
OLR Bill Analysis

sHB 6433

AN ACT CONCERNING CAPTIVE INSURANCE.

SUMMARY

This bill makes various changes in laws related to captive insurers (see BACKGROUND) by generally allowing:

1. a captive insurance company domiciled in the state, with the insurance commissioner's prior written approval, to convert into a protected cell;
2. a sponsored captive insurance company, with prior consent of certain relevant entities and the commissioner's approval, to sell, transfer, assign, or otherwise convey a protected cell to a new or existing sponsored captive insurance company or one licensed as a special purpose financial insurance company; and
3. the insurance commissioner to separate any insolvent protected cell from the sponsored captive insurance company, and the insolvent protected cell to convert into a new protected cell or a captive insurance company.

It also subjects captive insurance companies to the general penalty under existing law if they violate any provision of the insurance title for which no other penalty is provided. By law, this general penalty is a fine up to \$15,000.

EFFECTIVE DATE: October 1, 2025

CONVERSION TO PROTECTED CELL

Eligibility

The bill allows any captive insurance company domiciled in the state to convert into a protected cell if it (1) is organized as an agency captive insurance company, association captive insurance company, industrial

insured captive insurance company, pure captive insurance company, risk retention group, or special purpose financial insurance company and (2) has the commissioner's prior written approval.

Laws That Govern the Conversion

The captive insurance company must perform the conversion under the laws applicable to business corporations, limited liability companies, or any other type of legal entity allowed under state law, as applicable.

Effect of the Conversion

Under the bill, the conversion is subject to the captive insurance-related statutes and the captive insurance company's plan of operation approved by the commissioner, but it does not affect the converted captive insurance company's assets, rights, benefits, obligations, or liabilities.

The bill deems the captive insurance company's conversion into a protected cell to be a continuation of the company's existence with all its assets, rights, benefits, obligations, and liabilities as a protected cell. The conversion occurs without transferring, assigning, impairing, or creating a reversionary interest in the captive insurance company's assets, rights, benefits, obligations, or liabilities.

The bill specifies that a captive insurance company's conversion does not limit any of the rights or protections that the company had under certain laws relating to its licensure as a captive insurance company before the conversion.

CONVEYANCE OF PROTECTED CELL

Eligibility

The bill allows any sponsored captive insurance company, including those licensed as a special purpose financial insurance company, to sell, transfer, assign or otherwise convey a protected cell, together with all of the protected cell's assets, rights, benefits, obligations, and liabilities, to a new or existing sponsored captive insurance company or one licensed as a special purpose financial insurance company. The company must

do so according to any plan of operation approved by the commissioner.

Prerequisites

Under the bill, to convey the protected cell as described above, the (1) company must get (a) the affected incorporated protected cell's consent or (b) prior consent from each participant of the affected protected cell or as otherwise allowed under a participation agreement, (2) sponsor must file an application, and (3) commissioner must approve in writing.

Effect of the Sale, Transfer, Assignment, or Conveyance

The bill deems any sale, transfer, assignment, or conveyance of a protected cell (as described above) as a continuation of the protected cell's existence, with all its assets, rights, benefits, obligations, and liabilities, as a protected cell of the transferee sponsored captive insurance company.

Under the bill, the sale, transfer, assignment, or conveyance of a protected cell does not limit any rights or protections that the transferred protected cell and the transferor sponsored captive insurance company or sponsored captive insurance company licensed as a special purpose financial insurance company had under applicable insurance laws immediately before the sale, transfer, assignment, or conveyance date.

SEPARATION OF INSOLVENT PROTECTED CELL

The bill allows the (1) insurance commissioner to separate any insolvent protected cell from the sponsored captive insurance company and (2) insolvent protected cell to convert into a captive insurance company or a new protected cell of another sponsored captive insurance company.

The bill deems the conversion of the insolvent protected cell as a continuation of its existence as a new protected cell or captive insurance company, as applicable. Under the bill, the conversion occurs without transferring, assigning, impairing, or creating a reversionary interest in the protected cell's assets, rights, benefits, obligations, or liabilities.

BACKGROUND

Captive Insurers

Generally, a captive insurer is an insurance company formed to insure or reinsure the risks of its owners, parent company, or affiliated company. Existing law allows several different types of captive insurers to be licensed and operate in the state. One type, a sponsored captive insurer, is an insurance company that (1) has the minimum paid-in capital and surplus provided by one or more sponsors, (2) insures its participants through separate participant contracts, and (3) funds its liability to each participant through protected cells and separates each cell's assets from that of other cells and the captive insurer as a whole.

COMMITTEE ACTION

Insurance and Real Estate Committee

Joint Favorable Substitute

Yea 13 Nay 0 (02/20/2025)