

Superseded 5/12/2015

31A-37-402 Sponsored captive insurance companies -- Certificate of authority mandatory.

- (1) A sponsor of a sponsored captive insurance company shall be:
 - (a) an insurer authorized or approved under the laws of a state;
 - (b) a reinsurer authorized or approved under the laws of a state;
 - (c) a captive insurance company holding a certificate of authority under this chapter;
 - (d) an insurance holding company that:
 - (i) controls an insurer licensed pursuant to the laws of a state; and
 - (ii) is subject to registration pursuant to the holding company system of laws of the state of domicile of the insurer described in Subsection (1)(d)(i); or
 - (e) another person approved by the commissioner after finding that the approval of the person as a sponsor is not inconsistent with the purposes of this chapter.
- (2)
 - (a) The business written by a sponsored captive insurance company with respect to a protected cell shall be fronted by an insurer that is:
 - (i) authorized or approved:
 - (A) under the laws of a state; or
 - (B) under any jurisdiction if the insurance company is a wholly owned subsidiary of an insurance company licensed pursuant to the laws of a state;
 - (ii) reinsured by a reinsurer authorized or approved by this state; or
 - (iii) subject to Subsection (2)(b), secured by a trust fund:
 - (A) in the United States;
 - (B) for the benefit of policyholders and claimants; and
 - (C) funded by an irrevocable letter of credit or other asset acceptable to the commissioner.
 - (b)
 - (i) The amount of security provided by the trust fund described in Subsection (2)(a)(iii) may not be less than the reserves associated with the liabilities of the trust fund, including:
 - (A) reserves for losses;
 - (B) allocated loss adjustment expenses;
 - (C) incurred but unreported losses; and
 - (D) unearned premiums for business written through the participant's protected cell.
 - (ii) The commissioner may require the sponsored captive insurance company to increase the funding of a trust established pursuant to this Subsection (2).
 - (iii) If the form of security in the trust described in Subsection (2)(a)(iii) is a letter of credit, the letter of credit shall be established, issued, or confirmed by a bank that is:
 - (A) chartered in this state;
 - (B) a member of the federal reserve system; or
 - (C) chartered by another state if that state-chartered bank is acceptable to the commissioner.
 - (iv) A trust and trust instrument maintained pursuant to this Subsection (2) shall be in a form and upon terms approved by the commissioner.
- (3) A risk retention group may not be either a sponsor or a participant of a sponsored captive insurance company.