

2023 Kansas Statutes

40-4332. Special purpose insurance captives; definitions. As used in K.S.A. 40-4332 through 40-4352, and amendments thereto:

- (a) "Affiliate" means a company that controls, is controlled by or under common control with a special purpose insurance captive.
- (b) "Affiliated agreements" means written agreements, including a special purpose insurance captive contract, between a special purpose insurance captive and its affiliate.
- (c) "Ceded reinsurance agreements" means reinsurance agreements entered into by the special purpose insurance captive with affiliates or unaffiliated parties for the purpose of obtaining reinsurance for all or some portion of the risks assumed by the special purpose insurance captive under special purpose insurance captive contracts.
- (d) "Ceding company" means the insurer ceding business to the special purpose insurance captive under the special purpose insurance captive contract.
- (e) "Commissioner" means the commissioner of insurance, or the commissioner's designee.
- (f) "Department" means the Kansas insurance department.
- (g) "Letter of credit" means a letter issued by a qualified United States financial institution to serve as a guarantee of payment. The letter of credit shall be clean and irrevocable.
- (h) "NAIC" means the national association of insurance commissioners.
- (i) "Organizational documents" means the special purpose insurance captive's articles of organization, bylaws, operating agreement or other foundational document that establishes the special purpose insurance captive as a legal entity or prescribes its existence.
- (j) "Permitted investments" means investments authorized by articles 2a and 2b of chapter 40 of the Kansas Statutes Annotated, and amendments thereto, or as specifically authorized by the commissioner by order.
- (k) "Risk-based capital" or "RBC" has the same meaning the term is defined in K.S.A. 40-2d01, and amendments thereto.
- (l) "Securitization" means a transaction or a group of related transactions, which may include capital market offerings, that are effected through related risk transfer instruments and facilitating administrative agreements where all or part of the result of such transactions is used to fund a special purpose insurance captive's obligations under a reinsurance contract with a ceding insurer and by which proceeds are: (1) Obtained by a special purpose insurance captive, directly or indirectly, through the issuance of securities by the special purpose insurance captive or any other person; or (2) provided through one or more letters of credit or other assets for the benefit of the special purpose insurance captive that the commissioner authorizes to treat as admitted assets for purposes of the special purpose insurance captive's annual statement, where all or any part of such proceeds, letters of credit, or assets, as applicable, are used to fund the special purpose insurance captive's obligations under a reinsurance contract with a ceding insurer. The term "securitization" does not include the issuance of a letter of credit for the benefit of the commissioner to satisfy all or part of the special purpose insurance captive's capital and surplus requirements under the captive insurance act.
- (m) "Special purpose insurance captive" means a captive insurance company that has received a certificate of authority from the commissioner for the limited purposes provided for in K.S.A. 40-4334, and amendments thereto.
- (n) "Special purpose insurance captive contract" means a written contract between the special purpose insurance captive and the ceding company under which the special purpose insurance captive agrees to provide reinsurance protection to the ceding company for risks associated with the ceding company's written or assumed annuity, life insurance or accident and health insurance business.
- (o) "State" means the state of Kansas.
- (p) "Surplus note" means an unsecured subordinated debt obligation, including any contingent obligation for the repayment of a sum of money upon a written agreement that the loan or advance with interest shall be repaid only out of funds as specified in

the approved plan of operation, or any approved amendment thereto.

(q) "Valuation manual" means the manual of valuation instructions adopted by the NAIC.

History: L. 2018, ch. 50, § 15; July 1.