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MEMORANDUM

To: Chair Dietrich and the Senate Committee on Financial Institutions and Insurance

From: Office of Revisor of Statutes

Date: March 5, 2025

Subject: HB 2334 – Updating certain terms, conditions and definitions to the captive insurance act, providing for provisional certificates of authority, incorporated cell insurance companies and protected cell captive insurance companies.

Sections 1 through 10 enact the Kansas protected cell captive insurance company act and the remainder of the bill amends the current captive insurance act.

Section 1 provides the name and citation of the act.

Section 2 states that one or more sponsors may form a protected cell captive insurance company (henceforth "protected cell captive"), and that the act pertains to protected cell captives. This section also stipulates that a protected cell captive insurance company must incorporate as a mutual corporation, as a nonprofit corporation, or as a limited liability company.

Section 3 provides the definitions for the act.

Section 4 lists the materials that must be provided to the commissioner as part of the application to become a protected cell captive.

Section 5 describes the different requirements that must be satisfied in order to form a protected cell captive insurance company and the properties and requirements associated with a protected cell captive. Most importantly, only an incorporated cell creates a legal person separate from the protected cell.

Section 6 defines who can participate in a protected cell captive. While a wide range of entities can participate in a protected cell captive, participants are generally limited to insuring only their own risks, unless granted permission by the commissioner.

Section 7 describes the financial management of protected cell captives. Although cells can combine assets for investment purposes but must be accounted for separately. The commissioner may approve alternative methods for valuing cell assets.

Section 8 requires that, except as otherwise provided, the insurers supervision, rehabilitation and liquidation act apply to protected cell captives. No assets of a protected cell shall be used to pay the expenses or claims other than those attributable to itself and a protected cell captive's capital and surplus shall be available at all times to pay any expenses of or claims against the protected cell captive.

Section 9 describes the legal standing and liability of protected cells within a captive insurance company.

Section 10 describes how a protected cell within a captive insurance company can be converted into another type of captive insurance entity and vice versa.

Section 11 amends K.S.A. 40-4302, pertaining to the risks that a captive insurance company may insure, requirements for doing business, examination and registration fees, and certificates of authority. Amendments to this section add that a pure captive insurance company shall not insure a combination of risks of its parents and unaffiliated companies and controlled unaffiliated businesses and provides that a pure captive insurance company may provide workers compensation insurance, insurance in the nature of workers compensation insurance and the reinsurance of such policies, excess and stop-loss accident and health insurance. Section 11 also grants the commissioner the authority to implement a provisional certificate of authority and lowers the examination and registration fees from \$10,000 to \$2,500.

Section 12 amends K.S.A. 40-4304 pertaining to capital requirements of captive insurance companies and adds that a protected cell captive shall maintain unimpaired paid-in capital and surplus of not less than \$100,000.

Section 13 amends K.S.A. 40-4308, pertaining to the examination of captive insurance companies. The amendment to this section changes the frequency of examination from once every three years to once every five years.

Section 14 amends K.S.A. 40-4312, to state that no captive insurance company shall be required to join a rating organization or a policy form organization.

Section 15 amends K.S.A. 40-4314 pertaining to taxation of captive insurance companies. The amendment to this section adds a statement that the taxes provided by this section constitute all taxes collectible under the laws of the state of Kansas from any captive insurance company.

The bill was amended by the House Committee on Insurance to change the application fee for a captive insurance company from \$2,500 to a fee of "up to" \$2,500. This amendment appears on page 12, in line 18.

The House Committee of the Whole passed the bill unanimously on February 20, 2025.