



Hundredth Legislature - First Session - 2007
Introducer's Statement of Intent
LB 121

Chairperson: Rich Pahls
Committee: Banking, Commerce and Insurance
Date of Hearing: January 23, 2007

The following constitutes the reasons for this bill and the purposes which are sought to be accomplished thereby:

LB 121 was introduced by the Banking, Commerce and Insurance Committee, at the request of the Nebraska Department of Insurance, and would do the following:

The bill would adopt a new named act, the Captive Insurers Act, for the purposes of setting forth the procedures for organizing and regulating the operations of captive insurers within the State of Nebraska and to encourage integrity, financial solvency, and stability of captive insurers for the purpose of promoting the development of Nebraska businesses. (Sections 1 and 2 of the bill.)

The bill would enact a new section to provide definitions for “affiliated entity”, “control”, “director”, and “parent”. The bill would define “captive insurer” as a domestic insurer restricted to providing insurance to the parent and affiliated entities of the captive insurer. (Section 3 of the bill.)

The bill would prohibit adoption by the captive insurer of the name of any existing insurer or any name that may be misleading to the public. The bill would require a captive insurer to obtain a certificate of authority, after having submitted a plan of operation and a five hundred dollar fee to the Department of Insurance. The bill would specify the contents and set standards for the plan of operation and require approval of the Director of Insurance before the plan of operation is amended. The bill would restrict a captive insurer to transacting property, glass, burglary and theft, boiler and machinery, liability, and marine insurance, and specifically restrict it from offering directors and officers or motor vehicle liability insurance. (Section 4 and 5 of the bill.)

The bill would set standards for the composition and operation of the board of directors of a captive insurer. (Section 6 of the bill.)

The bill would specify that certificates of authority expire annually on June 30, impose a renewal fee of five hundred dollars, and require a captive insurer to file an annual financial report, and grant the director authority to prescribe the form for such report. (Sections 7 and 8 of the bill.)

The bill would require a captive insurer to maintain a capital and surplus of at least one hundred thousand dollars in a form acceptable to the Director of Insurance. The bill would grant the director authority to require increased capital and surplus, and set standards for lines of credit used to satisfy capital and surplus requirements. The bill would grant the director authority to examine the captive insurer pursuant to the Insurers Examination Act. The bill would specify that captive insurers are subject to the limitations of the types and nature of investments in the Insurers Investment Act, but not as to the specific investment amount limitations. The bill would prohibit a captive insurer from making an investment or loan in the parent of a captive insurer without permission of the director. (Sections 9 to 11 of the bill.)

The bill would grant captive insurers the authority to cede risks to a reinsurer pursuant to the requirements for reinsurance transactions. The bill would allow cession of risks to a reinsurer not meeting the requirements for reinsurance transactions with the approval of the Director of Insurance. (Section 12 of the bill.)

The bill would specify that policies issued by a captive insurer are not subject to guaranty fund protection, and captive insurers would not be members of the Nebraska insurance guaranty associations. The bill would specify that that the insurance laws of the state do not apply to captive insurers unless specifically stated, but would specify that captive insurers are subject to the provisions of the Insurers Examination Act, Sections 44-101, 44-101.01, 44-102, 44-103, 44-114, 44-116, 44-154, 44-205.01, 44-231, 44-301, 44-318, 44-320, 44-326, and 44-360, and the Nebraska Insurers Supervision, Rehabilitation, and Liquidation Act if the captive insurer provides insurance or reinsurance to a parent or affiliate that is an insurer. (Sections 13 and 17 of the bill.)

The bill would allow dissolution of a captive insurer with approval of the Director of Insurance, but would specify that dissolution of the captive does not impair the right of persons to bring an action against the captive insurer. (Section 14 of the bill.)

The bill would grant the Director of Insurance authority to suspend or revoke a captive insurer's certificate of authority or impose an administrative penalty if the captive insurer takes or fails to take certain actions. (Section 15 of the bill.)

The bill would grant rulemaking authority to the Director of Insurance to carry out the purposes of the Captive Insurers Act. (Section 16 of the bill.)

The bill would impose a tax of one percent of the gross amount of direct writing premiums received by such insurer during the preceding calendar year for business transacted in the state. (Section 18 of the bill.)

Principal Introducer:

Rich Pahls, Chairperson
Committee on Banking, Commerce and Insurance