

THE INSURANCE CODE OF 1956 (EXCERPT)
Act 218 of 1956

500.4611 Issuance of limited certificate of authority; possession and maintenance of unimpaired paid-in capital and retained earnings; form of minimum capitalization; incorporation as nonprofit; unencumbered equity; assets; evidence to be submitted to commissioner; additional capital; branch captive insurance company; security for payment of liabilities; trust fund; payment of dividends; limitation; distributions.

Sec. 4611. (1) The commissioner shall not issue a limited certificate of authority to a captive insurance company unless the company possesses and maintains unimpaired paid in capital and retained earnings as follows:

- (a) For a pure captive insurance company, not less than \$150,000.00.
- (b) For an association captive insurance company incorporated as a stock insurer or organized as a limited liability company, not less than \$400,000.00.
- (c) For an association captive insurance company incorporated as a mutual insurer, not less than \$750,000.00.
- (d) For an industrial insured captive insurance company incorporated as a stock insurer or organized as a limited liability company, not less than \$300,000.00.
- (e) For a sponsored captive insurance company, not less than \$500,000.00. However, if the sponsored captive insurance company does not assume any risk, the risks insured by the protected cells are homogeneous, and there are no more than 10 cells, the commissioner may reduce this amount to an amount not less than \$150,000.00.
- (f) For a special purpose captive insurance company, an amount determined by the commissioner after giving due consideration to the company's business plan, feasibility study, and pro formas, including the nature of the risks to be insured.

(2) Except for a sponsored captive that does not assume any risk, a captive insurance company initially shall possess and after that maintain minimum capitalization as required by subsection (1). All of the minimum initial capitalization shall be in cash. All other funds of the captive insurer in excess of its minimum initial capitalization shall be in the forms as provided by this chapter.

(3) The commissioner shall not issue a limited certificate of authority to a captive insurance company incorporated as a nonprofit corporation unless the company possesses and maintains unencumbered equity as follows:

- (a) For a pure captive insurance company, not less than \$250,000.00.
- (b) For a special purpose captive insurance company, an amount determined by the commissioner after giving due consideration to the company's business plan, feasibility study, and pro formas, including the nature of the risks to be insured.
- (4) Net assets required by subsection (3) of a captive insurance company incorporated as a nonprofit corporation shall be in the form of cash, cash equivalent, or an irrevocable letter of credit.
- (5) For the purposes of subsections (1) through (4), the commissioner may issue a limited certificate of authority expressly conditioned upon the captive insurance company providing to the commissioner satisfactory evidence of possession of the minimum required unimpaired paid in capital. Until this evidence is provided, the captive insurance company shall not issue any policy, assume any liability, or otherwise provide coverage. The commissioner may revoke the conditional limited certificate of authority without legal recourse by the company if satisfactory evidence of the required capital is not provided within a maximum period of time, not to exceed 1 year, to be established by the commissioner at the time the conditional limited certificate of authority is issued.

(6) The commissioner may prescribe additional capital based upon the type, volume, and nature of insurance business transacted. This additional capital shall be in the form of cash, cash equivalent, an irrevocable letter of credit, or securities invested as provided in section 4639.

(7) For a branch captive insurance company, as security for the payment of liabilities attributable to branch operations, the commissioner shall require that a trust fund, funded by an irrevocable letter of credit or other acceptable asset, be established and maintained in the United States for the benefit of United States policyholders and United States ceding insurers under insurance policies issued or reinsurance contracts issued or assumed, by the branch captive insurance company through its branch operations. The amount of the security shall be no less than the capital and retained earnings required by this chapter and the reserves on these insurance policies or reinsurance contracts, including reserves for losses, allocated loss adjustment expenses, incurred but not reported losses and unearned premiums with regard to business written through branch operations; however, the commissioner may permit a branch captive insurance company that is

required to post security for loss reserves on branch business by its reinsurer to reduce the funds in the trust account required by this section by the same amount so long as the security remains posted with the reinsurer.

(8) A captive insurance company shall not pay a dividend out of, or other distribution with respect to, capital or retained earnings, in excess of the limitations set forth in section 1343, without the prior approval of the commissioner. Approval of an ongoing plan for the payment of dividends or other distributions shall be conditioned upon retention, at the time of each payment, of capital or retained earnings in excess of amounts specified by, or determined in accordance with formulas approved by, the commissioner. A captive insurance company incorporated as a nonprofit corporation shall not make any distributions without the prior approval of the commissioner.

History: Add. 2008, Act 29, Imd. Eff. Mar. 13, 2008.

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