

**§6702. Licensing; authority**

**1. Authority.** A captive insurance company may not engage in the business of insurance in this State unless the company:

A. Obtains a license from the superintendent authorizing the company to do insurance business in this State; [PL 1997, c. 435, §1 (NEW).]

B. Holds at least one meeting of its board of directors, or other governing body, each year in this State. For pure captive insurance companies and pure nonprofit captive insurance companies, the annual in-state meeting requirement may be satisfied by a teleconferenced or videoconferenced meeting if at least one Maine resident member of the board of directors, or other governing body, participates in the meeting from this State; [PL 1997, c. 583, §1 (AMD).]

C. Maintains its principal place of business in this State; and [PL 1997, c. 435, §1 (NEW).]

D. Appoints a resident agent to accept service of process and to otherwise act on its behalf in this State. [PL 1997, c. 435, §1 (NEW).]

[PL 1997, c. 583, §1 (AMD).]

**2. Charter and bylaws.** In order to receive a license, a captive insurance company must file with the superintendent a certified copy of its charter and bylaws, a statement under oath of its president and secretary showing its financial condition and any other statements or documents required by the superintendent.

[PL 1997, c. 435, §1 (NEW).]

**3. Information required.** In addition to the information required by subsection 2, an applicant captive insurance company must file with the superintendent evidence of the following:

A. The amount and liquidity of its assets relative to the risks to be assumed; [PL 1997, c. 435, §1 (NEW).]

B. The adequacy of the expertise, experience and character of the person or persons who will manage it; [PL 1997, c. 435, §1 (NEW).]

C. A plan of operation satisfactory to the superintendent, with supporting information demonstrating the overall soundness of its plan of operation; [PL 2017, c. 169, Pt. G, §3 (AMD).]

D. The adequacy of the loss prevention programs of its parent or member organizations, as applicable; [PL 1997, c. 435, §1 (NEW).]

E. The character, reputation, financial standing and purposes of the incorporators; [PL 1997, c. 435, §1 (NEW).]

F. The character, reputation, financial responsibility, insurance experience and business qualifications of the officers and directors; and [PL 1997, c. 435, §1 (NEW).]

G. Any other factors determined relevant by the superintendent in ascertaining whether the proposed captive insurance company will be able to meet its policy obligations. [PL 1997, c. 435, §1 (NEW).]

[PL 2017, c. 169, Pt. G, §3 (AMD).]

**4. License.** If the superintendent is satisfied that the documents and statements filed by the captive insurance company under subsections 2 and 3 comply with this chapter, the superintendent may grant a license authorizing it to do insurance business in accordance with this subsection.

A. A captive insurance company shall comply with all applicable federal laws. A captive insurance company, other than an association captive insurance company preliminarily conditionally approved for a license before January 1, 2012 and that elects to secure coverage in accordance with section 6706, subsection 2-A, shall comply with state and federal laws relating to the risks insured

pursuant to the license granted by the superintendent to the extent provided in rules adopted pursuant to this chapter. [PL 2011, c. 90, Pt. I, §1 (NEW).]

B. An association captive insurance company insuring the health coverage risks of its members shall comply with the requirements for community rating and guaranteed issuance and renewal for association members pursuant to section 2808-B and any requirements for mandated benefits that apply to small group health plans. [PL 2011, c. 90, Pt. I, §1 (NEW).]

C. The superintendent shall grant a license to an association captive insurance company that files an application in accordance with this section and satisfies the following requirements:

(1) The association captive insurance company insures only health risks and requires participating association members to be jointly and severally liable in accordance with section 6706, subsection 2-A;

(2) The association captive insurance company's plan of operation is fiscally sound and establishes dispute resolution mechanisms acceptable to the superintendent in accordance with this section and designates a 3rd-party administrator approved by the superintendent; and

(3) The superintendent determines that the association members have an aggregate net worth of at least \$100,000,000. [PL 2011, c. 90, Pt. I, §1 (NEW).]

[PL 2011, c. 90, Pt. I, §1 (AMD).]

**5. Fees.** A captive insurance company shall pay filing, issuance, annual continuation and reinstatement fees as provided for domestic insurers pursuant to section 601, subsection 1.

[PL 1997, c. 435, §1 (NEW).]

**6. Activities.**

[PL 2009, c. 335, §9 (RP).]

**7. Permitted activities.** A captive insurance company, when permitted by its articles of association or charter, may apply to the superintendent for a license to provide any insurance described in this Title, including annuities, except that:

A. A pure captive insurance company may not insure or reinsure any risks other than those of its parent and affiliated companies or controlled unaffiliated businesses; [PL 2009, c. 335, §9 (AMD).]

B. An association captive insurance company may not insure or reinsure any risks other than those of the member organizations of its association and their affiliated companies; [PL 2009, c. 335, §9 (AMD).]

C. An industrial insured captive insurance company may not insure or reinsure any risks other than those of the industrial insureds that comprise the industrial insured group and their affiliated companies; [PL 2009, c. 335, §9 (AMD).]

D. A captive insurance company may not provide personal motor vehicle or homeowner's insurance coverage or individual health insurance coverage or any component thereof; [PL 2011, c. 90, Pt. I, §2 (AMD).]

E. A captive insurance company may not accept or cede reinsurance except as provided in section 6711; and [PL 2009, c. 335, §9 (AMD).]

F. A captive insurance company may not provide workers' compensation insurance except for reinsurance of workers' compensation risk as permitted in section 6711. [PL 2009, c. 335, §9 (NEW).]

[PL 2011, c. 90, Pt. I, §2 (AMD).]

**8. Certificate of good standing.** Prior to its organization or incorporation with the Secretary of State, the organizers or incorporators of a captive insurance company shall petition the superintendent to issue a certificate stating the superintendent's finding that the establishment and continued existence of the proposed captive insurance company, however organized, will promote the general good of the State. In making such a finding, the superintendent shall consider:

A. The character, reputation, financial standing and purpose of the organizers or incorporators; [PL 2009, c. 335, §9 (NEW).]

B. The character, reputation, financial responsibility, insurance experience and business qualifications of the officers and directors of the proposed captive insurance company; and [PL 2009, c. 335, §9 (NEW).]

C. Any other relevant information determined by the superintendent. [PL 2009, c. 335, §9 (NEW).]

Any certificate issued by the superintendent pursuant to this subsection must be filed with the Secretary of State to be recorded with the articles of incorporation of the captive insurance company. [PL 2009, c. 335, §9 (NEW).]

#### SECTION HISTORY

PL 1997, c. 435, §1 (NEW). PL 1997, c. 583, §§1-3 (AMD). PL 2009, c. 335, §9 (AMD). PL 2011, c. 90, Pt. I, §§1, 2 (AMD). PL 2017, c. 169, Pt. G, §3 (AMD).

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