



SOUTH CAROLINA DEPARTMENT OF INSURANCE CAPTIVE DIVISION  
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## **CAPTIVE INSURER APPLICATION FOR ADMISSION TO SOUTH CAROLINA GENERAL INSTRUCTIONS**

1. Prior to completing the Captive Application for Admission (the Application), please coordinate a meeting or video conference with the South Carolina Captive Division (Division). The Division appreciates the opportunity to meet with prospective captive owners/members to hear about their organization and specific insurance needs, discuss the proposed business plan and ownership structure and share information about South Carolina, including the Application process and how we will regulate the captive after licensing. Please submit an Executive Summary to the Division in advance of this meeting. The Executive Summary can be found at <https://captives.sc.gov/192/How-To-Form-a-Captive-in-South-Carolina> Please note all information regarding the Application, including these preliminary discussions, is Confidential.

We also encourage applicants to become familiar with the applicable sections of relevant captive laws found in S.C. Code §38-90-10 through §38-90-250 as well as S.C. Code §38-87-10 through §38-87-140 regarding risk retention groups, S.C. Code §38-10-10 through §38-10-80 regarding protected cell insurance companies, and S.C. Code §38-90-410 through §38-90-630 regarding special purpose financial captives (SPFC).

Special Purpose Financial Insurance Companies (SPFCs) and Risk Retention Groups (RRGs) are subject to additional requirements under South Carolina Statutes. If you are forming an SPFC or RRG, please refer to all applicable South Carolina statutes and regulations, or contact the Division directly to inquire.

2. The Application is a "fillable" PDF Form only and it is recommended that you open and complete it in Adobe Acrobat.
  - The Application and all related supplemental information should be submitted in PDF format and emailed to [captivemail@doi.sc.gov](mailto:captivemail@doi.sc.gov), copying Ann Cunniffe at [acunniffe@doi.sc.gov](mailto:acunniffe@doi.sc.gov).
  - A printed copy of the Application will be acceptable but is not necessary.
  - Division review of a submitted Application package will not be completed and a final decision made until all required materials are provided.
3. The Application must be filled out in its entirety and submitted together with all required materials. A written explanation is required for any items deemed not applicable by an applicant.
  - The Application will be reviewed by one of the actuarial review firms appointed by the Director. The firms' duties are advisory in nature and final approval or disapproval of an Application will be made by the Director, only.

### **Applicable Laws, Regulations, Lists and Forms**

Please note that depending on the type of captive insurance company being formed, different rules and regulations may apply. Please visit our website for the full set of laws, regulations and forms at: <https://captives.sc.gov/101/Welcome-To-SC>

A Certificate of Authority to operate as a captive insurance company in South Carolina cannot be issued by the Director until the business entity to be licensed is legally formed and appropriate documentation is filed with the South Carolina Secretary of State's Office. *See* S.C. Code §38-90-20(C)(1)(a)(b) and (c).

### **Resident Director**

In the case of a captive insurance company:

- (1) formed as a corporation, at least one of the members of the board of directors shall be a resident of this State;
- (2) formed as a reciprocal insurer, at least one of the members of the subscribers' advisory committee shall be a resident of this State;
- (3) formed as a limited liability company, at least one of the managers shall be a resident of this State.

*See* S.C. Code §38-90-60(H),(I) and (J).

### **Principal Place of Business**

South Carolina Statutes [*See* S.C. Code §38-90-20(B)(3)] require that each company "maintain its principal place of business in this state." A captive's principal place of business means the physical location in the State of South Carolina where the complete books and records of the captive are available for examination by the Director. Many of the captive insurance companies domiciled in South Carolina maintain their principal place of business by contracting with one of South Carolina's Approved Managers.

### **Approved Captive Managers, Actuaries and CPAs**

A list of service providers qualified to conduct business in South Carolina can be found on our website at: <https://captives.sc.gov/35/Service-Providers> The Division encourages all captive insurance companies domiciled in South Carolina to contact one of the South Carolina-Approved Providers.

### **Board of Directors Meetings**

Beginning the year immediately following the issuance of its license, South Carolina Statutes require that a licensed captive insurer annually hold at least one board of director's meeting, or in the case of a reciprocal insurer, a subscriber's advisory committee meeting, or in the case of a limited liability company a meeting of the managing board, at which a quorum is physically present in this State, provided that at least two board members or subscriber advisory committee members, as applicable, must be physically present in this State. *See* S.C. Code §38-90-20(B)(2).

### **Letters of Credit for Capital and Surplus**

If letters of credit are used to meet capital and surplus requirements the South Carolina preferred sample form and instructions are located under Captive Filing Forms at: <https://captives.sc.gov/183/Captive-Filing-Forms>

While the Irrevocable Letter of Credit is provided as a "sample" format, please note that if your bank offers a different format, we will require the issuing bank to include certain provisions from our sample form and discussions regarding the content of the LOC may delay the start of captive business. To expedite the LOC approval process, we highly encourage all captive applicants to work with their

preferred bank to adopt as much of the sample LOC wording as possible in advance of submission to avoid delays. All Letters of Credit should be issued on the bank's letterhead by a Qualified Bank (a member of the Federal Reserve Bank or included on the list of NAIC approved banks).

### **Biographical Affidavits**

Include a Biographical Affidavit for each officer and director using either South Carolina's prescribed Biographical Affidavit form or the NAIC's biographical affidavit. Each affidavit must be filled out in its entirety and no substitute for this form will be accepted. "Not applicable" or "n/a" is not an acceptable answer to any question. Please note we require updated affidavits for each officer or director even if an officer or director has an existing affidavit on file with another entity licensed in South Carolina.

- The South Carolina prescribed form is located at: <https://captives.sc.gov/DocumentCenter/View/501/Biographical-Affidavit?bidId=>
- The NAIC format can be found at: <https://content.naic.org/sites/default/files/industry-ucaa-form-11-bio-aff.pdf>

### **Application Review Time**

The licensing process is estimated to take approximately 30-45 days from receipt of a completed Application, except for SPFCs, which may take up to 60 days from receipt of a completed Application. If the submission includes a fully completed Application, this review time may be shorter.

### **Change in Plan of Operation**

Before receiving a license, a captive insurance company must submit to the Director for approval a comprehensive plan of operation as part of the Application. In the event of any subsequent change in any item described in the plan of operation, the company must submit to the Director a request for approval to change its business plan and shall not execute any revision until approved by the Director.

At a minimum, business plan change requests should include a cover letter containing an executive summary explaining the details of the plan change including any impact to minimum required capital and surplus, and draft copies of any affected policies, agreements, etc. In addition, a red-lined copy of the business plan reflecting the changes would be appreciated to maintain a current and updated business plan in its totality. Depending on the type and materiality of the change, other documentation may be required such as revised financial proformas, most recent unaudited financials, parent's financials, documentation of board approval, etc.

For directions about business plan changes, please see: [Form Center • Business Plan Change Request - SC Captive Insu](#)

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