Unofficial Draft Copy

67th Legislature LC 1881

1	BILL NO		
2	INTRODUCED BY		
3	(Primary Sponsor)		
4	A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING CAPTIVE INSURANCE LAWS;		
5	PROVIDING THAT AN INDEPENDENT CAUSE OF ACTION UNDER THE INSURANCE UNFAIR TRADE		
6	PRACTICES ACT APPLIES TO CERTAIN CAPTIVE INSURANCE ENTITIES; INCLUDING ASSOCIATION		
7	CAPTIVE INSURER COMPANIES, CAPTIVE RISK RETENTION GROUPS, AND INDUSTRIAL INSURED		
8	CAPTIVE INSURANCE COMPANIES; AND AMENDING SECTION 33-28-207, MCA."		
9			
10	BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:		
11			
12	Section 1. Section 33-28-207, MCA, is amended to read:		
13	"33-28-207. Applicable laws. (1) The following apply to captive insurance companies:		
14	(a) the definitions of commissioner and department provided in 33-1-202, property insurance provided		
15	in 33-1-210, casualty insurance provided in 33-1-206, life insurance provided in 33-1-208, health insurance		
16	coverage and group health plans provided in 33-22-140, and disability income insurance provided in 33-1-235;		
17	(b) the limitation provided in 33-2-705 on the imposition of other taxes;		
18	(c) the provisions relating to supervision, rehabilitation, and liquidation of insurance companies as		
19	provided for in Title 33, chapter 2, part 13;		
20	(d) the provisions of 33-1-311, 33-1-604 through 33-1-606, 33-2-112, 33-3-431, 33-18-201, 33-18-		
21	203, and 33-18-205, and 33-18-242;		
22	(e) the provisions relating to dissolution and liquidation in Title 33, chapter 3, part 6, except that a		
23	pure captive insurance company may proceed with voluntary dissolution and liquidation after prior notice to and		
24	approval of the commissioner without following the provisions of Title 33, chapter 3, part 6; and		
25	(f) the authority of the commissioner under 33-2-701(6) to impose a fine for failure to timely file an		
26	annual statement, except that the annual statement requirements in 33-28-107 apply; and		
27	(g) (i) the provisions of 33-18-242 apply only to the following captive insurance entities defined in 33-		
28	<u>28-101:</u>		

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1	<u>(A)</u>	an association captive insurance company;	
2	<u>(B)</u>	a captive risk retention group; and	
3	<u>(C)</u>	an industrial insured captive insurance company; and	
4	<u>(ii)</u>	except for the entities provided in subsections (1)(g)(i)(A) through (1)(g)(i)(C), a cause of action	
5	may not be	brought pursuant to 33-18-242 against a captive insurance company or an entity utilizing a captive	
6	insurance co	ompany to pay or adjust claims against it, regardless of whether the captive insurance company is	
7	formed or authorized under the provisions of this chapter.		
8	(2)	This chapter may not be construed as exempting a captive insurance company, its parent, or	
9	affiliated companies from compliance with the laws governing workers' compensation insurance.		
10	(3)	A captive insurance company or branch captive insurance company that writes health insurance	
11	coverage or group health plans as defined in 33-22-140 shall comply with applicable state and federal laws.		
12	(4)	The following provisions apply to captive risk retention groups:	
13	(a)	those relating to actuarial opinions in Title 33, chapter 1, part 14;	
14	(b)	those relating to risk-based capital in Title 33, chapter 2, part 19; and	
15	(c)	those relating to insurance holding company systems in Title 33, chapter 2, part 11.	
16	(5)	Except as expressly provided in this chapter, the provisions of Title 33 do not apply to captive	
17	insurance companies."		





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