



State of New Jersey

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BULLETIN NO. 11-08

TO: ALL PROSPECTIVE NEW JERSEY CAPTIVE MARKET PARTICIPANTS AND OTHER INTERESTED PARTIES

FROM: THOMAS B. CONSIDINE, COMMISSIONER

RE: P.L. 2011, C. 25 (N.J.S.A. 17:47B-1 ET SEQ.) CAPTIVE INSURERS

P.L. 2011, c. 25 (N.J.S.A. 17:47B-1 et seq.) (“Captive Insurers Act” or “the Act”) enacted on February 21, 2011 and effective May 22, 2011, authorizes the Department of Banking and Insurance (Department) to regulate captive insurance companies. Such companies or “captives” are insurance companies established with the specific objective of financing risk emanating from their parent group or groups. Prior to the enactment of the Act, captive insurance companies were not allowed in New Jersey, which caused major New Jersey employers to secure coverage from captive insurers established in other locations. The Act provides significant new opportunities for New Jersey businesses to better manage their own risk by insuring themselves through a New Jersey-based captive, instead of a captive domiciled in another state or by purchasing insurance in the commercial market. Among the anticipated benefits of the Act are increased premium tax collections as newly formed or redomesticated New Jersey captives issue policies providing substantial levels of coverage, and increased demand for the services of New Jersey professionals including captive managers, actuaries and accountants.

The purpose of this Bulletin is to notify entities interested in forming a New Jersey captive or redomesticating a captive to this State that, beginning May 22, 2011, New Jersey will be open for business and accepting applications for admission as a newly formed or redomesticated New Jersey captive insurer. The Department will also be registering captive managers, actuaries and public accountants that may work with these captive insurers. Although the Department’s proposed rules implementing it will not be published in the New Jersey Register until after the Act’s May 22, 2011 effective date, in order to realize the economic benefits generated by the Act as quickly as possible and better serve the interests of companies that wish to form or redomesticate a captive in New Jersey, the Department is taking proactive measures to facilitate such formations or redomestications commencing on that date. Accordingly, this Bulletin is intended to notify interested parties of the procedures that will be used regarding applications for licensure as a captive in order to provide necessary guidance, especially to companies that have

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expressed an interest in entering the New Jersey captive market. The Department believes that this approach will be beneficial to all interested parties. The admission process, guidelines and policies set forth below reflect the provisions that will be included in the Department's rule proposal and are similar in many respects to those utilized by other states that allow captive insurers. In addition to the information provided herein, the Department has created a section on its website dedicated to providing direction to potential captive insurer applicants, captive managers, actuaries and accountants. That section of the website is entitled "Captives Corner" and can be accessed at http://www.state.nj.us/dobi/division_insurance/captive/. These pages include contact information and admission packets and instructions for the formation of a New Jersey captive insurer or the redomestication of a captive to this State.

The following information provides the steps an entity should take when forming or redomesticating a captive in this State and outlines the Department's general policies regarding how captives will be regulated in accordance with the Act.

As used throughout this Bulletin, the following words and terms have the following meanings, unless the context indicates otherwise.

"Alien captive insurance company" means an insurance company formed to write insurance business for its parents and affiliates and licensed pursuant to the laws of a jurisdiction other than this State which imposes statutory or regulatory standards in a form acceptable to the Commissioner on companies transacting the business of insurance in that jurisdiction.

"Association captive insurance company" means a company that insures risks of the member organizations of the association and their affiliated companies.

"Branch captive insurance company" means an alien captive insurance company licensed by the Commissioner to transact the business of insurance in this State through a business unit with a principal place of business in this State.

"Captive" or "Captive insurance company" means any pure captive insurance company, association captive insurance company, sponsored captive insurance company or industrial insured captive insurance company formed or licensed pursuant P.L. 2011, c. 25 (N.J.S.A. 17:47B-1 et. seq.). For the purposes of this bulletin a branch captive insurance company is a pure captive insurance company with respect to operations in the State, unless otherwise permitted by the Commissioner.

"Commissioner" means the Commissioner of the New Jersey Department of Banking and Insurance.

"Department" means the New Jersey Department of Banking and Insurance.

"Industrial insured captive insurance company" means a company that insures risks of the industrial insureds that comprise the industrial insured group, and their affiliated companies.

“Pure captive insurance company” means a company that insures risks of its parent and affiliated companies or controlled unaffiliated businesses.

“Sponsored captive insurance company” means a captive insurance company:

- (1) in which the minimum capital and surplus required by applicable law is provided by one or more sponsors;
- (2) that is formed or licensed under N.J.S.A. 17:47B-1 et seq.;
- (3) that insures the risks of separate participants through the contract; and
- (4) that segregates each participant’s liability through one or more protected cells.

“Work Papers” as referred to in this Bulletin include, but are not limited to, schedules, analyses, reconciliations, abstracts, memoranda, narratives, flow charts, copies of company records or other documents prepared or obtained by the accountant and his employees in the conduct of their examination of the company.

APPLICATION PROCESS

1. Prospective applicants for captive licensure should call or email the Department to arrange a meeting with the Captive Unit to discuss the proposed captive (contact Crosby Sherman, Manager Alternative Market, at crosby.sherman@dobi.state.nj.us, or ((609)-292-5350, Ext 50503).
2. Applicants should bring to the pre-application meeting “confidential” drafts of their Admission Packet, the content of which can be found on the Department’s website at http://www.state.nj.us/dobi/division_insurance/captive/app_formation.htm (for formations) and http://www.state.nj.us/dobi/division_insurance/captive/app_redomestication.htm (redomestications).
3. After meeting with the Captive Unit, applicants should submit one copy of all final materials in the Admission Packet to the Department for review, along with their completed business formation documents (File Certificates of Business Formation), and the appropriate business formation fee payable to the Treasurer, State of New Jersey. (This may require the services of a local attorney.).
4. Applicants should include with the Admission packet a Petition to the Commissioner to issue a Certificate of Public Good.
5. After the business formation documents are processed by the New Jersey Department of Treasury, Division of Revenue, the Department will issue to qualifying applicants a Certificate of Authority and forward the filed business formation documents.

Additional requirements for forming/redomesticating a captive in New Jersey:

1. Select a New Jersey registered captive manager;
2. Applicants should identify in their application the following authorized service providers: actuary, CPA and captive manager. If the service provider(s) that the

captive chooses are not on the New Jersey Department's list of Authorized Service Providers the service providers must file an application and biographical affidavit to be reviewed and approved by the Department; and

3. An organizational exam may be performed by the Department shortly after the captive receives the Certificate of Authority, cost of which will be borne by applicant.

Companies that wish to form a new captive in this State should adhere to the following guidelines:

(a) A captive that intends to be formed and licensed to do business in any of the lines of insurance authorized by P.L. 2011, c. 25 (N.J.S.A. 17:47B-1 et seq.), should submit the following to the Department, as applicable:

1. A Captive application for admission form can be found on the Department's website at http://www.state.nj.us/dobi/division_insurance/captive/app_formation.htm;

2. The appropriate costs for license application review as set forth below (see Cost of Licensure Application Review).

3. An irrevocable letter of credit, (the minimum requirements of which are included in the sample letter of credit which can be found on the Department's website at the address above);

4. Detailed Business Plan (form outline can be found on the Department's website at the address above);

5. Biographical Affidavits (form can be found on the Department's website at the address above)-One for each incorporator, officer, and director of the corporate applicant or each manager and member owning a 10% or greater interest in a L.L.C. applicant;

6. Designee to receive Department documents (form can be found on the Department's website at the address above);

7. Designee for Receipt of Service of Process in accordance with N.J.S.A. 17:47B-2b.(4) (form can be found on the Department's website at the address above);

8. Bylaws;

9. Articles of Incorporation or the equivalent for non-corporate forms of business;

10. Pro Forma Financial Projections (5 year expected and 5 year adverse);

11. Actuarial Feasibility Study;

12. Statement of Benefit to New Jersey;

13. Minimum Capital and Surplus Guidelines;

14. Additionally, as required pursuant to P.L. 2011, c. 25 (N.J.S.A. 17:47B-1 et seq.)

- i. A statement under oath of its president and secretary showing its financial condition;

- ii. A description of coverage limits and rates together with any additional information as the Commissioner may reasonably require. In the event of any subsequent material change in an item in the description, the captive insurance company should submit to the Commissioner for approval an appropriate revision and shall not offer any additional lines of insurance until a revision of the description is approved by the

Commissioner. The captive should notify the Department of any proposed material change not later than 30 days prior to the effective date of the adoption of any such change;

iii. Documents evidencing the following:

- (1) The amount and liquidity of its assets relative to the risks to be assumed;
- (2) The adequacy of the expertise, experience and character of the person who will manage it;
- (3) The overall soundness of its plan of operation;
- (4) The adequacy of the loss prevention programs of its insureds (only applicable to property casualty).

15. Statement of net worth.

(b) The Commissioner in his or her discretion, may request alternative or additional documents and information as he/she deems necessary in order to make a finding that the application submissions demonstrate that: “the establishment and maintenance of the proposed captive will promote the general good of the State” pursuant to N.J.S.A. 17:47B-5d; or that the applicant sufficiently meets the financial requirements necessary for admission in this State as a captive insurance company. Information contained in any submissions made as set forth herein or in (a) above that is specified in N.J.S.A. 17:47B-2c.(3) shall remain confidential as set forth therein.

(c) A captive should not write any insurance business in this State unless, in accordance with N.J.S.A. 17:47B-2b.(3), it maintains its principal place of business in this State, which may be the New Jersey office of the captive insurer’s manager, with the appropriate number of in-State professional service providers to carry out the business of the captive, including but not limited to, attorneys, accountants, managers, actuaries, and, if applicable, brokers and third party administrators.

A Captive insurance company that seeks to Redomesticate to this State should adhere to the following guidelines:

(a) All captive insurance companies redomesticating to New Jersey should file the following documentation with the Department:

1. Captive application for admission (form can be found on the Department’s website at http://www.state.nj.us/dobi/division_insurance/captive/app_redomestication.htm);
2. Detailed Business Plan (form outline can be found on the Department’s website at the address above);
3. Biographical Affidavits (form can be found on the Department’s website at the address above - One for each incorporator, officer, and director of a redomesticating corporate captive or each manager and member owning a 10% or greater interest in a L.L.C. applying to redomesticate as a captive);
4. Designee to receive Department documents (form can be found on the Department’s website at the address above);
5. Designee for Receipt of Service of Process in accordance with N.J.S.A. 17:47B-2b.(4) (form can be found on the Department’s website at the address above);
6. Current Examination Reports;
7. Year-end Financial Statement and any current quarterly statements;
8. Last audited financial statement;

9. The appropriate costs as set forth below (see Cost of License Application Review);

10. Statement of Good Standing – Letter from domicile stating that there are no open issues; and

11. The Commissioner may, in lieu of any of the documents listed above request alternative documentation, on the basis of which the Department may determine that the applicant has demonstrated that it sufficiently meets the financial requirements necessary for admission in this State as a captive insurance company.

(b) The Commissioner in his or her discretion, may request alternative additional documents and information as he/she deems necessary in order to make a finding that the application submissions demonstrate that: “the establishment and maintenance of the proposed captive will promote the general good of the State” pursuant to N.J.S.A. 17:47B-5d; or that the applicant sufficiently meets the financial requirements necessary for admission in this State as a captive insurance company. Information contained in any submissions made as set forth herein or in (a) above that is specified in N.J.S.A. 17:47B-2c.(3) shall remain confidential as set forth therein.

(c) A captive should not write any insurance business in this State unless, in accordance with N.J.S.A. 17:47B-2b.(3), it maintains its principal place of business in this State with the appropriate number of in-State professional service providers to carry out the business of the captive, including but not limited to, attorneys, accountants, managers, actuaries, and, if applicable, brokers and third party administrators.

THE COSTS OF LICENSE APPLICATION AND RENEWAL REVIEWS ARE AS FOLLOWS:

(a) The Commissioner may have the initial application reviewed by outside experts, with the costs of the review paid by the applicant. The outside review is of an advisory nature only and the Commissioner will make the determination regarding approval or disapproval of an application. The cost for a review/analysis of an initial application for licensure as a captive should not exceed \$4,000.00. The cost for a license renewal review shall be \$300.00. Payments for these costs are non-refundable.

(b) All checks or money orders should be made payable to: State of New Jersey, General Treasury.

CAPTIVE MANAGERS

(a) No person may act as a captive manager in this State unless they are registered with the Department as a captive manager. The Department will maintain a list of registered captive managers in this State and post on its website a list of all registered captive managers who indicated on their application that their contact information may be published. Individuals seeking registration as a captive manager may submit an application for captive manager and a Biographical Affidavit (forms can be found on the Department’s website at http://www.state.nj.us/dobi/division_insurance/captive/serviceproviders.html) to the Department for approval.

(b) Any person acting as a captive manager in this State should have an office in New Jersey and should maintain in this State the books and records of all licensed New Jersey captives being managed by that manager.

REPORTING REQUIREMENTS

(a) Pursuant to N.J.S.A. 17:47B-1 et seq a captive insurance company doing business in this state should annually submit to the Commissioner a report of their financial condition, verified by oath of two of the captive's executive officers, prior to March 1 of each year. An association captive should file its report in the form required by N.J.S.A. 17:23-1 et seq.

(b) A captive insurance company that insures life and or health insurance policies should adhere to either of the following:

1. If, with the approval of the Commissioner the captive uses statutory accounting principles (i.e. the National Association of Insurance Commissioners' Accounting Practices and Procedures Manual, including any appropriate or necessary modifications or adaptations thereto approved by the Commissioner) it should submit the annual report in the form of the annual statement approved by the National Association of Insurance Commissioners for life insurers, as modified or supplemented by the Commissioner, unless the Commissioner requires or approves a different form of annual report; or

2. If the captive uses generally accepted accounting principles, including any appropriate or necessary modifications or adaptations thereto approved by the Commissioner, it should submit the annual report in the form approved by the Commissioner and posted on the Department's website.

(c) The Commissioner in his/her discretion may request quarterly reports or financial data from a captive as necessary to confirm that a captive continues to fulfill the financial requirements necessary to qualify for admission as a captive in this State pursuant to N.J.S.A. 17:47B-1 et seq. and 17:23-1 et seq.

ANNUAL AUDIT

(a) All captives will be subject to an annual audit by an independent certified public accountant, registered with the Commissioner and, subject to N.J.S.A. 17:47B-6b, will be required to annually file with the Commissioner an audited financial report describing the results of that audit on or before June 30 for the calendar year ending December 31 immediately preceding.

(b) The annual audit report will be considered part of the captive's annual report of financial condition, except with respect to the date by which it must be filed with the Commissioner.

(c) The annual audit report should consist of the following:

1. Opinion of Independent Certified Public Accountant, which shall:
 - i. include financial statements which have been examined by an independent certified public accountant in accordance with generally accepted auditing standards as determined by the American Institute of Certified Public Accountants; and
 - ii. cover all years presented; and
 - iii. be addressed to the captive on stationery of the accountant, bear the date and address of issuance, and bear the original manual signature of the accountant;

2. Report of Evaluation of Internal Controls

i. This report should include an evaluation of the internal controls of the captive 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.

ii. The review should be conducted in accordance with generally accepted auditing standards and the report filed with the Commissioner; and

3. Accountant's Letter as described in (d) below.

(d) The accountant should furnish the captive, for inclusion in the filing of the audited annual report, a letter stating that:

1. He/she is independent with respect to the captive and conforms to the standards of his 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 accountant understands that the audited annual report and his/her opinions thereon will be filed in compliance with applicable regulations established by the Department;

3. The accountant consents to the requirements specified below in "Availability and Maintenance of Working Papers of the Independent Certified Public Accountant" and that the accountant consents and agrees to make available for review by the Commissioner, his designee or his appointed agent, the work papers as referenced therein;

4. 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; and

5. Describing the general background and experience of the staff engaged in the audit, including their experience in auditing captives or other insurance companies.

(e) Financial Statements

1. Statements required should be as follows:

i. Balance sheet; and

ii. Statement of gain or loss from operations;

(f) Statement of changes in financial position;

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

(h) Notes to financial statements. The notes to financial statements should be those required by generally accepted accounting principles or statutory accounting principles, as applicable, and should include:

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

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

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

(i) Certification of Loss Reserves and Loss Expense Reserves

1. The annual audit should include an opinion as to the adequacy of the company's loss reserves and loss expense reserves;

2. The individual who certifies as to the adequacy of reserves should be:

i. A Fellow of the Casualty Actuarial Society, a member in good standing of the American Academy of Actuaries, or an individual who has complied with No. 4 below and has demonstrated his/her competence in loss reserve evaluation to the Commissioner for Property and Casualty Insurance; or

ii. A Fellow of the Society of Actuaries, a member in good standing of the American Academy of Actuaries, or an individual who has complied with No. 4 below and has demonstrated his/her competence in loss reserve evaluation to the Commissioner for either Life or Health Insurance.

3. Certification should be in such form as the Commissioner deems appropriate; and

4. No individual should certify loss reserves and loss expense reserves for captives unless the individual is registered with the Department. The Department will maintain a list of registered actuaries who may certify loss reserves and loss exposure reserves for captives and will post this list on its website. An individual seeking such registration who is not on the Department's list should submit an application for Authorization to Certify Loss Reserves and Loss Expense Reserves for Captives and a Biographical Affidavit (forms can be found on the Department's website at http://www.state.nj.us/dobi/division_insurance/captive/serviceproviders.html) to the Department for approval.

DESIGNATION OF INDEPENDENT CERTIFIED PUBLIC ACCOUNTANT

(a) Companies should, within ninety days of the issuance of a license as a New Jersey captive, report to the Commissioner in writing the name and address of the independent certified public accountant retained to conduct the annual audit described above.

(b) No person or firm should act as an independent certified public accountant for a captive insurer unless they are registered with the Department. The Department will maintain a list of registered independent certified public accountants and will post this list on its website. A person or firm seeking such registration who is not on the Department's list should submit an application for Authorization as an Independent Certified Public Accountant for Captive Insurance Business and a Biographical Affidavit (forms can be found on the Department's website at http://www.state.nj.us/dobi/division_insurance/captive/serviceproviders.html) to the Department for approval.

NOTIFICATION OF ADVERSE FINANCIAL CONDITION

(a) A licensed captive should require the certified public accountant to immediately notify in writing either an officer and all members of the Board of Directors of the corporation, or the corresponding parties in a L.L.C., as applicable, of any determination by the independent certified public accountant that the company has materially misstated its financial condition in its report to the Commissioner. The company should furnish such notification to the Commissioner within five working days of receipt thereof.

AVAILABILITY AND MAINTENANCE OF WORK PAPERS OF THE INDEPENDENT CERTIFIED PUBLIC ACCOUNTANT

(a) Each company should require the independent certified public accountant to make available for review by the Commissioner or his appointed agent the work papers prepared in the conduct of the audit of the company. The company should require that the accountant retain the audit work papers for a period of not less than seven years after the period reported upon.

(b) The reviews by the Commissioner referenced in (a) above will be considered investigations and all work papers obtained during the course of such investigations will be confidential. The company should require that the independent certified public accountant provide PDF files of any of the work papers which the Department considers relevant. Such work papers may be retained by the Department and shall be confidential in accordance with N.J.S.A. 17:47B-2c.(3).

DEPOSIT REQUIREMENT

(a) Whenever the Commissioner deems that the financial condition of a captive warrants additional security, he may require the captive to deposit with the Treasurer of this State cash or securities approved by the Commissioner or, alternatively, to furnish the Commissioner an irrevocable letter of credit issued by a bank chartered by the state of New Jersey or a member bank of the Federal Reserve System and approved by the Commissioner.

(b) The captive may receive interest or dividends from said deposit or exchange the deposits for others of equal value with the approval of the Commissioner. If such captive discontinues business, the Commissioner will return such deposit only after being satisfied that all obligations of the company have been discharged.

ORGANIZATIONAL EXAMINATION

(a) In addition to the application review, an organizational investigation or examination may be performed before or after an applicant is licensed as a captive. Such investigation or examination will consist of a general survey of the captive'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 Commissioner deems necessary. The materials related to such an investigation as set forth in N.J.S.A. 17:47B-2c.(3) shall be confidential as provided for therein.

REINSURANCE

(a) Any captive 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 will 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 will 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.

3. Reinsurance under this section should be effected through a written agreement of reinsurance setting forth the terms, provisions and conditions governing such reinsurance.

INSURANCE PRODUCERS AND INTERMEDIARIES

(a) No person should, in or from within this State, act as an insurance producer or broker for captive business without adhering to the requirements of N.J.A.C. 11:17-1, et seq., and the New Jersey Insurance Producer Licensing Act of 2011, (N.J.S.A. 17:22A-26 et seq.).

DIRECTORS

(a) Every captive should report to the Commissioner within thirty days after any change in its executive officers, directors or in its other principals as referenced in the forming and redomesticating guidelines above, including the submission of a biographical affidavit (form can be found on the Department's website at the address indicated on page 5, above) for any such new executive officer, director or principal.

(b) No director, officer, or employee of a captive should, except on behalf of the captive, accept, or be the beneficiary of, any fee, consideration, gift, or other emolument because of any investment, loan, deposit, purchase, sale, payment or exchange made by or for the captive but such person may receive reasonable compensation for necessary services rendered to the captive in his or her usual private, professional or business capacity.

(c) Any profit or gain received by or on behalf of any person in violation of this section should inure to and be recoverable by the captive.

CONFLICT OF INTEREST

(a) Each captive licensed in this state should adopt a conflict of interest statement to be completed and signed by all officers, directors, principals as referenced in the forming and redomesticating guidelines above and key employees. The statement should disclose whether the individual has any other commitments or involvements personal or otherwise, that would divert him/her from his/her fiduciary duty to advance and further the interests of the captive he/she represents and, if so, the nature and extent of that commitment. This should not necessarily preclude the individual, upon full disclosure, from being a director, officer or principal in more than one insurance company.

(b) Each officer, director, and key employee should file such disclosure with the Board of Directors yearly.

RESCISSION OF CAPTIVE LICENSE

(a) The Commissioner may by order rescind the license of the captive:

1. If the captive has not commenced business according to its plan of operation within two years of being licensed; or

2. If the captive ceases to carry on insurance business in or from within New Jersey;

3. At the request of the captive; or

4. For any reason provided in P.L. 2011, c. 25 (N.J.S.A. 17:47B-1 et. seq.).

(b) Before the Commissioner rescinds the license of a captive under (a) above the Commissioner will give the captive notice in writing of the grounds on which he/she proposes to cancel the license, and afford the captive an opportunity to make objection in writing within the period of thirty days after receipt of notice. The Commissioner will take into consideration any objection received by him within that period and, if he/she decides to cancel the license, cause the order of cancellation to be served on the captive.

MERGER, CONSOLIDATION OR MUTUALIZATION WITH DOMESTIC COMPANY

(a) No person other than the issuer should make a tender offer for 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 captive 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 captive; and no person should enter into an agreement to merge with or otherwise to acquire control of a domestic captive without the prior written approval of the Commissioner. In considering any application for merger, consolidation or mutualization with a domestic captive, the Commissioner will consider all of the facts and circumstances surrounding the application as well as the criteria for the establishment of a captive set out in this chapter.

CHANGE OF BUSINESS

(a) Any change in the nature of the captive's business from that stated in the captive's plan of operation filed with the Commissioner upon application for licensure as a New Jersey captive will require prior approval by the Commissioner.

(b) Any change in any other information filed with the application for licensure as a captive should be filed with the Commissioner but will not require prior approval.

RESERVES REQUIRED BY LAW FOR REINSURING LIFE INSURANCE POLICES OR ANNUITIES

(a) A captive insurance company should maintain reserves that are actuarially sufficient to support the liabilities incurred by the captive insurance company reinsuring Life Insurance Policies.

(b) A captive insurance company that issues annuity contracts should maintain reserves that are actuarially sufficient to support the liabilities provided by the contracts.

ESTABLISHMENT OF SEPARATE ACCOUNTS

(a) A captive insurance company that issues contracts that provide variable benefits should establish separate accounts.

INVESTMENTS

(a) Except as may be otherwise authorized by the Commissioner, association captive insurance companies should comply with the investment requirements set forth in N.J.S.A. 17:24-1 et. seq., except to the extent that doing so is inconsistent with the approved accounting standards in use by the captive. Notwithstanding any other provision of this subchapter, the Commissioner may approve the use of alternative reliable methods of valuation and rating.

(b) No pure captive insurance company or industrial insured captive insurance company will be subject to any restrictions on allowable investments whatever, including those limitations contained in N.J.S.A. 17:24-1 et. seq. (for property casualty captives) or N.J.S.A. 17:20-1 et seq. (for Life Health Captives), provided however, that the Commissioner may prohibit or limit any investment that threatens the solvency or liquidity of any such captive.

May 20, 2011
Date



Thomas B. Considine
Commissioner

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