

2021 Bill 76

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Second Session, 30th Legislature, 70 Elizabeth II

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THE LEGISLATIVE ASSEMBLY OF ALBERTA

# **BILL 76**

## **CAPTIVE INSURANCE COMPANIES ACT**

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THE PRESIDENT OF TREASURY BOARD AND MINISTER OF FINANCE

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First Reading . . . . .

Second Reading . . . . .

Committee of the Whole . . . . .

Third Reading . . . . .

Royal Assent . . . . .

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## BILL 76

2021

### CAPTIVE INSURANCE COMPANIES ACT

(Assented to , 2021)

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HER MAJESTY, by and with the advice and consent of the  
Legislative Assembly of Alberta, enacts as follows:

#### **Interpretation**

**1(1)** In this Act,

- (a) “affiliated entity” means “affiliate” as defined in the  
*Insurance Act*;

- (b) “association” means an association of persons, the member organizations of which, or which does itself, whether or not in conjunction with some or all of its member organizations,
  - (i) own all the issued voting shares of an association captive insurance company formed as a body corporate, or
  - (ii) own all the partnership interests of an association captive insurance company formed as a limited partnership;
- (c) “association captive insurance company” means a captive insurance company that insures the risks of the persons described in section 27(2);
- (d) “base capital” means base capital as defined in the regulations;
- (e) “captive insurance company” means an insurer formed in accordance with this Act that is a pure captive insurance company, an association captive insurance company, a sophisticated insured captive insurance company or another type of captive insurance company authorized by the regulations;
- (f) “examiner” means an examiner appointed under section 41;
- (g) “licence” means a licence under this Act unless the provision in which the term is used specifies otherwise;
- (h) “limited partnership” means a limited partnership formed under Part 2 of the *Partnership Act*;
- (i) “member organization” means a person that belongs to an association;
- (j) “Minister” means the Minister determined under section 16 of the *Government Organization Act* as the Minister responsible for this Act;
- (k) “organizational documents” means the articles of incorporation, bylaws, partnership agreement and other foundational documents that govern a body corporate or limited partnership;

- (l) “parent” means
  - (i) a person that owns all
    - (A) the issued voting shares of a pure captive insurance company formed as a body corporate, or
    - (B) the partnership interests of a pure captive insurance company formed as a limited partnership,
  - or
  - (ii) a group of affiliated entities,
    - (A) each of which owns issued voting shares of a pure captive insurance company formed as a body corporate and all of which collectively own all the issued voting shares of the pure captive insurance company, or
    - (B) each of which owns partnership interests of a pure captive insurance company formed as a limited partnership and all of which collectively own all the partnership interests of the pure captive insurance company;
- (m) “prescribed” means prescribed by the regulations;
- (n) “pure captive insurance company” means a captive insurance company that insures the risks of the persons described in section 27(1);
- (o) “sophisticated insured” means an insured
  - (i) who, in the opinion of the Superintendent, has expertise in insurance matters, and
  - (ii) whose aggregate annual premiums for insurance on all risks insured by an insurer total at least the prescribed amount;
- (p) “sophisticated insured captive insurance company” means a captive insurance company that insures the risks of the persons described in section 27(3);



- (q) “sophisticated insured group” means a group of sophisticated insureds,
  - (i) each member of which owns issued voting shares of a sophisticated insured captive insurance company formed as a body corporate, and the members of which collectively own all the issued voting shares of the sophisticated insured captive insurance company, or
  - (ii) each member of which owns partnership interests of a sophisticated insured captive insurance company formed as a limited partnership, and the members of which collectively own all the partnership interests of the sophisticated insured captive insurance company;
- (r) “Superintendent” means the Superintendent of Insurance appointed under the *Insurance Act*.

(2) Unless otherwise provided in this Act or the regulations, or unless the context otherwise requires, words and expressions used in this Act or the regulations have, as the case may be, the same meaning as provided in the *Insurance Act*.

(3) Any reference in this Act to the directors and officers of a captive insurance company shall, in the case of a captive insurance company formed as a limited partnership, mean the directors and officers of the general partner.

## **Part 1 Formation and Management of Captive Insurance Company**

### **Division 1 Management**

#### **Formation**

**2** A captive insurance company may be

- (a) incorporated as a body corporate under the *Business Corporations Act*, or

- (b) formed as a limited partnership under the *Partnership Act*, provided that
  - (i) the limited partnership has a sole general partner, and
  - (ii) the general partner is incorporated as a body corporate under the *Business Corporations Act*.

#### **Business carried on by a captive insurance company**

**3(1)** Subject to this Act and the regulations, a captive insurance company must not engage in any business other than

- (a) the business of insurance, or
- (b) any other prescribed type of business.

**(2)** For the purposes of this Act, the business of insurance includes any activity that is reasonably ancillary to the business of insurance.

#### **Principal place of business**

**4(1)** A captive insurance company shall at all times have a principal place of business in Alberta.

**(2)** A captive insurance company that changes the address of its principal place of business must, before the change occurs, notify the Minister in writing of the date of the change and the new address.

#### **Duty to manage**

**5(1)** Subject to this Act, the directors of a captive insurance company must manage or supervise the management of the business and affairs of the company.

**(2)** Without limiting the generality of subsection (1), the directors of a captive insurance company must establish adequate internal controls and adopt policies and procedures to provide effective oversight of the business and other activities of the company, including

- (a) procedures to resolve conflicts of interest, including techniques for the identification of potential conflict

situations and for restricting the use of confidential information,

- (b) procedures to provide disclosure of information that this Act and the regulations require to be disclosed, and
- (c) policies and procedures to ensure that the company applies prudent investment standards in accordance with section 10.

(3) The directors of a captive insurance company shall set up such committees as they deem necessary to ensure that the captive insurance company is conducting business according to sound corporate governance principles.

#### **Duty of care**

**6(1)** Every director and officer of a captive insurance company in exercising any of the powers of a director or an officer and discharging any of the duties of a director or an officer must

- (a) act honestly and in good faith with a view to the best interests of the company, and
- (b) exercise the care, diligence and skill that a reasonable and prudent person would exercise in comparable circumstances.

(2) Every director, officer and employee of a captive insurance company must comply with this Act, the regulations and the company's organizational documents.

(3) No provision in any contract, in any resolution or in the organizational documents of a captive insurance company relieves any director, officer or employee of the company from the duty to act in accordance with this Act and the regulations or relieves a director, officer or employee from liability for a breach of that duty.

#### **Auditor**

**7(1)** A captive insurance company must appoint and at all times have an auditor of the company.

**(2)** The Minister may revoke the appointment of the auditor of a captive insurance company if the Minister is satisfied that the auditor does not meet the prescribed qualifications.

**(3)** An auditor of a captive insurance company shall

- (a) conduct such examination as is in the auditor's opinion necessary to enable the auditor to report on the annual financial statements of the company, and
- (b) make a report in writing on the annual financial statements of the company.

**(4)** If the Minister is satisfied that the financial statements and report referred to in subsection (3) were not prepared in accordance with the prescribed financial reporting standards, the Minister may require the company

- (a) to prepare new financial statements or reports that are prepared in accordance with the prescribed standards, and
- (b) to send the new financial statements or reports to the persons specified by the Minister.

**(5)** The Minister may, in writing, require that the auditor of a captive insurance company report to the Minister on the extent of the auditor's procedures in examining the financial information set out in the company's annual return and may, in writing, require that the auditor enlarge or extend the scope of that examination or direct that any other particular procedure be performed in any particular case, and the auditor must comply with the requirement of the Minister and report to the Minister.

**(6)** The Minister may, in writing, require that the auditor of a captive insurance company make a particular examination relating to the adequacy of the procedures adopted by the company for the safety of its creditors, policyholders and owners, as applicable, or any other examination that, in the Minister's opinion, the public interest may require, and the auditor must comply with the requirement and report to the Minister.

#### **Actuary**

**8(1)** A captive insurance company must appoint and have at all times an actuary of the company.

(2) A captive insurance company must forthwith notify the Minister in writing of the appointment and name and address of the actuary of the company.

(3) The Minister may revoke the appointment of the actuary of a captive insurance company if the Minister is satisfied that the actuary does not meet the prescribed qualifications.

(4) The actuary of a captive insurance company must value, in accordance with the prescribed financial reporting standards,

- (a) the actuarial and other policy liabilities of the company as at the end of a financial year, and
- (b) any other matter specified in any direction made by the Minister

and make a report on the valuation to the company.

(5) The Minister may appoint an individual as an actuary to value the matters referred to in subsection (4) in relation to a captive insurance company if the Minister is of the opinion that the appointment is necessary.

(6) The Minister may, in writing, require that the actuary of a captive insurance company report to the Minister on the extent of the actuary's procedures used in valuing the actuarially based liability figures contained in the captive insurance company's annual return and may, in writing, require that the actuary enlarge or extend the scope of that valuation or direct that any other particular procedure be performed in any particular case, and the actuary must comply with the requirements of the Minister and report to the Minister.

#### **Records**

**9(1)** Every captive insurance company must keep a copy of its prescribed records in accordance with the regulations.

(2) Every captive insurance company must ensure that its records referred to in subsection (1) are accessible and open to examination by

- (a) its parent, the parent's affiliated entities and their agents, in respect of a pure captive insurance company,

- (b) the association, the member organizations of its association, their affiliated entities and their agents, in respect of an association captive insurance company,
- (c) the sophisticated insureds that comprise its sophisticated insured group, their affiliated entities and their agents, in respect of a sophisticated captive insurance company, and
- (d) the directors and creditors of a captive insurance company and their agents

during the captive insurance company's normal business hours.

## **Division 2 Investments**

### **Prudent investment standards**

**10(1)** A captive insurance company must adhere to prudent investment standards in making investment decisions and in managing its total investments.

**(2)** For the purposes of this Act, prudent investment standards are those that, in the overall context of an investment portfolio, a reasonable and prudent person would apply to investments made on behalf of another person with whom there exists a fiduciary relationship to make such investments without undue risk of loss or impairment and with a reasonable expectation of fair return or appreciation.

**(3)** The fact that a captive insurance company is in compliance with the other provisions of this Act relating to investments does not of itself mean the company is in compliance with subsection (1).

### **Policies and procedures**

**11(1)** The directors of a captive insurance company must establish policies and procedures to ensure that the company applies prudent investment standards in making investment decisions and in managing its total investments.

**(2)** The directors must review the procedures established under subsection (1) at least once each year.

### **Investments, guarantees and other transactions**

**12(1)** Subject to subsection (2), no captive insurance company shall be subject to any restrictions on its investments, provided that the Minister may

- (a) prohibit or limit any investment by a company, or
- (b) direct a company to divest itself of all or part of any investment

that, in the Minister's opinion, imperils the capital adequacy or liquidity of the company.

**(2)** A captive insurance company shall not make, give or enter into investments, guarantees or other transactions of the type prescribed in the regulations unless the captive insurance company

- (a) obtains the prior approval of the Minister, and
- (b) provides the documentation evidencing the investment, guarantee or other transaction required by the Minister.

## **Division 3 Fundamental Changes**

### **Minister's approval required**

**13** A captive insurance company shall not take any of the following actions without first notifying and obtaining the prior approval of the Minister:

- (a) amalgamate with another company;
- (b) dissolve, liquidate or wind up the company;
- (c) wilfully take any action that would facilitate a change in the actual control of the company;
- (d) materially change its organizational documents or the plan for the conduct and development of its business referred to in section 15(2)(a);
- (e) undertake any other prescribed activity.

## **Part 2 Licensing**

### **Division 1 Licensing Requirements**

#### **Requirement for licence**

**14(1)** Except as provided for in this Act, no captive insurance company may carry on business in Alberta unless the company holds a valid and subsisting licence.

**(2)** Except as provided for in this Act, no captive insurance company may insure a risk in Alberta unless the company holds a valid and subsisting licence for a class of insurance that covers that risk.

**(3)** Except as provided for in this Act, no person may enter into or renew a contract of insurance to insure a risk in Alberta with a captive insurance company unless

- (a) the company holds a valid and subsisting licence, and
- (b) the licence held by the company authorizes the company to undertake a class of insurance that covers the risk that is to be insured.

#### **Application requirements**

**15(1)** An application for a licence must

- (a) be filed with the Minister,
- (b) specify the classes of insurance that the applicant wishes to be authorized to undertake, and
- (c) contain the information, material and evidence required by the Minister.

**(2)** An application for a licence must be accompanied with

- (a) a plan for the conduct and development of the business of the captive insurance company,
- (b) a certified copy of the company's organizational documents,



- (c) the appointment of an individual as the company's attorney for service and the consent of the individual to act as the attorney for service,
- (d) the address of the company's principal place of business in Alberta, and
- (e) any other forms, statements and documents required by the Minister.

(3) After filing an application for a licence, the applicant must provide to the Minister any additional information, material and evidence the Minister considers necessary.

#### **Names**

**16(1)** No captive insurance company may be licensed with a name that does not meet the requirements referred to in section 21(1) of the *Insurance Act* and any other prescribed requirements.

(2) Subject to this Act and the regulations, a captive insurance company may be licensed with a name in an English form, a French form, an English form and a French form or a combined English and French form, and it may be legally designated in Alberta by any such name.

(3) Where a captive insurance company has a name that contravenes subsection (1), the Minister may license the captive insurance company if it undertakes either to change its name to a name that does not contravene subsection (1) or to carry on business in Alberta under a name that does not contravene subsection (1).

(4) Where, through inadvertence or otherwise, a captive insurance company becomes licensed with a name that contravenes subsection (1), the Minister may direct as a condition of being licensed that the captive insurance company carry on business under a specified name.

#### **First licence of captive insurance company**

**17** Before issuing the first licence to a captive insurance company, the Minister must be satisfied that

- (a) the company has been validly formed in accordance with the *Business Corporations Act* or the *Partnership Act*, as applicable,
- (b) the plan for the future conduct and development of the business of the company is sound,
- (c) the management and directors of the company are fit as to character and have the competence and experience suitable for involvement in the operation of a captive insurance company, and
- (d) the company meets any other requirements that the Minister considers relevant in determining whether the company will be able to meet its obligations to policyholders.

**Base capital**

**18(1)** Before issuing a licence to or renewing a licence of a captive insurance company, the Minister must be satisfied that the amount of the company's base capital is at least the greater of

- (a) the prescribed amount, and
- (b) such amount as the Minister may direct under subsection (2).

**(2)** The Minister may, after taking into account the nature of the business that the captive insurance company proposes to engage in, the expected volume of its business and any restrictions on its business, direct the company to increase its base capital to an amount higher than the prescribed amount required under subsection (1)(a).

**(3)** If, at any time during a year, a licensed captive insurance company ceases to have adequate base capital as required under subsection (1), the company must promptly

- (a) give written notice of that fact to the Superintendent, and
- (b) cease to undertake or to offer to undertake insurance in Alberta

until the Superintendent gives written notice to the company that the Superintendent is satisfied that the company's base capital once again meets the requirements of subsection (1).

#### **Maintenance of adequate capital**

**19(1)** A captive insurance company must, in relation to its operations,

- (a) maintain adequate capital and adequate and appropriate forms of liquidity, and
- (b) comply with any regulations in relation to capital and liquidity.

**(2)** The regulations may specify different requirements for different types of captive insurance companies.

**(3)** Notwithstanding that a captive insurance company is complying with regulations made under section 82(x), the Minister may direct the company

- (a) to increase its capital, or
- (b) to provide additional liquidity in the forms and amounts that the Minister requires.

**(4)** A captive insurance company must comply with a direction made under subsection (3) within the time the Minister specifies in the direction.

#### **Issuing licence**

**20** A captive insurance company that applies for a licence under this Act or to renew such a licence is entitled to the licence if the Minister is satisfied that

- (a) the requirements of this Act and the regulations relating to the licence have been met, and
- (b) the company is in compliance with this Act and the regulations.

**Notice of licence**

**21(1)** The Minister must publish a notice of the licence of a captive insurance company in The Alberta Gazette.

**(2)** This section does not apply to a renewal of a licence.

**Expiry**

**22** The term of a licence is the term determined under the regulations.

**Renewal of licence**

**23** An application for a renewal of a licence must

- (a) be filed with the Minister,
- (b) specify the classes of insurance that the applicant wishes to be authorized to undertake, and
- (c) contain the information, material and evidence required by the Minister.

**Duty on expiration of licence**

**24(1)** A captive insurance company must not allow its licence to expire unless

- (a) the company gives the Minister 30 days' notice of its intention not to renew its licence, and
- (b) the company provides the Minister with a statutory declaration stating that
  - (i) the company has no unpaid claims in respect of the company's contracts of insurance made in Alberta,
  - (ii) all of the company's contracts of insurance made in Alberta are discharged or expired or have been transferred or assigned to another licensed insurer, and
  - (iii) the company has no outstanding fees or taxes payable to the Government.

(2) When a captive insurance company does not renew its licence, the Minister must publish a notice in The Alberta Gazette stating that the licence of the company has expired and setting out any information about the company or its business in Alberta that the Minister considers appropriate.

#### **Terms and conditions**

**25(1)** The Minister may, when issuing or renewing a licence, or at any time during the term of a licence, impose on the licence any terms or conditions that are consistent with this Act that the Minister considers appropriate.

(2) Before imposing terms or conditions under this section, the Minister must notify the captive insurance company of the proposed terms or conditions and provide the captive insurance company with an opportunity to make representations to the Minister.

## **Division 2 Permitted Business of a Captive Insurance Company**

#### **Classes of insurance**

**26(1)** A licence issued by the Minister must set out the classes of insurance that the licensee is authorized to undertake.

(2) Subject to the regulations, a captive insurance company may be licensed to undertake any class of insurance that a provincial company under the *Insurance Act* may be licensed to undertake.

(3) If a question arises as to the class of insurance into which any specific contract of insurance or form of policy falls, the Minister may determine the question and that determination is final for the purposes of this Act.

#### **Scope of eligible insured risks**

**27(1)** A pure captive insurance company may not insure risks other than those of

- (a) its parent and its parent's affiliated entities,
- (b) the officers, directors, employees, agents and independent contractors of itself, its parent and its parent's affiliated

entities against losses while acting on behalf of itself, its parent or its parent's affiliated entities, and

(c) any other person prescribed in the regulations.

**(2)** An association captive insurance company may not insure risks other than those of

(a) its association, the member organizations of its association and their affiliated entities,

(b) the officers, directors, employees, agents and independent contractors of itself, its association, a member organization of its association or the member organization's affiliated entities against losses while acting on behalf of itself, the association, the member organization or the member organization's affiliated entities, and

(c) any other person prescribed in the regulations.

**(3)** A sophisticated insured captive insurance company may not insure risks other than those of

(a) the sophisticated insureds that comprise its sophisticated insured group and their affiliated entities,

(b) the officers, directors, employees, agents and independent contractors of itself, a sophisticated insured in its sophisticated insured group or the sophisticated insured's affiliated entities against losses while acting on behalf of itself, the sophisticated insured or the sophisticated insured's affiliated entities, and

(c) any other person prescribed in the regulations.

**(4)** A captive insurance company of a type authorized by the regulations may not insure risks other than those of the persons prescribed in the regulations.

#### **Reinsurance**

**28** A captive insurance company may, subject to the regulations,

(a) provide reinsurance of risks ceded by any other insurer, and

- (b) enter into a contract of reinsurance to cede its risk, or any portion of its risk, to any insurer.

**Market conduct**

**29(1)** No captive insurance company may

- (a) make a false or misleading statement, representation or advertisement,
- (b) engage in any unfair, coercive or deceptive act or practice, or
- (c) make any statement or representation or commit any practice or act that is prohibited by the regulations.

**(2)** A contract of insurance made by a captive insurance company must comply with any rules and requirements respecting the making of the contract, the form and content of the contract or the administration of the contract prescribed in the regulations.

**Division 3  
Attorney for Service**

**Attorney for service**

**30(1)** Every captive insurance company licensed under this Act must have an attorney for service who meets the requirements of subsection (2).

**(2)** The attorney for service must be an individual who is resident in Alberta.

**(3)** Service of any document in a legal action, suit or proceeding on a captive insurance company may be effected by

- (a) delivering the document to its attorney according to the Minister's records,
- (b) delivering the document to the address of its attorney according to the Minister's records, or
- (c) sending the document by recorded mail to that address.

**(4)** A document sent by recorded mail to the attorney's address in accordance with subsection (3)(c) is deemed to be served 7 days from the date of mailing unless there are reasonable grounds for

believing that the attorney did not receive the document at that time or at all.

**(5)** Every licensed captive insurance company must ensure that its attorney's office is open during normal business hours.

#### **Attorney's change of address**

**31** An attorney for service who changes addresses must, before the change occurs, notify the Minister of the date of the change and the new address.

#### **Change in attorney**

**32(1)** If the attorney for service of a captive insurance company dies or resigns or if a captive insurance company revokes the appointment of its attorney for service, the company must, as soon as is reasonably possible, provide the Minister with

- (a) the appointment of its new attorney for service, and
- (b) the consent of the individual to act as the attorney for service.

**(2)** An attorney for service of a captive insurance company who intends to resign must

- (a) give not less than 60 days' notice to the company, and
- (b) send a copy of the notice to the Minister.

#### **No attorney for service**

**33** If a captive insurance company does not have an attorney for service, service on the company may be effected by serving the Superintendent.

## **Division 4 Reporting Requirements**

#### **Annual financial statements**

**34(1)** Every captive insurance company licensed under this Act must, within 180 days after the end of the company's financial year, provide the Minister with a copy of the company's audited financial statements for the financial year.



(2) A captive insurance company's audited financial statements must be prepared in accordance with the prescribed financial reporting standards and any other prescribed requirements.

#### **Annual return**

**35(1)** Every licensed captive insurance company must file an annual return that meets the requirements of subsection (2) within 60 days after the end of the calendar year in respect of which the return is prepared.

(2) The annual return must

- (a) set out the captive insurance company's name and the address of its principal place of business, the names and addresses of its directors, the names of its officers, auditor and actuary, the name and address of its attorney for service and the location where the company's records are stored,
- (b) set out the financial information required by the Minister that is audited in a manner that is satisfactory to the Minister,
- (c) set out particulars of the business done in Alberta during the calendar year,
- (d) be accompanied with the actuary's valuation referred to in section 8(4),
- (e) set out any other information considered necessary by the Minister, and
- (f) be approved and signed by 2 of its directors or 2 officers authorized for the purpose by the board of directors.

#### **Additional information**

**36** A licensed captive insurance company must, within the time specified below, provide to the Minister the following:

- (a) a copy of any change to its organizational documents, within 15 days of the change;

- (b) any information concerning a material change in the company's financial condition, within 7 days of the change;
- (c) notice of a change in the directors, officers, auditor or actuary of the company, within 15 days of the change;
- (d) any information required by the Minister to enable the Minister to respond to inquiries into the conduct of the company's business for the purpose of determining compliance with this Act and the regulations, within the time directed by the Minister;
- (e) a copy of any guarantee or indemnity entered into by or with respect to the company under which a parent, member organization, sophisticated insured or an affiliated entity with respect to any of them may incur liability for the benefit of the company, within 30 days of its execution;
- (f) any information that is required by the Minister for analytical or policy-making purposes, within the time directed by the Minister;
- (g) any other information prescribed in the regulations, within the time prescribed by the regulations.

## **Division 5**

### **Suspension, Cancellation and Other Actions Affecting Captive Insurance Companies' Licences**

#### **Cancellation on request**

**37(1)** The Minister may, on the request of a captive insurance company, cancel the company's licence.

**(2)** The Minister must not cancel the licence of a captive insurance company under subsection (1) unless the Minister is satisfied that

- (a) the company has no unpaid claims in respect of the company's contracts of insurance made in Alberta,
- (b) all of the company's contracts of insurance made in Alberta are discharged or expired, or have been transferred or assigned to another licensed insurer, and

- (c) the company has no outstanding fees or taxes payable to the Government.

**(3)** The Minister must publish a notice of the cancellation of a licence under this section in The Alberta Gazette.

### **Sanctions affecting licences**

**38(1)** Where

- (a) a licensed captive insurance company fails to comply with any term or condition to which its licence is subject,
- (b) a licensed captive insurance company fails to comply with or contravenes any provision of this Act or the regulations,
- (c) a licensed captive insurance company fails to maintain adequate capital or adequate and appropriate forms of liquidity,
- (d) a licensed captive insurance company or other person denies the Minister, the Superintendent or an examiner access to any information, records, documents or property that the Minister, Superintendent or examiner is authorized by this Act to have access to,
- (e) a licensed captive insurance company is carrying on business in a financially unsound or otherwise detrimental manner with respect to its policyholders or the public,
- (f) a licensed captive insurance company has defaulted on payment of any of its liabilities,
- (g) a licensed captive insurance company contravenes a direction of the Minister or an order of the Court under this Act, or
- (h) any other prescribed criteria are satisfied,

the Minister may cancel, suspend or refuse to renew the licence of the company or impose terms or conditions on its licence.

**(2)** Where the Minister proposes to act under subsection (1), the Minister must give notice of that intention to the licensed captive insurance company.

(3) If, in the Minister's opinion, the public interest may be prejudiced or adversely affected by any delay in acting under subsection (1), the Minister may, without notice, cancel or suspend the licence of the captive insurance company or impose terms or conditions on its licence.

(4) The Minister must forthwith give notice to the captive insurance company of any action taken under subsection (3).

(5) A captive insurance company that receives a notice under subsection (2) or (4) and who wishes to have a hearing before the Minister must serve a written request for the hearing on the Minister within 15 days after receipt of the notice.

(6) If a captive insurance company requests a hearing in accordance with subsection (5) in respect of an action taken by the Minister under subsection (3), the Minister may, after giving the company an opportunity to be heard, confirm, modify or reverse the action taken, or reinstate the licence.

(7) If a captive insurance company requests a hearing in accordance with subsection (5) in respect of the Minister's proposed action under subsection (1), the Minister may, after giving the company an opportunity to be heard, take any of the proposed actions set out in the notice with or without modifications or decide not to take any of those actions.

(8) The Minister must publish in The Alberta Gazette notice of every cancellation, suspension or reinstatement of a licence under this section.

#### **Non-payment of claims**

**39(1)** The Minister may cancel the licence of a captive insurance company if the Minister is satisfied that

- (a) a judgment arising out of a contract of insurance made in Alberta has been issued against the company, and
- (b) the judgment has become final in the regular course of law, is enforceable in Alberta and has remained unpaid for 30 or more days after becoming final.

(2) The Minister may reinstate a licence that has been cancelled under subsection (1) if the judgment against the captive insurance

company is paid within 6 months after the cancellation and the licence would not have expired.

**Effect of cancellation or suspension**

**40(1)** When a captive insurance company's licence is cancelled under this Act, the company may carry on business in Alberta only to the extent that it is necessary for the winding up of its business in Alberta.

**(2)** When a captive insurance company's licence is suspended under this Act, the company may carry on business in Alberta only in accordance with the terms and conditions of the suspension.

**(3)** When a class of insurance has been deleted from a captive insurance company's licence under this Part, the company must cease to undertake or to offer to undertake that class of insurance in Alberta.

**Part 3  
Enforcement and  
Administration**

**Division 1  
Determining Compliance  
and Examinations**

**Examiners**

**41(1)** The Minister may appoint one or more examiners for the purposes of this Act.

**(2)** An appointment under subsection (1) may name an individual or the holder of an office or position to be an examiner.

**(3)** The Superintendent and Deputy Superintendent are examiners.

**Examinations**

**42** The Minister must, at least once every 3 years, and whenever the Minister considers it necessary, direct an examiner to examine the business or affairs of a captive insurance company in order to determine, for purposes related to the administration of this Act,

- (a) the company's condition and ability to meet its obligations,

- (b) whether the company is following sound business and financial practices,
- (c) the procedures and standards of the management of the company, and
- (d) whether or not the company is in compliance with this Act, the regulations, any direction given or an order made under this Act and any term, condition or restriction of its licence.

#### **Exercising examiner's powers**

**43** An examiner may exercise the powers in sections 44 and 45 for the following purposes:

- (a) to determine if there is compliance with this Act and the regulations;
- (b) to conduct an examination under section 42;
- (c) to examine any matter relating to a contract of insurance, including the settlement or adjustment of any claim made under a contract of insurance.

#### **Demand for information**

**44(1)** An examiner may, for the purposes referred to in section 43, direct any of the following to provide to the examiner, within a reasonable period of time that is stipulated in the direction, any information specified by the examiner:

- (a) a captive insurance company, a parent, an association, a member organization, a sophisticated insured or an affiliated entity of any of them;
- (b) a present or former director, auditor, officer, employee or creditor of a captive insurance company;
- (c) an insured.

**(2)** A person served with a direction under subsection (1) who has the information must provide the information in accordance with the direction.

**(3)** Where a person served with a direction under this section does not provide the information in accordance with the direction, the Minister may on 2 days' written notice to that person, without affecting any sanction that the person may be subject to under this Act, apply to the Court for an order under subsection (4).

**(4)** The Court may order the person to provide the information subject to any conditions the Court considers appropriate if the Court is satisfied that the information is in the possession or under the control of the person and is relevant to a purpose referred to in section 43.

**(5)** An examiner may copy or otherwise record any information provided under this section and must, within a reasonable time, return the originals of any documents that have been provided under this section to the person who provided them.

#### **Entry into premises**

**45(1)** Subject to subsection (6), an examiner may, for the purposes referred to in section 43, enter at any reasonable time any premises or place of a captive insurance company or any other premises or place that the examiner believes on reasonable grounds contains records, documents or property of a captive insurance company.

**(2)** An examiner who enters any premises or place under this section may require the owner or manager of the premises or place and any other person in the premises or at the place

- (a) to give the examiner all reasonable assistance and to make reasonable efforts to answer all the examiner's questions,
- (b) to produce for inspection or examination all records or documents that are or may be relevant, and
- (c) to produce any property of the captive insurance company.

**(3)** An examiner may in the course of inspecting or examining records or documents under subsection (2)

- (a) make copies of or take notes from them, or
- (b) temporarily remove them.

(4) Where an examiner removes records or documents under subsection (3), the examiner

- (a) must give a receipt for them to the person from whom they were taken,
- (b) may make copies of, take photographs of or otherwise record them, and
- (c) must, within a reasonable time, return them to the person to whom the receipt was given.

(5) A person who receives a request from an examiner under this section must comply with it.

(6) When the premises or place referred to in subsection (2) is a dwelling place, the examiner must not enter the dwelling place without the consent of the occupant of the dwelling place.

**Court order**

**46(1)** If an examiner

- (a) is refused entry into any premises or place referred to in section 45,
  - (b) is not given consent to enter a dwelling place,
  - (c) has reasonable grounds to believe that the examiner
    - (i) will be refused entry into any premises or place referred to in section 45, or
    - (ii) will not be given consent to enter a dwelling place,
- or
- (d) is impeded or has reasonable grounds to believe that the examiner will be impeded in carrying out the examination,

the examiner may apply to the Court for an order authorizing the examiner to enter the premises, place or dwelling place to carry out the examination.

(2) The Court may, if it considers it necessary in the circumstances, hear an interim application under subsection (1) on 2 days' notice and make an interim order granting such relief as the



Court considers appropriate pending the determination of the application.

**(3)** An interim order under subsection (2) may be made ex parte if the Court considers it appropriate in the circumstances.

**(4)** On hearing an application, the Court may do one or more of the following:

- (a) authorize the examiner to enter the premises, place or dwelling place to carry out the examination and may authorize the use of force so long as the examiner is accompanied by a peace officer;
- (b) direct any occupant to assist the examiner in any manner the Court directs;
- (c) restrain any person from impeding the examiner from entering the premises, place or dwelling place or from carrying out the examination;
- (d) make its order subject to any terms or conditions that the Court considers appropriate in the circumstances;
- (e) award costs in respect of the matter.

#### **Examiner's report**

**47(1)** An examiner who carries out an examination under section 42 must make a written report to the Minister that sets out the examiner's findings.

**(2)** The Minister may provide a copy of the examiner's report to the captive insurance company.

## **Division 2 Orders**

#### **Order for compliance**

**48(1)** Where it appears to the Minister that a captive insurance company

- (a) has contravened an approval or direction given under this Act,

- (b) has contravened a term or condition imposed on the licence of the company, or
- (c) is carrying on business in Alberta without a valid and subsisting licence,

the Minister may apply to the Court for an order under subsection (2).

(2) The Court may grant an order directing the captive insurance company to cease

- (a) contravening the approval, direction, term or condition, or
- (b) carrying on business in Alberta until it holds a valid and subsisting licence.

### **Division 3 Offences and Penalties**

#### **Offences**

**49** A person who contravenes any of the following provisions is guilty of an offence:

- (a) sections 3(1), 4(1) and (2), 5(2), 6(1) and (2), 7(1), (3), (5) and (6), 8(1), (2), (4) and (6), 9(1) and (2), 10(1), 11(1) and (2), 12(2), 13, 14(1), (2) and (3), 18(3), 19(1) and (4), 24(1), 27(1), (2), (3) and (4), 29(1) and (2), 30(1) and (5), 31, 32(1) and (2), 34(1) and (2), 35(1), 36, 40(1), (2) and (3), 44(2) and 45(5);
- (b) a provision in the regulations a contravention of which is prescribed to be an offence.

#### **Offences**

**50** A person who

- (a) contravenes a direction made under section 12(1), 16(4) or 18(2) or an order made under section 56,
- (b) contravenes a provision in a regulation specified by the Lieutenant Governor in Council under section 82(jj),
- (c) fails to report to the Minister or Superintendent as required by this Act, or

- (d) being a licensed captive insurance company contravenes any term or condition to which a licence is subject

is guilty of an offence.

#### **Statements of financial standing**

**51** Every person who represents orally or in writing that

- (a) the issue of a licence to a captive insurance company,
- (b) the printing or publication of a financial statement of a captive insurance company in a report of the Minister, or
- (c) the supervision or regulation of the business of a captive insurance company by this Act, the regulations or the Minister

is a warranty or guarantee of the financial standing of the captive insurance company or of its ability to provide for the payment of its contracts at maturity is guilty of an offence.

#### **False or deceptive statements**

**52(1)** A person who makes any wilfully false or deceptive statement in any register, book of account, accounting record, minute, financial statement or other record or document respecting the affairs of a captive insurance company or in any statement, return, report or reply to the Minister is guilty of an offence.

**(2)** A director, officer or employee of a captive insurance company and every member or employee of a firm of accountants appointed as the auditor of a captive insurance company who

- (a) prepares, signs, approves or concurs in any register, book of account, accounting record, minute, financial statement or other record or document respecting the affairs of the captive insurance company, or any statement, return, report or reply to the Minister, that the person knows to contain a false or deceptive statement, or
- (b) uses a record or document referred to in clause (a) with intent to deceive or mislead any person

is guilty of an offence.

### **Liability of directors and officers**

**53** If a captive insurance company commits an offence under this Act, then, whether or not the company has been prosecuted or convicted in respect of the offence, any director or officer of the company who knowingly authorizes, permits or acquiesces in the commission of the offence is guilty of the offence.

### **General penalty**

**54(1)** A person who is convicted of an offence is liable to a fine of not more than \$200 000.

**(2)** If an act or omission is an offence under this Act or the regulations and the act or omission is of a continuing nature, each day or part of a day that it continues constitutes a separate offence.

### **Limitation on prosecution**

**55** A prosecution in respect of an offence under this Act must not be commenced after 3 years from the date that the facts that constitute the alleged offence become known to the Minister.

### **Order to comply and make restitution**

**56** A justice who convicts a defendant of an offence under this Act or the regulations may, in addition to any other penalty the justice may impose, order the defendant

- (a) to comply with, within a specified time, the provision of this Act or the regulations on which the conviction is based, and
- (b) on the application of an aggrieved person, to make restitution to a maximum of \$100 000 for loss of or damage to property suffered by the applicant as a result of the commission of the offence.

### **Administrative penalties**

**57(1)** Where the Minister is of the opinion that a person has contravened a prescribed provision of this Act or the regulations, the Minister may by notice in writing given to that person require that person to pay to the Government an administrative penalty by a date specified in the notice in the amount set out in the notice for each day or part of a day the contravention occurs or continues.

(2) The maximum amount of an administrative penalty issued under this section is \$25 000 for each day or part of a day the contravention occurs or continues.

(3) A person who pays an administrative penalty by the date specified in the notice in respect of a contravention must not be charged under this Act with an offence in respect of that contravention.

(4) A notice of an administrative penalty must not be issued after 2 years from the later of

- (a) the date on which the contravention to which the notice relates occurred, and
- (b) the date on which evidence of the contravention first came to the attention of the Minister.

## **Division 4 Administration**

### **Delegation of powers**

**58** The Minister may delegate in writing any power, duty or function conferred or imposed on the Minister by this Act or the regulations to any person and may authorize the person to further delegate the power, duty or function.

### **Superintendent of Insurance**

**59(1)** The Superintendent of Insurance appointed under section 792 of the *Insurance Act* has the authority to delegate any power, duty or function conferred or imposed on the Superintendent by this Act or the regulations to any person and may authorize the person to further delegate the power, duty or function.

(2) The Deputy Superintendent of Insurance has all of the powers, duties and functions of the Superintendent under this Act and the regulations.

### **Guidelines and interpretation bulletins**

**60** The Superintendent may issue guidelines and interpretation bulletins respecting the interpretation or application of this Act or any one or more regulations under this Act.

### **Approval**

**61(1)** If this Act or the regulations provide for the giving of an approval by the Minister, the Minister may make the approval subject to any terms and conditions the Minister considers appropriate.

**(2)** An approval must be in writing.

**(3)** Before refusing an approval or granting an approval subject to terms and conditions, the Minister must give the person seeking the approval notice of the proposed decision and an opportunity to be heard on the matter.

### **Orders, etc., binding on successors**

**62** An order, direction or approval made or given under this Act, or a term, condition or restriction imposed on the licence of a licensed captive insurance company, is binding on the successors of the person or captive insurance company to whom it relates.

### **Personal liability protection**

**63(1)** In this section, “protected person” means an individual who is any of the following:

- (a) the Superintendent or Deputy Superintendent of Insurance;
- (b) an examiner;
- (c) any other individual acting on behalf of or under the direction or delegated authority of the Superintendent.

**(2)** Subject to subsection (3), no legal proceeding for damages lies or may be commenced or maintained against a protected individual because of anything done or omitted

- (a) in the exercise or intended exercise of any power under this Act, or
- (b) in the performance or intended performance of any duty under this Act.

**(3)** Subsection (2) does not apply to a protected individual in relation to anything done or omitted in bad faith.

(4) Subsection (2) does not absolve the Government from vicarious liability arising out of anything done or omitted by a protected individual for which the Government would be vicariously liable if this section were not in force.

#### **Insurance Register**

**64** The Minister must include in the Insurance Register established under section 794 of the *Insurance Act* the following information with respect to captive insurance companies:

- (a) the name of each captive insurance company that has been issued a licence;
- (b) all terms, conditions and restrictions imposed on the licence of the company;
- (c) the classes of insurance that the company is authorized to carry on in Alberta;
- (d) the name and address of the company's attorney for service;
- (e) the address of the company's principal place of business in Alberta;
- (f) information on the suspension or cancellation of the licence of the company;
- (g) any other prescribed information.

#### **Fees**

**65(1)** The Minister may establish and charge fees for filing or issuing any licence or other document under this Act or the regulations or for any approval, service or other thing given or done by or under the authority of the Lieutenant Governor in Council, the Minister or the Superintendent under this Act or the regulations.

(2) Despite any other provision in this Act or the regulations, the Lieutenant Governor in Council, Minister or Superintendent may refuse to file or issue a licence or other document or give or provide an approval, service or thing under this Act or the regulations unless the fee established under subsection (1) or a fine

imposed on the person requesting the action on a conviction of an offence under this Act or the regulations is paid.

**(3)** Subject to section 66, a person who is charged a fee under subsection (1) must pay the fee

- (a) before the filing or other thing is given or done, or
- (b) within the time specified by the Minister.

#### **Penalty**

**66** All fees imposed by this Act on a captive insurance company become due and payable immediately on the undertaking of insurance by the company and, if the fees are not paid within 30 days from the time they become due and payable, a sum equal to 50% of the fees remaining unpaid becomes a penalty that forms a part of the fees and is recoverable with the fees.

#### **Forms**

**67(1)** The Minister may establish forms for the purposes of this Act and the regulations.

**(2)** When the Minister establishes a form under subsection (1), that form must be used for the purposes of this Act and the regulations.

#### **Extension of time**

**68** If something is required to be done under this Act or the regulations within a certain period of time, the Minister may, on written application of the person who must do the thing, made before the expiration of the period of time, extend the time within which the thing must be done.

#### **Publication by Minister**

**69(1)** The Minister may authorize the publication of notices, reports, correspondence, results of hearings, sanctions, decisions and any other matter considered by the Minister to be in the public interest.

**(2)** The Minister may prepare and publish a report respecting the insurance undertaken by each licensed captive insurance company during the previous year.



**Matters under oath**

**70(1)** The Minister may require that a document or a fact stated in a document required by this Act or the regulations to be sent to the Minister be verified by affidavit or declaration.

**(2)** For the purposes of this Act, the Superintendent and the Deputy Superintendent may administer oaths and take and receive affidavits and declarations.

**Filing by electronic means**

**71** Any document that is required to be filed with or submitted to the Minister under this Act or the regulations may be filed by an electronic means and in a format approved by the Minister.

**Priority of Government claim**

**72(1)** If, with respect to any captive insurance company, the Government pays money by way of expenditure certified by the Minister as having been incurred by the Government in the course of the Minister's administration of this Act that directly relates to the company, the money so paid may be recovered by the Government from the company by an action in debt.

**(2)** Claims by the Government against a captive insurance company in respect of any money referred to in subsection (1) rank, on the winding up of the company, immediately after the remuneration of the liquidator and of the receiver and manager, if any, and before any other claims.

**Published notice as evidence**

**73** A notice published in The Alberta Gazette over the name of the Minister or Superintendent is proof, in the absence of evidence to the contrary, of the facts stated in the notice.

**Certificate evidence**

**74** A certificate of the Minister or the Superintendent is admissible as evidence in any civil, criminal or administrative action or proceeding without proof of the signature or official character of the person appearing to have signed it, and the certificate is proof, in the absence of evidence to the contrary, of the facts set out in the certificate.

### **Copies of documents as evidence**

**75** Copies of, or extracts from, any book, record, instrument or document in the office of the Minister or of or from any instrument or document issued under this Act, if certified by the Minister to be true copies or extracts, have the same legal effect as the original.

### **Photocopies of documents**

**76** If a notice or document is required under this Act to be sent to the Minister, the Minister may accept a copy of the notice or document.

### **Confidentiality of information**

**77(1)** In this section,

- (a) “captive insurer information” means information that the Minister or the Minister’s officials obtain or create for the purpose of administering or enforcing this Act and the regulations and that relates to the business or affairs of a captive insurance company;
- (b) “Minister’s officials” means
  - (i) any person acting under the Minister’s direction or authority for the purposes of the administration or enforcement of this Act and the regulations,
  - (ii) the Superintendent and Deputy Superintendent of Insurance, and
  - (iii) any person who exercises or performs a power, duty or function delegated under this Act or the regulations.

**(2)** Captive insurer information is confidential and neither the Minister, nor the Minister’s officials, may disclose or provide captive insurer information to any person except in accordance with this section.

**(3)** The Minister may disclose and provide captive insurer information to the Minister’s officials and the Minister’s officials may disclose and provide captive insurer information to the Minister and other Minister’s officials.

(4) The Minister and, with the approval of the Minister, the Minister's officials may disclose or provide captive insurer information to

- (a) the captive insurance company that is the subject of the information,
- (b) the auditor or actuary of a captive insurance company for the purposes of carrying out the functions of the auditor or actuary, as the case may be,
- (c) a law enforcement authority for the purposes of law enforcement,
- (d) the government of any other province or of Canada, or an agency of such a government, for a purpose approved by the Minister,
- (e) any employee or member of the Alberta Securities Commission for the purposes of the administration or enforcement of the *Securities Act*,
- (f) any employee in the public service of Alberta who is involved in the administration of the *Loan and Trust Corporations Act* for the purposes of the administration or enforcement of that Act,
- (g) any employee in the public service of Alberta who is involved in the administration of the *Credit Union Act* for the purposes of the administration or enforcement of that Act, or
- (h) any prescribed person for any prescribed purpose.

(5) A person to whom information is communicated or provided under subsection (3) for a specified purpose and any person acting under that person's authority or direction or to whose notice information comes as a result of any relationship with that person may use the information only for that purpose.

(6) Where, for the purposes of the administration of this Act or the regulations, the Minister receives information from the government of, or a public body of, Canada or any other province, neither the Minister nor the Minister's officials may disclose the information other than with the consent of that government or public body.

(7) This section does not apply to disclosure or provision of captive insurer information when the information

- (a) is provided under section 47(2),
- (b) is disclosed or provided from the Insurance Register under section 795 of the *Insurance Act*, or
- (c) is disclosed or provided in a report or other thing that is published under section 69.

(8) Despite the *Freedom of Information and Protection of Privacy Act*, that Act does not apply to captive insurer information.

#### **Privileged information**

**78** Any information, document, record, statement or other thing concerning a person licensed or applying for a licence under this Act that is made or disclosed to the Minister, the Superintendent, the Deputy Superintendent or an examiner by a person other than the person licensed or applying for a licence is privileged and may not be used as evidence in any civil or administrative proceeding brought by or on behalf of that person.

#### **Insurance compliance self-evaluative audit**

**79(1)** In this section,

- (a) “insurance compliance self-evaluative audit” means an evaluation, review, assessment, audit, inspection or investigation conducted by or on behalf of a licensed captive insurance company, either voluntarily or at the request of the Minister or the Superintendent, for the purpose of identifying or preventing non-compliance with, or promoting compliance with or adherence to, statutes, regulations, guidelines or industry, company or professional standards;
- (b) “insurance compliance self-evaluative audit document” means a document with recommendations or evaluative or analytical information prepared by or on behalf of a licensed captive insurance company, the Minister or the Superintendent directly as a result of or in connection with an insurance compliance self-evaluative audit and includes any response to the findings of an insurance compliance self-evaluative audit, but does not include

documents kept or prepared in the ordinary course of business of a licensed captive insurance company.

- (2)** Subject to subsection (6), an insurance compliance self-evaluative audit document is privileged information and is not discoverable or admissible as evidence in any civil or administrative proceeding.
- (3)** Subject to subsection (6), no person or entity may be required to give or produce evidence relating to an insurance compliance self-evaluative audit or any insurance compliance self-evaluative audit document in any civil or administrative proceeding.
- (4)** Disclosure of an insurance compliance self-evaluative audit document to a person reasonably requiring access to it, including to a person acting on behalf of a licensed captive insurance company with respect to the insurance compliance self-evaluative audit, to the external auditor of the licensed captive insurance company, to the board of directors of the licensed captive insurance company or a committee of the licensed captive insurance company or to the Minister or the Superintendent, whether voluntarily or pursuant to law, does not constitute a waiver of the privilege with respect to any other person.
- (5)** A licensed captive insurance company that prepares or causes to be prepared an insurance compliance self-evaluative audit document may expressly waive privilege in respect of all or part of the insurance compliance self-evaluative audit document.
- (6)** The privileges set out in subsections (2) and (3) do not apply

  - (a) to a proceeding commenced against a licensed captive insurance company by the Minister or the Superintendent in which an insurance compliance self-evaluative audit document has been disclosed,
  - (b) if the privilege is asserted for fraudulent purposes,
  - (c) in a proceeding in which a person who was involved in conducting an insurance compliance self-evaluative audit is a party seeking admission of the insurance compliance self-evaluative audit document in a dispute related to the person's participation in conducting the insurance compliance self-evaluative audit, or

- (d) to information referred to in an insurance compliance self-evaluative audit document that was not prepared as a result of or in connection with an insurance compliance self-evaluative audit.

## **Part 4 General**

### **Paramountcy**

**80** The provisions of this Act and the regulations under this Act prevail to the extent of any inconsistency or conflict with any other enactment.

### **Application of other laws**

**81(1)** Except as provided in or prescribed under this Act, the *Insurance Act* does not apply to a captive insurance company.

**(2)** The prescribed provisions of the *Business Corporations Act* and the *Partnership Act* do not apply to a captive insurance company.

### **Regulations**

**82** The Lieutenant Governor in Council may make regulations

- (a) prescribing additional types of captive insurance companies for the purposes of section 1(1)(e);
- (b) prescribing the amount of aggregate annual premiums for insurance on all risks insured by an insurer referred to in section 1(1)(o);
- (c) respecting the types of business, other than the business of insurance, in which a captive insurance company may engage;
- (d) respecting the qualifications and eligibility of persons who may be appointed to be the auditor or actuary of a captive insurance company;
- (e) establishing procedures for appointing an auditor or actuary, revoking an auditor's or actuary's appointment, replacing an auditor or actuary and otherwise addressing a

resignation or vacancy in the office of the auditor or actuary of a captive insurance company;

- (f) respecting the rights, powers and other duties of the auditor or actuary of a captive insurance company;
- (g) respecting the reporting requirements of the auditor or actuary of a captive insurance company;
- (h) respecting payment of the expenses incurred by an auditor in carrying out the auditor's duties under section 7(5) and (6);
- (i) providing for the protection from liability for the auditor or actuary or a former auditor or actuary of a captive insurance company;
- (j) respecting the financial reporting standards the actuary must follow when conducting the valuation referred to in section 8(4);
- (k) respecting the matters to be included in the actuary's report under section 8(4);
- (l) respecting payment of the expenses incurred by an actuary in carrying out duties under section 8(5) and (6);
- (m) prescribing the records that a captive insurance company must prepare and keep under section 9(1);
- (n) respecting a person's ability to make copies of a captive insurance company's records and any associated fees;
- (o) respecting the location, form and manner in which a captive insurance company's records are to be kept and the length of time those records are to be kept;
- (p) respecting the examination of a captive insurance company's records;
- (q) respecting custody of a captive insurance company's records following its dissolution;
- (r) imposing terms and conditions subject to which a captive insurance company may make, give or enter into investments, guarantees or other transactions;

- (s) imposing restrictions on the manner in which investments, guarantees and other transactions may be made, given or entered into;
- (t) prescribing the investments, guarantees and other transactions to which section 12(2) applies;
- (u) prescribing the actions a captive insurance company must not undertake without first notifying and obtaining the approval of the Minister for the purposes of section 13(e);
- (v) respecting names for the purposes of section 16;
- (w) prescribing the minimum amount of base capital for the purposes of section 18(1);
- (x) respecting, for the purposes of section 19, the maintenance by captive insurance companies of
  - (i) adequate capital, and
  - (ii) adequate and appropriate forms of liquidity;
- (y) respecting any matters regarding the requirements and applications for and issuance of licences;
- (z) respecting the term of a licence referred to in section 22;
- (aa) respecting the classes of insurance a captive insurance company may be licensed to undertake;
- (bb) prescribing persons for the purposes of section 27(1)(c), (2)(c), (3)(c) and (4);
- (cc) respecting any restrictions on reinsurance referred to in section 28;
- (dd) prescribing the prohibited statements, representations, practices or acts for the purposes of section 29(1)(c);
- (ee) respecting the rules and requirements that apply to the making of a contract of insurance, the form and content of a contract of insurance or the administration of a contract of insurance made by a captive insurance company;



- (ff) respecting the financial reporting standards that must be followed in preparing a captive insurance company's annual financial statements;
- (gg) respecting any other requirements that must be followed in preparing a captive insurance company's annual financial statements;
- (hh) respecting any other information, and the time limit for providing such information, that a captive insurance company must provide to the Minister for the purposes of section 36(g);
- (ii) respecting other criteria for which the Minister may cancel, suspend or refuse to renew the license of a captive insurance company;
- (jj) providing that the contravention of any provision of the regulations under this Act constitutes an offence;
- (kk) prescribing the form and contents of notices of administrative penalties for the purpose of section 57;
- (ll) prescribing contraventions of provisions of this Act or the regulations in respect of which an administrative penalty may be imposed and prescribing the amounts, or the manner of determining the amounts, of the administrative penalties that may be imposed;
- (mm) respecting any other matter necessary for the administration of the system of administrative penalties;
- (nn) respecting information to be included in the Insurance Register respecting captive insurance companies;
- (oo) authorizing the Minister to charge and collect from captive insurance companies fees, levies or other assessments to be used to recover the costs incurred in the administration of this Act and the regulations, including, without limitation, regulations respecting
  - (i) the amount of fees, levies and other assessments;
  - (ii) the manner in which fees, levies and other assessments are to be determined;

- (iii) the manner in which and times at which fees, levies and other assessments must be paid;
- (iv) the imposition of interest and penalties for unpaid fees, levies and other assessments;
- (v) the waiving of fees, levies and other assessments;
- (pp) prescribing persons and purposes for the purposes of section 77(4)(h);
- (qq) prescribing anything required to be prescribed under this Act or that this Act refers to as prescribed;
- (rr) defining any word or expression used but not defined in this Act;
- (ss) respecting any other matter or thing that the Minister considers necessary to carry out the intent of this Act.

#### **Deficiency regulations**

**83(1)** The Lieutenant Governor in Council may make regulations

- (a) prescribing the provisions of the *Insurance Act* that apply to a captive insurance company and modifying the application of those provisions;
- (b) prescribing the provisions of the *Business Corporations Act* and the *Partnership Act* that do not apply to a captive insurance company;
- (c) remedying any confusion in the application of or any difficulty or impossibility in applying any provisions of this Act;
- (d) respecting matters coming under this Act that the Lieutenant Governor in Council considers
  - (i) are not provided for or are insufficiently provided for in this Act, or
  - (ii) are necessary or advisable in connection with the implementation of this Act.

(2) A regulation made under subsection (1) is repealed 5 years after the regulation comes into force or on the date specified in the regulation, whichever is earlier.

(3) The repeal of a regulation under subsection (2) does not affect anything done, incurred or acquired under the authority of the regulation before the repeal of the regulation.

(4) A regulation made under subsection (1) that is in force on or after the repeal of this section remains in force until it is repealed in accordance with subsection (2).

(5) A regulation may not be made under subsection (1) extending the 5-year period set out in subsection (2).

(6) This section is repealed 5 years after this section comes into force, but the repeal does not affect anything done, incurred or acquired under the authority of a regulation made under subsection (1) before the repeal of this section.

#### **Coming into force**

**84** This Act comes into force on Proclamation.

**RECORD OF DEBATE**

Stage	Date	Member	From	To
		<b>Interventions</b>	<b>From</b>	<b>To</b>
Stage	Date	Member	From	To
		<b>Interventions</b>	<b>From</b>	<b>To</b>
Stage	Date	Member	From	To
		<b>Interventions</b>	<b>From</b>	<b>To</b>
Stage	Date	Member	From	To
		<b>Interventions</b>	<b>From</b>	<b>To</b>
Stage	Date	Member	From	To
		<b>Interventions</b>	<b>From</b>	<b>To</b>