

AN ACT

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

Codification
District of
Columbia
Official Code

2001 Edition

2012 Summer
Supp.

West Group
Publisher

To amend the Captive Insurance Company Act of 2004 to make applicable certain District insurance laws to risk retention groups licensed as captive insurance companies; and to amend the Risk-Based Capital Act of 1996 to expand the definition of the term “Company Action Level Event” as it pertains to property and casualty insurers.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “Captive Insurance Company Amendment Act of 2012”.

Sec. 2. The Captive Insurance Company Act of 2004, effective March 17, 2005 (D.C. Law 15-262; D.C. Official Code § 31-3931.01 *et seq.*), is amended as follows:

(a) Section 4 (D.C. Official Code § 31-3931.03) is amended by adding a new subsection (a-1) to read as follows:

Amend
§ 31-3931.03

“(a-1) The articles of incorporation of a captive insurer shall become effective when approved by the Commissioner.”.

(b) Section 7 (D.C. Official Code § 31-3931.06) is amended by adding a new subsection (l) to read as follows:

Amend
§ 31-3931.06

“(l) Section 12 of the Fire and Casualty Act, approved October 9, 1940 (54 Stat. 1070; D.C. Official Code § 31-2502.12), shall apply to risk retention groups licensed as captive insurers. A risk retention group subject to this section may petition the Commissioner for a waiver of the limitation on exposure to risks or hazards. The Commissioner may issues rules, pursuant to section 22, establishing the circumstances under which a risk retention group may obtain, and the conditions a risk retention group shall satisfy to obtain, a waiver of the limitation.”.

(c) Section 8 (D.C. Official Code § 31-3931.07) is amended by adding a new subsection (c) to read as follows:

Amend
§ 31-3931.07

“(c) Notwithstanding subsection (b) of this section, a risk retention group licensed as a captive insurer shall be subject to sections 101 through 107, 301 through 312, and 501 of the Investments of Insurers Act of 2002, effective April 11, 2003 (D.C. Law 14-297; D.C. Official Code §§ 31-1371.01 –31-1371.07, 31-1373.01 – 31-1373.12, and 31-1375.01).” .

(d) Section 14 (D.C. Official Code § 31-3931.13) is amended by adding a new

subsection (c) to read as follows:

“(c) All risk retention groups licensed as captive insurers shall comply with the Annual Audited Financial Reports Act of 1993, effective October 21, 1993 (D.C. Law 10-48; D.C. Official Code § 31-301 *et seq.*), except that the exemption in section 15(a) (D.C. Official Code § 31-314(a)) shall not apply to risk retention groups. All risk retention groups licensed as captive insurers shall comply with the actuarial opinion filing requirements set forth in sections 26a and 26b of the Property and Casualty Actuarial Opinion Amendment Act of 2008, effective March 20, 2009, (D.C. Law 17-289; D.C. Official Code §§ 31-2502.26a and 31-2502.26b.)”.

Amend
§ 31-3931.13

(e) Section 23 (D.C. Official Code § 31-3931.22) is amended to read as follows:

Amend
§ 31-3931.22

“Sec. 23. Applicable laws.

“(a) Except as otherwise expressly provided in this act, only the following laws relating to insurance shall apply to risk retention groups licensed as captive insurers:

“(1) The Business Transacted with Producer Controlled Insurer Act of 1993, effective October 21, 1993 (D.C. Law 10-52; D.C. Official Code § 31-401 *et seq.*), notwithstanding the definition of the term “licensed insurer” or “insurer” in section 2(7)(A);

“(2) The Holding Company System Act of 1993, effective October 21, 1993 (D.C. Law 10-44; D.C. Official Code § 31-701 *et seq.*);

“(3) The Managing General Agents Act of 1993, effective October 21, 1993 (D.C. Law 10-41; D.C. Official Code § 31-1501 *et seq.*); and

“(4) The Reinsurance Intermediary Act of 1993, effective October 21, 1993 (D.C. Law 10-47; D.C. Official Code § 31-1801 *et seq.*).

“(b) Except for sections 3(a)(2) and 4(f) of the Risk-Based Capital Act of 1996, effective April 9, 1997 (D.C. Law 11-233; D.C. Official Code §§ 31-2002(a)(2) and 31-2003(f)) (“RBC Act”), the RBC Act shall, effective January 1, 2012, apply to risk retention groups licensed as captive insurers; provided, that the Commissioner may waive the requirement that a risk retention group licensed as a captive insurer file a Risk Based Capital Plan under the RBC Act if the insurer is in compliance with its approved plan of operation and any additional requirements imposed by the Commissioner by rule pursuant to section 21.”.

Sec. 3. Section 4(a)(1) of the Risk-Based Capital Act of 1996, effective April 9, 1997 (D.C. Law 11-233; D.C. Official Code § 31-2003(a)(1)), is amended as follows:

Amend
§ 31-2003

(a) Subparagraph (A) is amended by striking the word “or” at the end.

(b) Subparagraph (B) is amended by striking the semicolon and inserting the phrase “; or” in its place.

(c) A new subparagraph (C) is added to read as follows:

“(C) If licensed as a property and casualty insurer, the insurer has total adjusted capital which is greater than or equal to its Company Action Level RBC, but less than the product of its Authorized Control Level RBC and 3.0, and triggers the trend test determined in accordance with the trend test calculation included in the Property and Casualty RBC instructions;”.

Sec. 4. Fiscal impact statement.

The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

Sec. 5. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 30-day period of Congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of Columbia Register.

Chairman
Council of the District of Columbia

Mayor
District of Columbia