
A BILL FOR AN ACT

RELATING TO INSURANCE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Section 431:19-111, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "§431:19-111 Reinsurance. (a) Any captive insurance
4 company may provide reinsurance on risks ceded by any other
5 insurer only upon approval of the reinsurance agreement by the
6 commissioner.

7 (b) Any captive insurance company may take credit for
8 reserves on risks ceded to a reinsurer; provided that no captive
9 insurance company shall cede risks without the approval of the
10 commissioner.

11 (c) A risk retention group shall not receive statement
12 credit if all, or a portion, of the risk retention group's
13 policies are ceded through reinsurance arrangements, as
14 determined by the commissioner.

15 (d) Credit for reinsurance shall be permitted if the
16 reinsurer complies with the applicable provisions of article 4A.

17 (e) Credit for reinsurance may be permitted if:

18 (1) The reinsurer:



- 1 (A) Maintains an A- or higher A.M. Best rating, or
2 other comparable rating from a nationally
3 recognized statistical rating organization;
- 4 (B) Maintains a minimum policyholder surplus in an
5 amount acceptable to the commissioner, based upon
6 a review of the reinsurer's most recent audited
7 financial statements; and
- 8 (C) Is licensed and domiciled in a jurisdiction
9 acceptable to the commissioner; or
- 10 (2) The reinsurer satisfies all of the following
11 requirements and any other requirements deemed
12 necessary by the commissioner:
- 13 (A) The captive manager or risk retention group
14 licensed as a captive insurer files the
15 reinsurer's audited financial statements
16 annually, on or before June 30, at the request of
17 the commissioner, or more often at the option of
18 the captive manager or risk retention group;
19 provided that the financial statements shall be
20 analyzed by the commissioner to assess the
21 appropriateness of the reserve credit or the



1 initial and continued financial condition of the
2 reinsurer;

3 (B) The reinsurer demonstrates to the satisfaction of
4 the commissioner that the reinsurer maintains a
5 ratio of net written premium to surplus and
6 capital of not more than three to one, regardless
7 of where written;

8 (C) A reinsurer affiliated with the ceding risk
9 retention group does not directly write
10 third-party business without obtaining prior
11 written approval from the commissioner;

12 (D) The reinsurer does not use cell arrangements
13 without obtaining prior written approval from the
14 commissioner;

15 (E) The reinsurer is licensed and domiciled in a
16 jurisdiction acceptable to the commissioner; and

17 (F) The reinsurer submits to the examination
18 authority of the commissioner.

19 (f) The commissioner shall require a reinsurer not
20 domiciled in the United States to include language in the
21 reinsurance agreement that states that, if the reinsurer fails
22 to perform its obligations under the terms of a reinsurance



1 agreement, the reinsurer shall submit to the jurisdiction of any
2 court of competent jurisdiction in the United States.

3 (g) For credit for reinsurance and solvency regulatory
4 purposes, the commissioner may require an approved funds-held
5 agreement, letter of credit, trust, or other acceptable
6 collateral based upon unearned premium, loss and unpaid loss and
7 loss adjustment expense reserves, and losses incurred but not
8 reported.

9 (h) Upon application, the commissioner may waive the
10 reinsurance requirements in subsection (e) (2) (B) or (e) (2) (F) if
11 the risk retention group licensed as a captive insurer or
12 reinsurer can demonstrate to the commissioner that:

13 (1) The reinsurer is sufficiently capitalized based upon
14 an annual review of the reinsurer's most recent
15 audited financial statements;

16 (2) The reinsurer is licensed and domiciled in a
17 jurisdiction satisfactory to the commissioner; and

18 (3) The proposed reinsurance agreement adequately protects
19 the risk retention group licensed as a captive insurer
20 and its policyholders.

21 This waiver shall be included in the plan of operation, or any
22 subsequent revision or amendment of the plan, pursuant to



1 Section 3902(d)(1) of the federal Liability Risk Retention Act
2 of 1986, and the plan shall be submitted by the risk retention
3 group licensed as a captive to the commissioner of each state in
4 which the risk retention group licensed as a captive intends to
5 do business or is currently registered.

6 (i) Upon application, the commissioner may waive all of
7 the requirements of subsection (e)(2) if the risk retention
8 group licensed as a captive insurer or reinsurer demonstrates to
9 the satisfaction of the commissioner that:

10 (1) The reinsurer is sufficiently capitalized based upon
11 an annual review of the reinsurer's most recent
12 audited financial statements;

13 (2) The reinsurer is licensed and domiciled in a
14 jurisdiction satisfactory to the commissioner; and

15 (3) The proposed reinsurance agreement adequately protects
16 the risk retention group licensed as a captive insurer
17 and its policyholders.

18 This waiver shall be disclosed in the first note of the risk
19 retention group's annual statutory financial statement.

20 (j) Any waiver of a requirement under subsection (e)(2)
21 constitutes a change in the risk retention group's plan of
22 operation in each state in which the risk retention group



1 licensed as a captive intends to do business or is currently
2 registered."

3 SECTION 2. Within sixty days of the effective date of this
4 Act, any approved captive manager or risk retention group
5 licensed as a captive insurer shall make an assessment of the
6 risk retention groups licensed as captives under their
7 management and submit a written report to the insurance
8 commissioner indicating whether the risk retention groups are in
9 compliance with this Act.

10 Any risk retention group licensed as a captive insurer that
11 fails to submit the report in a timely manner shall be examined,
12 at the risk retention group's expense, to determine compliance
13 with this Act.

14 SECTION 3. Upon satisfactory demonstration to the
15 insurance commissioner that a delay of implementation will not
16 cause a hazardous financial condition or potential harm to its
17 member policyholders, risk retention groups licensed as captive
18 insurers that require additional time to comply with this Act
19 shall be permitted to take credit for reinsurance for risks
20 ceded to reinsurers not in compliance with this Act for a period
21 not to exceed twelve months from the effective date of this Act.

22 SECTION 4. New statutory material is underscored.



1 SECTION 5. This Act shall take effect on July 1, 2013.



Report Title:

Captive Insurance; Reinsurance; Credits

Description:

Clarifies requirements for reinsurance credits for risk retention groups. Requires assessment and reporting of risk retention groups to determine compliance with this Act. Effective 07/01/13. (HD1)

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

