

**Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL  
REGISTRATION  
Division 200—Insurance Solvency and Company Regulation  
Chapter 20—Captive Insurance Companies**

**PROPOSED RULE**

**20 CSR 200-20.010 Scope and Definitions**

*PURPOSE: This rule sets out the scope of the rules in this chapter and provides definitions to aid in the interpretation of the rules in this chapter.*

**(1) Applicability of Rules.** The rules in this chapter apply to captive insurance companies transacting business under sections 379.1300 to 379.1350, RSMo and special purpose life captives transacting business under 379.1353 to 379.1421, RSMo. The rules shall be read together with chapter 536, RSMo.

**(2) Definitions.**

- (A) “Company”,** captive insurance company or companies (including a special purpose life reinsurance captive (“SPLRC”), unless otherwise specified;
- (B) “Director”,** the director of the department;
- (C) “Department”,** the department of insurance, financial institutions and professional registration;

*AUTHORITY: Sections 374.045, 379.1328 and 379.1421, RSMo Supp. 2007.*

**20 CSR 200-20.020 Approved Forms**

*PURPOSE: This rule sets out the forms which have been approved for use in the regulation of captive insurance companies in this chapter.*

**(1) The following forms have been adopted and approved for filing with the department:**

- (A) Captive Application for Admission (Form CI-1),** revised on October 1, 2007, or any form which substantially comports with the specified form;
- (B) Captive Irrevocable Letter of Credit (Form CI-2),** revised on October 1, 2007, or any form which substantially comports with the specified form;
- (C) Captive Application for Authorization as an Independent CPA (Form CI-3)** revised on October 1, 2007, or any form which substantially comports with the specified form;
- (D) Captive Application for Authorization to Certify Reserves (Form CI-4),** revised on October 1, 2007, or any form which substantially comports with the specified form; and
- (E) Missouri Captive Insurance Premium Tax Return (Form CI-5),** revised on October 1, 2007, or any form which substantially comports with the specified form.

**(2) Availability of Forms.** The department on request will supply in printed format the forms listed in this rule. Accurate reproduction of the forms may be utilized for filing in lieu of the printed forms. All forms referenced herein are available at <http://www.insurance.mo.gov>.

*AUTHORITY: Sections 374.045, 379.1328 and 379.1421, RSMo Supp. 2007*

## 20 CSR 200-20.030 Admission

*PURPOSE: This rule sets out the scope of the rules in this chapter and provides definitions to aid in the interpretation of the rules in this chapter.*

**(1) Application and Fees.** Application for admission as a captive insurance company shall contain the information outlined in sections 379.1300 to 379.1350 or 379.1353 to 379.1421, RSMo by filing with the director:

**(A) Initial Admission.**

1. A completed Form CI-1; and
2. A license fee of:

A. Seven thousand five hundred dollar (\$7500) for a captive insurance company; or

B. Ten thousand dollars (\$10,000) for a special purpose life reinsurance captive.

**(B) Renewal.**

1. All annual reports due at the time of renewal as required by sections 379.1300 to 379.1350 and Rule 20 CSR 200-20.040; and
2. Seven thousand five hundred dollar (\$7500) annual renewal fee.

**(2) Organizational Examination.** In addition to processing of the application, an organizational investigation or examination may be performed before an applicant is admitted. Such investigation or examination shall consist of a general survey of the company's corporate records, including charter, bylaws and minute books; verification of capital and surplus; verification of principal place of business; determination of assets and liabilities; and a review of such other factors as the director deems necessary.

**(3) Change of Business.** Any change in the nature of the captive business from that stated in the company's plan of operation filed with the director upon application requires prior approval from the director. Any change in any other information filed with the application must be filed with the director but does not require prior approval.

*AUTHORITY: Sections 374.045, 379.1328 and 379.1421, RSMo Supp. 2007.*

## 20 CSR 200-20.040 Financial Requirements

*PURPOSE: The purpose of this rule is to set forth the financial and reporting requirements, which the director deems necessary for the regulation of captive insurance companies.*

**(1) Annual Reporting Requirements.**

**(A)** An association captive insurance company doing business in this state shall annually submit to the director a report of its financial condition, verified by oath of two of its executive officers. The report shall be that required by section 375.041, RSMo.

**(B)** A pure or industrial insured captive insurance company doing business in this state shall annually submit to the director with a report of its financial condition, verified by oath of two of its executive officers. Except as otherwise approved by the director, the report shall:

1. be prepared on the basis of generally accepted accounting principles consistently applied;

and

2. consist of a:

A. Balance sheet;

B. Statement of gain or loss from operations;

C. Statement of cash flows;

D. Statement of changes in financial position;

E. Statement of changes in capital paid up, gross paid in and contributed surplus

and unassigned funds (surplus); and

F. Notes to financial statements. The notes to financial statements shall be those

required by generally accepted accounting principles, and shall include:

**(I) A summary of ownership and relationship of the company and all affiliated corporations or companies insured by the captive; and**

**(II) A narrative explanation of all material transactions and balances with the company.**

**(C) An SPLRC doing business in this state shall annually submit on or before March 1 of each year a report of its financial condition, verified by oath of two of its executive officers. The report shall be that required by section 375.041, RSMo.**

**(2) Annual Audit.** All companies shall have an annual audit by an independent certified public accountant (CPA). The company shall within ninety days of admission apply to the director for approval of the CPA by submitting an application to the director (Form CI- 3). Each company shall file an audited financial report with the director on or before June 30 (except for SPLRCs, which shall file on or before May 31) for the year ending December 31 immediately preceding, unless the director has approved a fiscal year ending on a date other than December 31 in which case the audited financial report shall be filed with the director within six months after the end of such approved fiscal year. The annual audit report shall be considered part of the company's annual report of financial condition except with respect to the date by which it must be filed with the director. The annual audit shall consist of the following:

**(A) Opinion of Independent Certified Public Accountant.** Financial statements furnished pursuant to this section shall be examined by independent certified public accountants in accordance with generally accepted auditing standards as determined by the American Institute of Certified Public Accountants. The opinion of the independent certified public accountant shall cover all years presented. The opinion shall be addressed to the company on stationery of the accountant showing the address of issuance, shall bear original manual signatures and shall be dated.

**(B) Report of Evaluation of Internal Controls.** This report shall include an evaluation of the internal controls of the company relating to the methods and procedures used in the securing of assets and the reliability of the financial records, including but not limited to such controls as the system of authorization and approval and the separation of duties. The review shall be conducted in accordance with generally accepted auditing standards.

**(C) Accountant's Letter.** The accountant shall furnish the company, for inclusion in the filing of the audited annual report, a letter stating:

1. That the accountant is independent with respect to the company and conforms to the standards of the profession as contained in the Code of Professional Ethics and pronouncements of the American Institute of Certified Public Accountants and pronouncements of the Financial Accounting Standards Board.

2. The general background and experience of the staff engaged in audit including the experience in auditing captives or other insurance companies.

3. That the accountant understands that the audited annual report and his opinions thereon will be filed in compliance with the rules of this chapter with the director.

4. That the accountant consents to the requirements of section (3) of this rule and that the accountant consents and agrees to make available for review by the director, his designee or his appointed agent, the work papers as defined in section (3).

5. That the accountant is properly licensed by an appropriate state licensing authority and is a member in good standing in the American Institute of Certified Public Accountants.

**(D) Financial Statements.** Statements required shall be as follows:

1. Balance sheet;

2. Statement of gain or loss from operations;

3. Statement of changes in financial position;

4. Statement of changes in capital paid up, gross paid in and contributed surplus and unassigned funds (surplus); and

5. Notes to financial statements, which shall be those required by generally accepted accounting principles, and shall include:

A. A reconciliation of differences, if any, between the audited financial report and the statement or form filed with the director;

B. A summary of ownership and relationship of the company and all affiliated corporations or companies insured by the captive; and

**C. A narrative explanation of all material transactions and balances with the company.**

**(E) Actuarial Certification.** The annual audit shall include an opinion as to the adequacy of the company's loss reserves and loss expense reserves. The individual who certifies as to the adequacy of reserves shall be a member in good standing of the American Academy of Actuaries and shall apply to the director for approval by submitting an application to the director (Form CI-4). As to any SPLRC or any company providing life insurance or annuity contracts, such certification shall include the opinion required by section 376.380, RSMo.

**(3) Availability and Maintenance of Working Papers of the Independent Certified Public Accountant.** Each company shall require the independent certified public accountant to make available for review by the director or the director's appointed agent the work papers prepared in the conduct of the audit of the company. The company shall require that the accountant retain the audit work papers for a period of not less than five years after the period reported upon. The aforementioned review by the director shall be considered an investigation and all working papers obtained during the course of such investigation shall be confidential. The company shall require that the independent certified public accountant provide photocopies of any of the working papers which the director considers relevant. Such working papers may be retained by the department. "Work Papers" as referred to in this section include, but are not necessarily limited to, schedules, analyses, reconciliations, abstracts, memoranda, narratives, flow charts, copies of company records or other documents prepared or obtained by the accountant and the accountant's employees in the conduct of their examination of the company.

**(4) Notification of Adverse Financial Condition.** A company shall require the certified public accountant to immediately notify in writing an officer and all members of the board of directors of the company of any determination by the independent certified public accountant that the company has materially misstated its financial condition in its report to the director as required in section 379.1312 or 379.1403, RSMo. The company shall furnish such notification to the director within five working days of receipt thereof.

**(5) Deposit Requirement.** Whenever the director deems that the financial condition of the company warrants additional security, the director may require a company to deposit with the director in a depository chosen by the director cash or securities approved by the director or, alternatively, to furnish the director a clean irrevocable letter of credit issued by a bank chartered by the State of Missouri or a member bank of the Federal Reserve System and approved by the director (Form CI-2) The company may receive interest or dividends from said deposit or exchange the deposits for others of equal value with the approval of the director. If such company discontinues business, the director shall return such deposit only after being satisfied that all obligations of the company have been discharged.

**(6) Reinsurance.**

**(A)** Any company authorized to do business in this state may take credit for reserves on risks ceded to a reinsurer subject to the following limitations:

1. No credit shall be allowed for reinsurance where the reinsurance contract does not result in the complete transfer of the risk or liability to the reinsurer.

2. No credit shall be allowed, as an asset or a deduction from liability, to any ceding insurer for reinsurance unless the reinsurance is payable by the assuming insurer on the basis of the liability of the ceding insurer under the contract reinsured without diminution because of the insolvency of the ceding insurer.

**(B)** Reinsurance under this section shall be effected through a written agreement of reinsurance setting forth the terms, provisions and conditions governing such reinsurance.

**(C)** The director in his discretion may require that complete copies of all reinsurance treaties and contracts be filed and/or approved by him.

**(7) Premium Tax.**

**(A)** On or before February 1 of each year, each company shall file a premium tax return (Form CI-5) on a form provided by the director with respect to its direct premiums written and reinsurance assumed

premiums written for the year ending the preceding December 31. The tax upon such premiums shall be according to the rates provided by law and shall be subject to the minimum and maximum taxes provided by law. Notwithstanding such minimum and maximum taxes, each company may deduct the license and license renewal fees from the taxes payable; provided that such deduction shall be the only deduction from the taxes otherwise payable.

(B) On or before March 31 of each year, the director shall certify to the director of revenue the taxes payable by each company.

(C) On or before April 30 of each year, the director of revenue will notify each company of its assessment of taxes.

(D) Each company shall pay the taxes assessed to the director of revenue on or before May 1.

*AUTHORITY: Sections 374.045, 379.1328 and 379.1421, RSMo Supp. 2007.*

## **20 CSR 200-20.050 Management and Control**

*PURPOSE: The purpose of this rule is to set forth the financial and reporting requirements, which the director deems necessary for the regulation of captive insurance companies.*

(1) **Directors.** Every company shall report to the director within thirty days after any change in its executive officers or directors, including in its report a statement of the business and professional affiliations of any new executive officer or director. No director, officer, or employee of a company shall, except on behalf of the company, accept, or be the beneficiary of, any fee, brokerage, gift, or other emolument because of any investment, loan, deposit, purchase, sale, payment or exchange made by or for the company but such person may receive reasonable compensation for necessary services rendered to the company in his or her usual private, professional or business capacity. Any profit or gain received by or on behalf of any person in violation of this section shall inure to and be recoverable by the company.

(2) **Conflict of Interest.** In addition to the investment of funds in Section (1) of this rule, each company chartered in this state is required to adopt a conflict of interest statement from officers, directors and key employees. Such statement shall disclose that the individual has no outside commitments, personal or otherwise, that would divert him from his duty to further the interests of the company he represents but this shall not preclude such person from being a director or officer in more than one insurance company. Each officer, director, and key employee shall file such disclosure with the board of directors yearly.

(3) **Insurance Managers & Intermediaries.** No person shall, in or from within this state, act as an insurance manager, broker, agent, salesman, or reinsurance intermediary for captive business without the authorization of the director.

(4) **Acquisitions of Control of or Merger with Domestic Company.** No person other than the issuer shall make a tender offer of or a request or invitation for tenders of, or enter into any agreement to exchange securities for, seek to acquire, or acquire in the open market or otherwise, any voting security of a domestic company if, after the consummation thereof, such person would, directly or indirectly (or by conversion or by exercise of any right to acquire) be in control of such company; and no person shall enter into an agreement to merge with or otherwise to acquire control of a domestic company without the prior written approval of the director. In considering any application for acquisition of control or merger with a domestic company, the director shall consider all of the facts and circumstances surrounding the application as well as the criteria for establishment of a company set out in this chapter.

*AUTHORITY: Sections 374.045, 379.1328 and 379.1421, RSMo Supp. 2007.*

## **20 CSR 200-20.060 Revocation, Suspension or Rescission of Company Authority**

*PURPOSE: The purpose of this rule is to set forth the procedures for revoking, suspending or cancelling the license of captive insurance companies.*

**(1) The director may enter an order suspending or revoking the license of a company pursuant to section 379.1316, RSMo. The proceeding will be governed by Rule 20 CSR 800-1.010 et seq.**

**(2) In addition to the authority in section 379.1316, RSMo, the director may, subject to the provisions of this section, by order rescind the authority of the company:**

**(A) if the company has not commenced business according to its plan of operation within two years of being licensed; or**

**(B) if the company ceases to carry on insurance business in or from within this state; or**

**(C) at the request of the company.**

**(3) Before the director rescinds the license of a company under subsection (2), the director shall give the company notice in writing of the grounds on which the director proposes to cancel the license, and shall afford the company an opportunity to make objection in writing within the period of thirty days after receipt of notice. The director shall take into consideration any objection received by the director within that period and, if the director decides to cancel the license, cause the order of cancellation to be served on the company.**

*AUTHORITY: Sections 374.045, 379.1328 and 379.1421, RSMo Supp. 2007.*