

## Session 118 - (2009-2010)

### **S\*0323 (Rat #0062, Act #0028 of 2009) General Bill, By Thomas**

**Summary:** Captive insurance companies

AN ACT TO AMEND SECTION 38-90-20, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO LICENSING OF A CAPTIVE INSURANCE COMPANY, SO AS TO PROHIBIT A CAPTIVE INSURANCE COMPANY FROM WRITING WORKERS' COMPENSATION INSURANCE ON A DIRECT BASIS, AND TO AUTHORIZE AN ADDITIONAL PROCESSING FEE FOR AN APPLICATION TO BE CHARGED AS DETERMINED APPROPRIATE BY THE DIRECTOR OR HIS DESIGNEE GIVEN THE NATURE OF THE APPLICATION BEING INVESTIGATED; TO AMEND SECTION 38-90-40, AS AMENDED, RELATING TO CAPITALIZATION REQUIREMENTS FOR CAPTIVE INSURANCE COMPANIES, SO AS TO AUTHORIZE A REDUCTION IN REQUIRED TRUST FUNDS FOR A BRANCH CAPTIVE INSURANCE COMPANY THAT POSTS SECURITY FOR LOSS RESERVES ON BRANCH BUSINESS TO A FRONT COMPANY; TO AMEND SECTION 38-90-55, RELATING TO INCORPORATION OF A CAPTIVE REINSURANCE COMPANY, SO AS TO CHANGE MANDATORY TO PRECATORY CONSIDERATION BY THE DIRECTOR OF FACTORS IN ARRIVING AT A FINDING; TO AMEND SECTION 38-90-60, AS AMENDED, RELATING TO INCORPORATION OPTIONS AND REQUIREMENTS OF CERTAIN TYPES OF CAPTIVE INSURANCE COMPANIES, SO AS TO CHANGE MANDATORY TO PRECATORY CONSIDERATION BY THE DIRECTOR OF FACTORS IN ARRIVING AT A FINDING; TO AMEND SECTION 38-90-70, AS AMENDED, RELATING TO REPORTS REQUIRED TO BE SUBMITTED BY A CAPTIVE INSURANCE COMPANY TO THE DIRECTOR, SO AS TO AUTHORIZE THE DIRECTOR TO GRANT AN EXTENSION OR WAIVE THE REQUIREMENTS OF THIS SECTION; TO AMEND SECTION 38-90-75, RELATING TO DISCOUNTING OF LOSS AND LOSS ADJUSTMENT EXPENSE RESERVES, SO AS TO PROVIDE THE SECTION APPLIES TO A CAPTIVE INSURANCE COMPANY, DELETE THE MANNER IN WHICH THE RESERVES WERE DISCOUNTED, AND PROVIDE THAT THIS PROCESS MAY BE ACCOMPLISHED WITH PRIOR WRITTEN APPROVAL BY THE DIRECTOR; TO AMEND SECTION 38-90-80, AS AMENDED, RELATING TO INSPECTIONS AND EXAMINATIONS OF A CAPTIVE INSURANCE COMPANY, SO AS TO INCREASE FROM THREE TO FIVE YEARS THE INTERVAL OF THE INSPECTIONS AND EXAMINATIONS AND AUTHORIZE THE DIRECTOR TO WAIVE THE REQUIREMENT FOR A VISIT TO CERTAIN COMPANIES; TO AMEND SECTION 38-90-90, RELATING TO SUSPENSION OR REVOCATION OF THE LICENSE OF A CAPTIVE INSURANCE COMPANY, SO AS TO AUTHORIZE THE DIRECTOR TO IMPOSE A FINE INSTEAD OF REVOKING OR SUSPENDING A LICENSE; TO AMEND SECTION 38-90-130, RELATING TO THE PROHIBITION OF A CAPTIVE INSURANCE COMPANY FROM PARTICIPATING IN A PLAN, POOL, ASSOCIATION, OR GUARANTY OR INSOLVENCY FUND, SO AS TO AUTHORIZE A COMPANY TO PARTICIPATE IN A POOL FOR THE PURPOSE OF COMMERCIAL RISK SHARING UNDER CERTAIN CIRCUMSTANCES; TO AMEND SECTION 38-90-180, AS AMENDED, RELATING TO THE APPLICABILITY OF CERTAIN PROVISIONS TO CAPTIVE INSURANCE COMPANIES, SO AS TO MAKE THE PROVISIONS OF CHAPTERS 26 AND 27 APPLICABLE TO CAPTIVE INSURANCE COMPANIES; TO AMEND SECTION 38-90-440, AS AMENDED, RELATING TO LICENSING OF A SPECIAL PURPOSE FINANCIAL CAPTIVE INSURANCE COMPANY, SO AS TO PROVIDE THE BASIS FOR CALCULATING A PROCESSING FEE, AND CLARIFY THAT SIX THOUSAND DOLLARS BASED ON A MINIMUM FEE OF TWELVE THOUSAND DOLLARS IS PAYABLE UPON FILING OF THE APPLICATION; TO AMEND SECTION 38-90-450, AS AMENDED, RELATING TO THE ORGANIZATION REQUIREMENTS OF A SPECIAL PURPOSE FINANCIAL CAPTIVE INSURANCE COMPANY, SO AS TO CHANGE FROM MANDATORY TO PRECATORY CONSIDERATION BY THE DIRECTOR WHEN ISSUING A CERTIFICATE; AND TO AMEND SECTION 38-90-560, RELATING TO EXAMINATIONS BY THE DIRECTOR OF A SPECIAL PURPOSE FINANCIAL CAPTIVE INSURANCE COMPANY, SO AS TO INCREASE FROM THREE TO FIVE YEARS THE INTERVAL THAT A COMPANY MUST BE INSPECTED AND DELETE THE AUTHORITY OF THE DIRECTOR TO ENLARGE THE PERIOD OF INSPECTION UNDER CERTAIN CIRCUMSTANCES. - ratified title

<b>01/27/09</b>	<b>Senate</b>	<b>Introduced and read first time SJ-21</b>
<b>01/27/09</b>	<b>Senate</b>	<b>Referred to Committee on Banking and Insurance SJ-21</b>
<b>03/11/09</b>	<b>Senate</b>	<b>Committee report: Favorable with amendment Banking and Insurance SJ-12</b>
<b>03/12/09</b>		<b>Scrivener's error corrected</b>
<b>04/14/09</b>	<b>Senate</b>	<b>Committee Amendment Adopted SJ-37</b>
<b>04/14/09</b>	<b>Senate</b>	<b>Read second time SJ-37</b>
<b>04/15/09</b>	<b>Senate</b>	<b>Read third time and sent to House SJ-13</b>
<b>04/21/09</b>	<b>House</b>	<b>Introduced and read first time HJ-16</b>
<b>04/21/09</b>	<b>House</b>	<b>Referred to Committee on Labor, Commerce and Industry HJ-18</b>
<b>05/14/09</b>	<b>House</b>	<b>Committee report: Favorable Labor, Commerce and Industry HJ-8</b>

05/20/09	House	Read second time HJ-23
05/20/09	House	Roll call Yeas-105 Nays-0 HJ-26
05/21/09	House	Read third time and enrolled HJ-12
05/27/09		Ratified R 62
06/02/09		Signed By Governor
06/11/09		Effective date 06/02/09
06/12/09		Act No. 28