

**§6725. Branch captive insurance companies**

**1. Definitions.** As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Alien captive insurance company" means an insurance company formed to write insurance business for its parents and affiliates and licensed pursuant to the laws of an alien jurisdiction that imposes statutory or regulatory standards in a form acceptable to the superintendent on companies transacting the business of insurance in the alien jurisdiction. [PL 2009, c. 335, §24 (NEW).]

B. "Branch business" means any insurance business transacted by a branch captive insurance company in this State. [PL 2009, c. 335, §24 (NEW).]

C. "Branch captive insurance company" means any alien captive insurance company licensed by the superintendent to transact the business of insurance in this State through a business unit with a principal place of business in this State. [PL 2009, c. 335, §24 (NEW).]

D. "Branch operations" means any business operations of a branch captive insurance company in this State. [PL 2009, c. 335, §24 (NEW).]

[PL 2009, c. 335, §24 (NEW).]

**2. Establishment of a branch captive insurance company.** A branch captive insurance company may be established in this State in accordance with the provisions of this chapter to write in this State only insurance or reinsurance of the employee benefit business of its parent and affiliated companies that is subject to the provisions of the federal Employee Retirement Income Security Act of 1974, as amended. In addition to the general provisions of this chapter, the provisions of this section apply to branch captive insurance companies. A branch captive insurance company may not do any insurance business in this State unless it maintains the principal place of business for its branch operations in this State.

[PL 2009, c. 335, §24 (NEW).]

**3. Security required.** In the case of a branch captive insurance company, as security for the payment of liabilities attributable to the branch operations, the superintendent shall require that either a trust fund funded by assets acceptable to the superintendent or an irrevocable letter of credit be established and maintained in the United States for the benefit of United States policyholders and United States ceding insurers under insurance policies issued or reinsurance contracts issued or assumed by the branch captive insurance company through its branch operations. The amount of the security may be no less than the amount set forth in section 6704, subsection 1, paragraph A and the reserves on the insurance policies or reinsurance contracts, including reserves for losses, allocated loss adjustment expenses, incurred but not reported losses and unearned premiums with regard to business written through the branch operation, except that the superintendent may permit a branch captive insurance company that is required to post security for loss reserves on branch business by its reinsurer to reduce the funds in the trust account or the amount payable under the irrevocable letter of credit required by this subsection by the same amount as long as the security remains posted with the reinsurer. If the form of security selected is a letter of credit, the letter of credit must be established by, or issued or confirmed by, a bank chartered in this State or a member bank of the Federal Reserve System.

[PL 2009, c. 335, §24 (NEW).]

**4. Certificate of general good.** In the case of a captive insurance company licensed as a branch captive insurance company, the alien captive insurance company shall petition the superintendent to issue a certificate setting forth the superintendent's finding that, after considering the character, reputation, financial responsibility, insurance experience and business qualifications of the officers and directors of the alien captive insurance company, the licensing and maintenance of the branch operations will promote the general good of the State. The alien captive insurance company may register to do business in this State after the superintendent's certificate is issued.

[PL 2009, c. 335, §24 (NEW).]

**5. Reports.** Prior to March 1st of each year, or with the approval of the superintendent within 60 days after its fiscal year-end, a branch captive insurance company shall file with the superintendent a copy of all reports and statements required to be filed under the laws of the jurisdiction in which the alien captive insurance company is formed, verified by oath of 2 of its executive officers. If the superintendent is satisfied that the annual report filed by the alien captive insurance company in its domiciliary jurisdiction provides adequate information concerning the financial condition of the alien captive insurance company, the superintendent may waive the requirement for completion of the captive annual statement for business written in the alien jurisdiction.

[PL 2009, c. 335, §24 (NEW).]

**6. Examination of branch captive insurance companies.** The examination of a branch captive insurance company pursuant to section 6708 must be of the branch business and branch operations only, as long as the branch captive insurance company provides annually to the superintendent a certificate of compliance, or its equivalent, issued by or filed with the licensing authority of the jurisdiction in which the branch captive insurance company is formed and demonstrates to the superintendent's satisfaction that it is operating in sound financial condition in accordance with all applicable laws and regulations of that jurisdiction. As a condition of licensure, the alien captive insurance company must grant authority to the superintendent for examination of the affairs of the alien captive insurance company in the jurisdiction in which the alien captive insurance company is formed.

[PL 2009, c. 335, §24 (NEW).]

#### SECTION HISTORY

PL 2009, c. 335, §24 (NEW).

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