and issue warrants
26 based thereon.

**379.1339. 1. An association captive insurance company or
2 industrial insured captive insurance company formed as a stock or
3 mutual corporation may be converted to or merged with and into a
4 reciprocal insurer in accordance with a plan therefor and the**

5 provisions of this section.

6 2. Any plan for such conversion or merger shall provide a fair
7 and equitable plan for purchasing, retiring, or otherwise extinguishing
8 the interests of the stockholders and policyholders of a stock insurer,
9 and the members and policyholders of a mutual insurer, including a
10 fair and equitable provision for the rights and remedies of dissenting
11 stockholders, members, or policyholders.

12 3. In the case of a conversion authorized under subsection 1 of
13 this section:

14 (1) Such conversion shall be accomplished under such reasonable
15 plan and procedure as may be approved by the director; provided,
16 however, that the director shall not approve any such plan of
17 conversion unless such plan:

18 (a) Satisfies the provisions of subsection 2 of this section;

19 (b) Provides for a hearing, of which notice is given or to be given
20 to the captive insurance company, its directors, officers, and
21 policyholders, and, in the case of a stock insurer, its stockholders, and
22 in the case of a mutual insurer, its members, all of which persons shall
23 be entitled to attend and appear at such hearing; provided, however,
24 that if notice of a hearing is given and no director, officer,
25 policyholder, member, or stockholder requests a hearing, the director
26 may cancel such hearing;

27 (c) Provides a fair and equitable plan for the conversion of
28 stockholder, member, or policyholder interests into subscriber interests
29 in the resulting reciprocal insurer, substantially proportionate to the
30 corresponding interests in the stock or mutual insurer; provided,
31 however, that this requirement shall not preclude the resulting
32 reciprocal insurer from applying underwriting criteria that could affect
33 ongoing ownership interests; and

34 (d) Is approved:

35 a. In the case of a stock insurer, by a majority of the shares
36 entitled to vote represented in person or by proxy at a duly called
37 regular or special meeting at which a quorum is present; and

38 b. In the case of a mutual insurer, by a majority of the voting
39 interests of policyholders represented in person or by proxy at a duly
40 called regular or special meeting thereof at which a quorum is present;

41 (2) The director shall approve such plan of conversion if the

42 director finds that the conversion will promote the general good of the
43 state in conformity with those standards set forth in subdivision (1) of
44 subsection 4 of section 379.1310;

45 (3) If the director approves the plan, the director shall amend
46 the converting insurer's certificate of authority to reflect conversion to
47 a reciprocal insurer and issue such amended certificate of authority to
48 the company's attorney-in-fact;

49 (4) Upon the issuance of an amended certificate of authority of
50 a reciprocal insurer by the director, the conversion shall be effective;
51 and

52 (5) Upon the effectiveness of such conversion the corporate
53 existence of the converting insurer shall cease and the resulting
54 reciprocal insurer shall notify the secretary of state of such conversion.

55 4. A merger authorized under subsection 1 of this section shall
56 be accomplished substantially in accordance with such procedures and
57 plan of merger adopted by the board of directors of the captive
58 insurance company and as authorized by the director except that,
59 solely for purposes of such merger:

60 (1) The plan of merger shall satisfy the provisions of subsection
61 2 of this section;

62 (2) The subscribers' advisory committee of a reciprocal insurer
63 shall be equivalent to the board of directors of a stock or mutual
64 insurance company;

65 (3) The subscribers of a reciprocal insurer shall be the
66 equivalent of the policyholders of a mutual insurance company;

67 (4) If a subscribers' advisory committee does not have a
68 president or secretary, the officers of such committee having
69 substantially equivalent duties shall be deemed the president or
70 secretary of such committee;

71 (5) The director shall approve the articles of merger if the
72 director finds that the merger will promote the general good of the
73 state in conformity with those standards set forth in subdivision (1) of
74 subsection 4 of section 379.1310. If the director approves the articles
75 of merger, the director shall endorse the director's approval thereon
76 and the surviving insurer shall present the same to the secretary of
77 state at the secretary of state's office;

78 (6) Notwithstanding section 379.1306, the director may permit

79 the formation, without surplus, of a captive insurance company
80 organized as a reciprocal insurer, into which an existing captive
81 insurance company may be merged for the purpose of facilitating a
82 transaction under this section; provided, however, that there shall be
83 no more than one authorized insurance company surviving such
84 merger; and

85 (7) An alien insurer may be a party to a merger authorized under
86 subsection 1 of this section; provided, that such alien insurer shall be
87 treated as a foreign insurer and such other jurisdictions shall be the
88 equivalent of a state.

89 5. To the extent such effects are not inconsistent with the
90 provisions of sections 379.1300 to 379.1350, a conversion or merger
91 under this section shall have all of the following effects:

92 (1) The several insurers which are parties to the agreement of
93 merger or consolidation shall be a single insurer which shall such
94 single insurer shall have all of the rights, privileges, immunities and
95 powers and shall be subject to all of the duties and liabilities of an
96 insurer organized under sections 379.1300 to 379.1350;

97 (2) Such single insurer shall thereupon and thereafter possess all
98 the rights, privileges, immunities, powers, and franchises of a public as
99 well as of a private nature of each of the insurers so merged or
100 consolidated; and all property, real, personal, and mixed, and all debts
101 due on whatever account, including subscriptions to shares of capital
102 stock, and all other choses in action and all and every other interest,
103 of or belonging to or due to each of the insurers so merged or
104 consolidated shall be taken and deemed to be transferred to and vested
105 in such single insurer without further act or deed; and the title to any
106 real estate, or any interest therein, under the laws of this state vested
107 in any of such insurers shall not revert or be in any way impaired by
108 reason of such merger or consolidation; and

109 (3) Such single insurer shall thenceforth be responsible and
110 liable for all the liabilities and obligations of each of the insurers so
111 merged or consolidated in the same manner and to the same extent as
112 if such single insurer had itself incurred the same or contracted
113 therefor; and any claim existing or action or proceeding pending by or
114 against any of such insurers may be prosecuted to judgment as if such
115 merger or consolidation had not taken place. Neither the rights of

116 **creditors nor any liens upon the property of any such insurers shall be**
117 **impaired by such merger or consolidation, but such liens shall be**
118 **limited to the property upon which they were liens immediately prior**
119 **to the time of such merger or consolidation, unless otherwise provided**
120 **in the agreement of merger or consolidation.**

379.1373. 1. Activities of a SPLRC must be limited to those necessary to
2 accomplish its purpose as outlined in its plan of operation.

3 2. The name must not be deceptively similar to or likely to be confused
4 with another existing business name registered in the state.

5 3. The SPLRC must have at least three incorporators or organizers of
6 whom not fewer than [two] **one** must be [residents] **a resident** of the state.

7 4. The capital stock of a SPLRC incorporated as a stock company must be
8 issued at not less than par value.

379.1388. 1. A SPLRC may recognize as an admitted asset on its
2 financial statements filed with the director:

3 (1) Permitted investments;

4 (2) Letters of credit [issued without recourse to the SPLRC];

5 (3) Financial guarantee policies issued for the sole benefit of the ceding
6 company [without recourse to the SPLRC] by an insurer having a rating of no
7 less than AAA by Standard and Poor's or less than AAA by Moody's Investor
8 Service; and

9 (4) Surety bonds issued for the sole benefit of the ceding company
10 [without recourse to the SPLRC] by an insurer having a rating of no less than
11 AAA by Standard and Poor's or no less than AAA by Moody's Investors Service.

12 2. The assets of a SPLRC shall be valued in the same manner as the
13 assets of a Missouri domestic life insurer, **however, letters of credit,**
14 **financial guarantee policies and surety bonds issued without recourse**
15 **to the SPLRC, or with recourse to the SPLRC with a priority no higher**
16 **than afforded to class 7 claims under section 375.1218, RSMo, shall be**
17 **valued as follows.** [Notwithstanding the preceding, the director may by order
18 authorize a SPLRC to value one or more of its assets through an alternative
19 method.] Letters of credit shall be valued at the amount available for drawings
20 by the SPLRC or its ceding company as of the time of valuation. A financial
21 guarantee policy shall be valued at the amount available to pay aggregate claims
22 as of the time of valuation. A surety bond shall be valued at the amount
23 available to pay aggregate claims as of the time of valuation.

24 **Notwithstanding the preceding, the director may by order authorize a**
25 **SPLRC to value one or more of its assets through an alternative**
26 **method.**

379.1412. 1. Each SPLRC shall pay to the director of revenue on or before
2 May first of each year a premium tax at the rate of two hundred fourteen
3 thousandths of one percent on the first twenty million dollars of assumed
4 reinsurance premium, and one hundred forty-three thousandths of one percent
5 on the next twenty million dollars and forty-eight thousandths of one percent on
6 the next twenty million dollars and twenty-four thousandths of one percent of
7 each dollar thereafter. No reinsurance premium tax shall be payable in
8 connection with the receipt of assets in exchange for the assumption of loss
9 reserves and other liabilities of another insurer under common ownership and
10 control if such transaction is part of a plan to discontinue the operations of such
11 other insurer, and if the intent of the parties to such transaction is to renew or
12 maintain such business with the captive insurance company.

13 2. The premium tax imposed by subsection 1 of this section shall
14 constitute all taxes collectible under the laws of this state from any SPLRC, and
15 no other occupation tax or other taxes shall be levied or collected from any captive
16 insurance company by the state or any county, city, or municipality within this
17 state, except ad valorem taxes on real and personal property used in the
18 production of income.

19 3. The annual minimum aggregate tax to be paid by a SPLRC calculated
20 under subsection 1 of this section shall be seven thousand five hundred dollars,
21 and the annual maximum aggregate tax shall be two hundred thousand dollars.

22 4. A SPLRC may deduct from premium taxes payable to this state, in
23 addition to all other credits allowed by law, application fees payable under section
24 379.1359 and license fees and renewal fees payable under section 379.1364. A
25 deduction for fees which exceeds a SPLRC's premium tax liability for the same
26 tax year shall not be refundable, but may be carried forward to any subsequent
27 tax year, not to exceed five years, until the full deduction is claimed.

28 5. Every SPLRC shall, on or before February first each year, make a
29 return on a form provided by the director, verified by the affidavit of the
30 company's president and secretary or other authorized officers, to the director
31 stating the amount of all direct premiums received and assumed reinsurance
32 premiums received, whether in cash or in notes, during the year ending on
33 December thirty-first next preceding. Upon receipt of such returns, the director

34 shall verify the same and certify the amount of tax due from the various
35 companies on the basis and at the rate provided in this section, and shall certify
36 the same to the director of revenue, on or before March thirty-first of each
37 year. The director of revenue shall immediately thereafter notify and assess each
38 company the amount of tax due.

39 6. A SPLRC failing to make returns as required by subsection 5 of this
40 section, or failing to pay within the time required all taxes assessed by this
41 section, shall be subject to the provisions of sections 148.375 and 148.410, RSMo.

42 **7. Upon receiving the taxes collected under this section from the**
43 **director of revenue, the state treasurer shall receipt ninety percent**
44 **thereof into the general revenue fund of the state, and the state**
45 **treasurer shall place the remainder of such taxes collected to the credit**
46 **of the insurance dedicated fund established under section 374.150,**
47 **RSMo.**

✓

Bill

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