

CHAPTER 148
FORMERLY
HOUSE BILL NO. 87
AS AMENDED BY
HOUSE AMENDMENT NO.1 AND
HOUSE AMENDMENT NO. 2

AN ACT TO AMEND TITLE 18 OF THE DELAWARE CODE RELATING TO CAPTIVE INSURANCE.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE (Three-fifths of all members elected to each house thereof concurring therein):

Section 1. Amend Section 6902, Title 18 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows and redesignating accordingly:

§ 6902 Definitions.

As used in this chapter, unless the context requires otherwise:

(17) "Dormant captive insurance company" means a captive insurance company which meets all of the following criteria for an entire calendar year:

a. The company:

1. Did not contract for, or collect, any direct premium; and
2. Did not contract for, or assume, any reinsurance premium;

b. The company was not obligated as an insurance company of any type under any contract of insurance or reinsurance issued or entered into during any year in which it is a dormant captive insurance company; and

c. The company has provided written notice to the Commissioner of its intention to be treated as a dormant captive insurance company and certifies to the matters set forth in paragraphs (a) and (b) of this subsection.

Section 2. Amend Chapter 69, Title 18 of the Delaware Code by making deletions as shown by strike through insertions as shown by underline as follows:

§ 6924 Dormant captive insurance companies.

(a) A dormant captive insurance company shall possess and maintain unimpaired capital and surplus in an amount of \$25,000 or such other amount as determined by the Commissioner.

(b) A dormant captive insurance company shall not be subject to or liable for the payment of any premium tax under §6914 of this title.

(c) A dormant captive insurance company shall not be required to do any of the following:

- (1) File annual statements with the Commissioner.
- (2) Prepare audited financial statements.
- (3) Obtain statements of actuarial opinion.

(d) A dormant captive insurance company shall be subject to examination under §6908 of this title for any year when it did not qualify as a dormant captive insurance company under §6902 of this title. At the Commissioner's discretion, it shall be subject to examination for any year in which it does qualify as a dormant captive insurance company under §6902 of this title.

(e) The Commissioner may, upon application, declare a captive insurance company to be dormant for purposes of this section even if such captive insurance company retains liabilities associated with policies written or assumed by the company; provided that the captive insurance company has otherwise ceased the transacting of insurance business.

(f) A dormant captive insurance company shall not resume transacting the business of insurance until such time as the dormant captive insurance company has provided written notice to the Commissioner of its intention to resume assuming risk through the issuance of insurance policies, reinsurance contracts, or both, and accepting premium, whether direct, assumed via reinsurance, or both, at which time such captive insurance company shall no longer be considered a dormant captive insurance company and shall thereafter comply with all provisions of this Chapter and regulations issued pursuant to this Chapter applicable to such captive insurance company.

(g) If, after a period of 5 years from the date of the written notice being sent to the Commissioner, a dormant captive insurance company has not resumed transacting the business of insurance by assuming risk through the issuance of insurance policies, reinsurance contracts, or both, and accepting premium, whether direct, assumed via reinsurance, or both, the nonrefundable license renewal fee payable under §6903(d) of this title shall be increased to \$25,000 for the sixth year of dormancy and \$5,000 for every year of dormancy thereafter.

(h) At the Commissioner's discretion, a dormant captive insurance company may continue as a dormant captive insurance company for a period in excess of 5 years without incurring the additional fees set forth in subsection (g) of this section upon good reason shown and acceptable to the Commissioner.

(i) A dormant captive insurance company may continue to adjudicate and settle insurance claims brought under any contract of insurance or reinsurance issued during any year in which it was not a dormant captive insurance company. The effective date of such a contract of insurance or reinsurance must be before the dormant captive insurance became a dormant captive insurance company.

Approved August 30, 2017