

Drafted & Reviewed
By Legal Counsel
AA

AMENDMENT TO BILL NO. 30-0049
Offered by Senator Shawn-Michael Malone

Bill No. 30-0049 is amended in Section 5 by striking all the language in internal section 1409A, beginning on page 22 line 18 and inserting new language to read as follows:

§1409A Formation of Branch Captive Insurance Companies in the Virgin Islands

“(a) Any Alien Captive Insurance Company, or Foreign Insurer seeking to establish a Branch Exempt International Insurer, as defined below, shall follow the criteria and procedures set forth in this subsection and Section 1415 of the chapter and any regulations promulgated hereunder for qualifying to do business in the Territory as a Branch Exempt International Insurer.

As used in this subsection, unless the context requires otherwise, the following definitions shall be applicable to Branch Exempt International Insurers, in addition to the definitions set forth in Section 1401 of this chapter.

- (1) “Branch business” means any insurance business transacted by a Branch Exempt International Insurer in this Territory.
- (2) “Branch Exempt International Insurer” means an Alien Captive Insurance Company licensed by the SAM to transact the business of insurance in this Territory through a business unit with a principal place of business in this Territory.
- (3) “Branch operation” means any business operation of a Branch Exempt International Insurer in this Territory.
- (4) “Foreign Insurer” means an insurer domiciled in any state or territory other than the Territory of the Virgin Islands of the United States of America.

(5) "Territory" means the Territory of the Virgin Islands of the United States of America

(b) The purpose of this subsection is to set forth the procedures for the licensing of a Branch Exempt International Insurer that is organized as a captive insurance company in a jurisdiction other than the Territory but that qualifies to do business in the Territory as a Branch Exempt International Insurer under this chapter and Corporation Law applicable to the Territory. These procedures shall apply equally to an Alien Captive Insurance Company or a Foreign Insurer.

(c) Branch Exempt International Insurers domiciled outside the Territory may establish a Branch Exempt International Insurer in the Territory for purposes of insurance or reinsurance of the risks set forth in Section 1403 (a) (6) of this chapter, and the kinds of insurance authorized under Section 1417 hereof.

(d) An Alien Captive Insurance Company and a Foreign Insurer shall be subject to the formation and licensing requirements established by the SAM for a Branch Exempt International Insurer under this Chapter, including submitting a Petition for insurance of a Certificate of General Good called for by Section 1409 (d) of this chapter. The Alien Captive Insurance Company or Foreign Insurer may establish a Virgin Islands branch business entity for purposes of the Branch operations and such entity shall be subject to the formation requirements set forth in Section 1409 hereof and the qualification requirements established by the Office of the Lieutenant Governor, Division of Corporations and Trademarks under title 13 Virgin Islands Code section 401, provided that applicants in another jurisdiction shall be exempt from the residency requirements of section 1409 (c) and (g) hereof; or may establish a branch operation through establishment of a Virgin Islands business entity according to qualification requirements set forth in Section 1409 hereof and as may be established by the Office of the Lieutenant Governor,

Division of Corporations and Trademarks under title 13 Virgin Islands Code, Section 401. Each Branch Exempt International Insurer shall hold a meeting of the Board of Directors or other governing body of the Branch Exempt International Insurer in the Territory at least once every three (3) years.

(e) The Alien Captive Insurance Company or the Foreign Insurer may submit its qualification papers to the Office of the Lieutenant Governor, Division of Corporations and Trademarks upon receiving a Certificate of Good from the SAM. It is the objective of the SAM that licensure by the SAM and qualification by the Office of the Lieutenant Governor shall be completed within forty-five (45) days of issuance of a Certificate of Good and applicants shall be notified by the SAM or the Division of Corporations and Trademarks if the proposed 45-day timeframe will be exceeded by either of those Offices and the reasons for exceeding the timeframe.

(f) Each Branch Exempt International Insurer may authorize an International Insurer Support Business to conduct its branch business or other branch operations within the Territory in accordance with Section 1403 (b) (2) hereof. In addition, not fewer than once every three (3) years, in the discretion of the SAM, a representative of the Branch Exempt International Insurer as well as the International Insurer Support Business acting for the Branch Exempt International Insurer shall meet with the SAM in the Territory as to regulatory compliance issues. Notwithstanding this provision, the SAM retains the discretion to require representatives from the Branch Exempt International Insurer to attend meetings with the SAM in the Territory more frequently than once every three years if the SAM determines that such a meeting in the Territory is reasonably necessary for the SAM to monitor the entity's compliance with this Chapter.

(g) Notwithstanding any provision in this Chapter to the contrary, with respect to the establishment of minimum capital and minimum surplus requirements for a Branch Exempt International Insurer, upon written application by the prospective licensee and in the discretion of the SAM, the SAM may take into account the amount of security posted by the Alien Captive Insurance Company or the Foreign Insurer in the jurisdiction in which it is domiciled as capital and surplus before the SAM determines the minimum capital and minimum surplus to be applicable to the Branch Exempt International Insurer. In the absence of the SAM exercising its discretion, Section 1405 and 1406 of this chapter shall apply as to minimum capital and minimum surplus.

(h) Each Branch Exempt International Insurer so established shall be subject to the benefits, obligations and regulations provided herein.”

Amendment No. 30-714/October 10, 2013/ AA/ Reviewed by: MMH