

STATE OF NEW YORK

7087

2021-2022 Regular Sessions

IN SENATE

May 27, 2021

Introduced by Sen. PARKER -- read twice and ordered printed, and when printed to be committed to the Committee on Energy and Telecommunications

AN ACT to amend the public authorities law, the tax law and the insurance law, in relation to authorizing the power authority of the state of New York to form a pure captive insurance company

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Section 1005 of the public authorities law is amended by
2 adding a new subdivision 28 to read as follows:

3 28. The authority may establish a subsidiary corporation for the
4 purpose of forming a pure captive insurance company as provided in
5 section seven thousand two of the insurance law. The members of such
6 subsidiary corporation of the authority shall be the same persons hold-
7 ing the offices of members of the authority. Such subsidiary corporation
8 shall have all of the privileges, immunities, tax exemptions and other
9 exemptions of the authority and of the authority's property, functions
10 and activities. The subsidiary corporation of the authority shall be
11 subject to suit in accordance with section one thousand seventeen of
12 this title. The employees of any such subsidiary corporation, except
13 those who are also employees of the authority, shall not be deemed
14 employees of the authority.

15 § 2. Subdivision (a) of section 1500 of the tax law, as amended by
16 section 21 of part A of chapter 59 of the laws of 2014, is amended to
17 read as follows:

18 (a) The term "insurance corporation" includes a corporation, associ-
19 ation, joint stock company or association, person, society, aggregation
20 or partnership, by whatever name known, doing an insurance business,
21 and, notwithstanding the provisions of section fifteen hundred twelve of
22 this article, shall include (1) a risk retention group as defined in
23 subsection (n) of section five thousand nine hundred two of the insur-

EXPLANATION--Matter in italics (underscored) is new; matter in brackets
[-] is old law to be omitted.

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1 ance law, (2) the state insurance fund and (3) a corporation, associ-
2 ation, joint stock company or association, person, society, aggregation
3 or partnership doing an insurance business as a member of the New York
4 insurance exchange described in section six thousand two hundred one of
5 the insurance law. The definition of the "state insurance fund"
6 contained in this subdivision shall be limited in its effect to the
7 provisions of this article and the related provisions of this chapter
8 and shall have no force and effect other than with respect to such
9 provisions. The term "insurance corporation" shall also include a
10 captive insurance company doing a captive insurance business, as defined
11 in subsections (c) and (b), respectively, of section seven thousand two
12 of the insurance law; provided, however, "insurance corporation" shall
13 not include the metropolitan transportation authority, the power author-
14 ity of New York or any statutory subsidiary or affiliate thereof, or a
15 public benefit corporation or not-for-profit corporation formed by a
16 city with a population of one million or more pursuant to subsection (a)
17 of section seven thousand five of the insurance law, each of which is
18 expressly exempt from the payment of fees, taxes or assessments, whether
19 state or local; and provided further "insurance corporation" does not
20 include any combinable captive insurance company. The term "insurance
21 corporation" shall also include an unauthorized insurer operating from
22 an office within the state, pursuant to paragraph five of subsection (b)
23 of section one thousand one hundred one and subsection (i) of section
24 two thousand one hundred seventeen of the insurance law. The term
25 "insurance corporation" also includes a health maintenance organization
26 required to obtain a certificate of authority under article forty-four
27 of the public health law.

28 § 3. Subsections (e) and (g) of section 7002 of the insurance law, as
29 amended by chapter 188 of the laws of 2003, are amended to read as
30 follows:

31 (e) "Industrial insured" means an insured:

32 (1) whose net worth exceeds one hundred million dollars;

33 (2) who is a member of a holding company system whose net worth
34 exceeds one hundred million dollars;

35 (3) who is the metropolitan transportation authority and its statutory
36 subsidiaries. When filing an application to form a pure captive insur-
37 ance company the metropolitan transportation authority shall submit
38 written notice of such filing to the governor, the temporary president
39 of the senate and the speaker of the assembly; ~~[ex]~~

40 (4) who is the power authority of the state of New York and any statu-
41 tory subsidiary or affiliate thereof. When filing an application to form
42 a pure captive insurance company the power authority shall submit writ-
43 ten notice of such filing to the governor, the temporary president of
44 the senate and the speaker of the assembly; or

45 (5) who is a city with a population of one million or more. When
46 filing an application to form a pure captive insurance company, a city
47 with a population of one million or more shall submit written notice of
48 such filing to the governor, the temporary president of the senate and
49 the speaker of the assembly.

50 (g) "Industrial insured group" means any group of unaffiliated indus-
51 trial insureds that are engaged in similar or related businesses or
52 activities, however, the metropolitan transportation authority, the
53 power authority of the state of New York and any statutory subsidiary or
54 affiliate thereof and cities with a population of one million or more
55 shall not be a member of an industrial insured group, and that collec-
56 tively:

1 (1) own, control or hold with power to vote all of the outstanding
2 voting shares of stock of a group captive insurance company incorporated
3 as a stock insurer; or

4 (2) represent one hundred percent of the voting members of a group
5 captive insurance company organized as a mutual insurer.

6 § 4. Subdivision (a) of section 1502-b of the tax law, as amended by
7 section 22 of part A of chapter 59 of the laws of 2014, is amended to
8 read as follows:

9 (a) In lieu of the taxes and tax surcharge imposed by sections fifteen
10 hundred one, fifteen hundred two-a, fifteen hundred five-a, and fifteen
11 hundred ten of this article, every captive insurance company licensed by
12 the superintendent of financial services pursuant to the provisions of
13 article seventy of the insurance law, other than the metropolitan trans-
14 portation authority, the power authority of New York or any statutory
15 subsidiary or affiliate thereof, and a public benefit corporation or
16 not-for-profit corporation formed by a city with a population of one
17 million or more pursuant to subsection (a) of section seven thousand
18 five of the insurance law, each of which is expressly exempt from the
19 payment of fees, taxes or assessments whether state or local, and other
20 than combinable captive insurance company, shall, for the privilege of
21 exercising its corporate franchise, pay a tax on (1) all gross direct
22 premiums, less return premiums thereon, written on risks located or
23 resident in this state and (2) all assumed reinsurance premiums, less
24 return premiums thereon, written on risks located or resident in this
25 state. The rate of the tax imposed on gross direct premiums shall be
26 four-tenths of one percent on all or any part of the first twenty
27 million dollars of premiums, three-tenths of one percent on all or any
28 part of the second twenty million dollars of premiums, two-tenths of one
29 percent on all or any part of the third twenty million dollars of premi-
30 ums, and seventy-five thousandths of one percent on each dollar of
31 premiums thereafter. The rate of the tax on assumed reinsurance premiums
32 shall be two hundred twenty-five thousandths of one percent on all or
33 any part of the first twenty million dollars of premiums, one hundred
34 and fifty thousandths of one percent on all or any part of the second
35 twenty million dollars of premiums, fifty thousandths of one percent on
36 all or any part of the third twenty million dollars of premiums and
37 twenty-five thousandths of one percent on each dollar of premiums there-
38 after. The tax imposed by this section shall be equal to the greater of
39 (i) the sum of the tax imposed on gross direct premiums and the tax
40 imposed on assumed reinsurance premiums or (ii) five thousand dollars.

41 § 5. This act shall take effect immediately.