



DEPARTMENT OF
INSURANCE AND FINANCIAL INSTITUTIONS

APPLICATION FOR A CAPTIVE INSURANCE COMPANY LICENSE

Before completing and submitting the application, follow the steps of the Certificate of Authority Application Process to form a captive insurer as enumerated in our Reference Guide available online at <https://difi.az.gov>. While the two are similar, there are separate Guides for risk retention groups and other captive types.

After reviewing your proposed program and participating in a pre-application meeting, if necessary, it may be appropriate to proceed to the application phase. If so, proceed as follows. Some steps should occur **before** the application is submitted to avoid delays and confusion.

- **Check name availability / acceptability** for the captive with the Captive Division at francine.juarez@difi.az.gov or captive@difi.az.gov (A.R.S. § 20-1098.02).
- **Submit the Articles of Incorporation and Bylaws** via e-mail to Cary Cook, Assistant Financial Compliance Officer, at cary.cook@difi.az.gov. We will preview the draft and provide feedback before you obtain signatures. If acceptable and once signed, we will stamp the Articles and return them to you to file directly with the Arizona Corporation Commission (ACC). The ACC may not process the filing without the stamp. For ACC filing information, go to: <http://www.azcc.gov/Divisions/Corporations/forms/formsindex.asp>.
- **Read and follow** all of the directions. Use the most recent version of the application form to avoid confusion. Complete the application sections in a free-form narrative format to allow sufficient opportunity to fully explain your responses. The online version of the application is in .pdf format. If you need a .doc version, contact us.
- **Respond to all questions** or requests for information. Do not indicate "N/A" without also specifying why the item is not applicable. Contact us if a question or request for information is unclear or you have special circumstances.
- **Submit an original** of all information and supporting documents in electronic format with appropriate filename(s), and as applicable, table of contents, and page numbers for sections and subsections as described herein. Delivery should be made in whatever secure manner desired to protect confidentiality.
- An **application to redomesticate** a licensed captive to Arizona requires additional items and may also change the nature and content of your response to some items in the application. See the current Reference Guide or contact us for more information.
- Incomplete, unclear, and/or inconsistent submissions cause inefficiencies and unnecessary delays in the application review process.

- References have been made in the application to specific Arizona Statutes germane to particular questions or items requested. This serves to more explicitly address some of the statutory aspects of the application and also provides some indication of the purpose of the item. When compliance with Statute is not self-evident in the application, provide clarifying explanation.

A.R.S. § 41-1030(G) requires most Arizona government agencies to prominently print the provisions of A.R.S. § 41-1030(B), (D), (E) and (F) on all license applications. The following is the language in A.R.S. § 41-1030(B), (D), (E) and (F):

B. An agency shall not base a licensing decision in whole or in part on a licensing requirement or condition that is not specifically authorized by statute, rule or state tribal gaming compact. A general grant of authority in statute does not constitute a basis for imposing a licensing requirement or condition unless a rule is made pursuant to that general grant of authority that specifically authorizes the requirement or condition.

D. This section may be enforced in a private civil action and relief may be awarded against the state. The court may award reasonable attorney fees, damages and all fees associated with the license application to a party that prevails in an action against the state for a violation of this section.

E. A state employee may not intentionally or knowingly violate this section. A violation of this section is cause for disciplinary action or dismissal pursuant to the agency's adopted personnel policy.

F. This section does not abrogate the immunity provided by section 12-820.01 or 12-820.02.

- Note that, if approved, the effective date of the captive insurer license will be the date of the Director's formal approval of the application. A request for a later effective date may be granted.
- Forward applicable captive application fee payments via check with a cover letter to:

Arizona Department of Insurance and Financial Institutions
 Captive Insurance Division
 100 N. 15th Ave., Suite 261
 Phoenix, Arizona 85007-2630

The U.S. State Government agency payee's taxpayer identification number (TIN) is 86-6004791.

If you have user access to the NAIC OPTins system, you may be able to pay the applicable license application fee amounts electronically. See <https://www.optins.org/> for more information.

Electronic submission of the application may be made via e-mail to Diana.Dunkin-Vasquez@difi.az.gov or using some other means that will be accessible to us at the applicant's discretion.

Important: Without taking proper precautions, communication via e-mail is widely known not to be secure.

SECTION A: GENERAL INFORMATION

1. Legal name of the proposed captive (A.R.S. § 20-1098.02).
2. Principal place of business address (statutory home office) in Arizona as identified in the Articles of Incorporation or similar document (A.R.S. § 20-1098.01.E.2.).
3. Arizona address where captive books and records will be maintained (i.e. main administrative office), if different (A.R.S. § 20-1098.16).
4. Name, e-mail address and phone number of the contact person for the application.
5. Name and address of Statutory Agent for service of process (A.R.S. § 20-1098.01.E.3.).
6. Name and domicile jurisdiction of the direct parent(s) of proposed captive (A.R.S. § 20-1098.01.G.7.). If applying for an agency captive license, also name the state or states where the direct owner holds an active insurance producer or MGA license.
7. Name(s) and addresses of the beneficial upstream and/or ultimate owners of the proposed captive (A.R.S. § 20-1098.01.G.7.).
 - a) Specify percentage of ownership.
 - b) Explain relationships among all owners.
 - c) Parent organization's primary industry category and/or the US Census NAICS two-digit and/or expanded code (A.R.S. § 20-1098.23.A.6(d)). [This is not N/A].
8. Provide an organizational chart or charts of the entire organization (not just the captive and direct parent) and a brief narrative explanation of the nature of each affiliated or relevant unaffiliated entity's business or role, its organization type, the relationships between the parent(s), the captive and any other parties to be insured by the captive, and the transaction description(s) and flow(s) among the entities.
9. Provide the financial statements of the parent(s) (A.R.S. § 20-1098.01.G.7.).
 - a) Provide recent 10K, audited, or personal financial statements of the entities or individuals. If audited financials are not prepared, then provide unaudited. Provide a specific web address link to such exhibits to satisfy this requirement and save file space, if available.
 - b) If the direct parent is a new entity, a holding company, and/or financially small, provide financial statements for at least the next substantive upstream company or ultimate parent.
10. Identify type of proposed captive, e.g. pure, risk retention group, agency, protected cell captive insurer, etc. For each proposed protected cell, complete a separate supplemental application form, available on our website (A.R.S. § 20-1098, 20-1098.01, 20-1098.03, 20-1098.04).
11. Organizational form of proposed captive, e.g. stock, mutual, limited liability company, reciprocal, non-profit (A.R.S. § 20-1098.01.F, 20-1098.04.).

12. Submit Biographical Affidavits for each Director and each Officer of the proposed captive (see CID form)(A.R.S. § 20-1098.01.G.2).
13. Submit signed Conflict of Interest statements for each director and officer (see CID form) (A.R.S. § 20-1098.01.G.2).
14. Submit completed NAIC Company Code (CoCode) Application (form available on our website). All captive insurers are assigned a NAIC CoCode. We will submit the completed form to NAIC to reserve a CoCode. If the entity already has an assigned NAIC CoCode, indicate the number.
15. If the application is for the redomestication of an existing licensed captive insurer, provide the following:
 - a) A written statement signed by the non-RRG captive's president and secretary that explains the reason(s) for the proposed redomestication to Arizona
 - b) Stockholder(s) and Board of Director redomestication resolutions
 - c) Documentation of the current domicile's approval of the redomestication, when available.See sections B & C for more requirements regarding redomestication.
16. Has any domicile declined, suspended, revoked, or taken administrative action on or against an application for any kind of insurance entity, any company or any individual associated with, or involved in this captive formation? If YES, describe in detail the circumstances of the action and provide all related documentation, e.g. order of revocation, letter declining to accept application.
17. Proposed start-up / license date. Generally, this should be not less than 30 days from submission of application. Highlight the expected initial coverage period proposed, if known.
18. Proposed fiscal year-end for the captive. This will drive the due dates for annual filings. (A.R.S. § 20-1098.07). It may be a date certain, e.g. 06/30 or 12/31, or based on a consistently applied variable method, e.g. 52/53 week, and is most often tied to that of the parent organization.

SECTION B: BUSINESS PLAN AND SUPPORTING INFORMATION

Business Plan

1. Provide a concise but comprehensive overview of the purpose(s) of the captive, its structure, ownership, financing, entities to be insured, lines of business, reinsurance program, etc. Do not rely wholly on attachments and exhibits to provide clarity (A.R.S. § 20-1098.01.G.3.). The reader should be able to understand the captive on at least a high level after reading the response to this item.
2. Applicants for risk retention groups (RRGs) should clearly explain in this section **how the proposed program and its structure fully conforms and complies with the federal Liability Risk Retention Act** (A.R.S. § 20-1098.24, 20-2401-2413), to demonstrate an awareness of the requirements and additional regulatory considerations involved, for example:
 - a) All owners must be insureds and all insureds must be owners.
 - b) Owners must ordinarily have some financial interest in the program over and above the premium and should participate in the management and control of the RRG through participation in the Board of Directors and officer positions.
 - c) Owner/insureds should understand the legal and regulatory environment and requirements in forming and maintaining a RRG, including the Holding Company Act, Model Risk Retention Act, non-domiciliary regulation, etc. and be prepared to comply.
3. This application section should contain narrative, data or exhibits, for the following as applicable:
 - a) If the applicant is an association, provide its history, purpose and size of membership (A.R.S. § 20-1098.4-5).
 - b) Identify each line of coverage to be insured and answer the following for each:
 - i) Citing specific Statute(s), indicate how it complies with, or is permitted under, applicable Arizona Statutes (A.R.S. § 20-1098.01.A-D.). In addition, if the captive will write “controlled, unaffiliated business”, clearly indicate how the business meets the definition (A.R.S. § 20-1098.11, 20-1098.01.A.)
 - ii) Indicate whether the captive will write directly or as a reinsurer, or both. Indicate clearly whether the coverage is related to a self-insured program, commercial policy self-insured retention or deductible reimbursement (A.R.S. § 20-1098.01.B-C, 20-1098.11). If assuming reinsurance, identify the known or likely fronting company.
 - iii) If the program involves a government agency-approved self-insurance program, most often involving workers compensation coverage, indicate which state and agency (A.R.S. § 20-1098.01.B). Provide current evidence of agency approval.
 - iv) Expected gross annual premium by line of coverage or meaningful sub-line. Specify direct or assumed.
 - v) Expected net annual premium by line of coverage or meaningful sub-line.

- vi) Indicate whether or not any existing or past exposures will be insurance obligations of the captive or if only future / prospective risks are involved.
- c) Furnish copies of all proposed captive coverage forms and/or assumed reinsurance contracts. Also furnish relevant copies of in-force Declaration Page(s) for both primary and excess/umbrella commercial coverages equal, and/or complementary, to the proposed coverage limits for the captive.
- d) Provide a list of and describe historical claims in recent years in excess of \$100,000 and the corrective action taken to avoid future occurrences. If, based on the business plan, a higher or lower dollar threshold would clearly be more useful, use it instead. If loss data contains sensitive personal information, we can discuss options for managing the situation.
- e) Financial projections / pro forma for 4 or 5 years using the captive's proposed basis of accounting and showing both expected and adverse case scenarios, noting key assumptions if not obvious, and showing written premium by major line. Relevant ratio analysis may also be helpful, e.g. combined, liquidity, premium to surplus, reserves to surplus, retained limits to surplus, etc. Premiums and losses should be readily traceable to the work done in the feasibility study to the extent possible.
- f) The amount of retained risk proposed—per loss occurrence and annual line or policy year combined aggregates. If no per loss or aggregate limit, so state. Provide a visual representation of the program limits, retentions by line of business in one or more exhibits.
- g) Outline assumed and ceded reinsurance plans, if applicable. Visual aids in the form of bar charts, “mud maps”, or other exhibits showing retentions, limits, and other details by line of coverage may be helpful. If credit for reinsurance is anticipated, describe the manner in which it will qualify (A.R.S. § 20-1098.11). Furnish proposed ceded reinsurance contracts as applicable. If no assumed or ceded reinsurance is planned, so state.
- h) Outline plans for development of rates, pricing, and underwriting guidelines and procedures. (RRG applicants should provide substantial detail for this item)
- i) Outline any notable or extraordinary loss control or safety programs (A.R.S. § 20-1098.01.G.4.). Provide samples or exhibits if useful. (RRG applicants should generally provide more detail)
- j) Specify the investment policy and the terms and conditions of any anticipated loan-backs. Only pure captives may make loan-backs, subject to pre-approval; other captive types have more investment restrictions generally. Applicants should acknowledge here the applicable statutory rules for investments for their proposed captive type. (A.R.S. § 20-1098.10(A)).

If no formal policy statement is proposed, so state, and describe the initial cash management and investment approach to maintain liquidity and solvency and to manage investment risk, etc. (A.R.S. § 20-1098.10, 20-531 thru 20-562, 20-1098.01.G.1.).

- k) Describe any plans for dividends or similar distributions. If none anticipated, so state. Note any dividends are likely to be subject to explicit prior Department approval.

Actuarial Feasibility Study

- 1) The feasibility study should adhere to the following guidelines:
 - a) Prepared on the actuary's letterhead and signed by the actuary.
 - b) Include a description of all materials the actuary reviewed and an explanation of how the feasibility study comports with the proposed business plan, e.g. capital levels, risks, coverages, retentions, and whether the captive will write directly, cede, or assume business.
 - c) The review should cover 3-5 years of loss history specific, if possible, to the insured and the business plan.
 - d) Describe the methodology used in preparing the feasibility study including confidence levels, credibility, expected results and worst case scenarios with premium and loss components.
 - e) Include conclusions on adequacy of pricing and expected capitalization.
- 2) If the application is for the redomestication of an existing licensed captive insurer, the feasibility study may be tailored to the circumstances and may be satisfied by a recent actuarial reserve report, particularly if the business plan is not changing.

Note: For RRGs, the business plan and/or feasibility study and certain other aspects of the RRGs structure and operations are normally also made available to non-domiciliary regulators in jurisdictions in which the RRG registers or plans to register. Care should be taken to prepare and submit such information with the application with this fact in mind.

SECTION C: LEGAL/ORGANIZATIONAL INFORMATION

- 1) Provide ACC-certified copies of the captive's **Articles of Incorporation**, **Bylaws** certified by an officer of the corporation and any other relevant organizational documents, including **articles of organization** or similar document, oftentimes a signed "consent in lieu of organizational meeting" document. If formed as a reciprocal, or as a LLC (subject to Title 29), see the relevant Statute for required documents, e.g. Articles of Organization, Operating Agreement, etc. (A.R.S. § 20-1098.01.E-F., 20-1098.04).

Note: Oftentimes, the Articles are not submitted to ACC prior to making application for a license. We routinely accept applications with a DIFI-stamped but uncertified version of the Articles as an accommodation. It is important, however, that the applicant send us evidence of ACC-certified articles when available.

- 2) Include a copy of the Arizona Corporation Commission's Disclosure Statement and a duplicate of the Statutory Agent Appointment as attached thereto.
- 3) To the extent required by ACC, furnish an Affidavit of Publication indicating publication of the Articles of Incorporation in the number and manner prescribed.
- 4) Provide copies of all material agreements between the captive and its manager, reinsurers and other service providers, e.g. accountant, attorney, actuary, claims administrator, broker. Drafts are acceptable as long as finalized versions are submitted when available. (A.R.S. § 20-1098.01.G.5-6.)
- 5) Provide minutes of all meetings of incorporators, directors, shareholders and committees to date. If a long-running entity, ask us how far in the past to go.
- 6) Provide the proposed captive insurer's Federal Employer Identification Number (FEIN), if available.

SECTION D: FINANCIAL INFORMATION

1. Capitalization / Funding (if stock company, provide a copy of the stockholder register).
 - a) Amount of paid in capital and surplus (A.R.S. § 20-1098.03).
 - i) Indicate the statutory minimum for the proposed captive type (generally \$250k or \$500k).
 - ii) Indicate the expected or intended additional (or total) initial and on-going minimum to be maintained, if different from the statutory minimum.
 - b) Type(s) and numbers of shares to be authorized. Par Value of each share and selling price by type.
2. If you intend to use a Letter of Credit (LOC) for capitalizing or funding the captive, prior to licensure, provide a clean, irrevocable and unconditional LOC containing an evergreen clause payable to the Arizona Director of Insurance and Financial Institutions to be held in trust for the protection of all policyholders, ceding insurers and payment of related expenses (A.R.S. § 20-1098.03.B). The LOC must meet the following requirements:
 - a) The LOC shall be issued or confirmed by a qualified United States financial institution as defined by ARS § 20-261.03.A. and shall comply with requirements prescribed by the Director.
 - b) The captive insurer shall not be directly or contingently liable for any LOC comprising its minimum required capital or surplus and the captive may not pledge its assets as security for the LOC. Indicate what entity, affiliated or not, is obtaining/supporting the letter of credit.
 - c) Use the Captive Insurer Irrevocable Letter of Credit - Sample Form on our website as a guide. Show the LOC amount as well as the legal name and domicile of the issuing financial institution.
3. Provide an initial financial statement showing the captive's financial condition, i.e. assets, liabilities, sources and type of financial support, signed under oath by the captive insurer's **president** and **secretary**. (A.R.S. § 20-1098.01.F.1).

If a new formation, this may be a summarized balance sheet showing the actual or proposed initial capitalization/financial position or a duly signed version of the pro forma financial statements submitted to satisfy item 3.e in Section B, assuming beginning ("initial") balances are discernable in the exhibit(s).

4. Indicate the proposed accounting method to be used by the captive, e.g. GAAP (normally incorporating modifications contemplated in the Reference Guide) or statutory insurance accounting (SAP). If another basis of accounting is desired, e.g. IFRS, submit a request for a permitted practice.
5. If applicable, provide copies of most recent independent CPA certified financial statements.
6. If you intend to fund the captive with cash: prior to licensure, request from your bank written confirmation of initial funding using the appropriate Captive Division form when funding is complete. The Department should receive the confirmation directly from the bank. This step is most often performed after the application has been approved but before the license is issued.

SECTION E: SERVICE PROVIDERS (A.R.S. § 20-1098.01.G.5-6.)

1. Captive Manager's firm name, address, phone number, e-mail, and contact person. Provide a completed management firm profile form if this would be the first Arizona captive for the proposed captive manager (form available on the website).
2. Attorney's name, address, phone number, and contact person.
3. Certified Public Accountant's name, address, phone number, and contact person.
4. Actuary's name, professional designations, firm name, address, phone number, and e-mail address.
5. Financial Institution or bank's name, address, phone number, and contact person.
6. Fronting insurer's name, address, phone number, and contact person, if applicable.
7. Claims Administrator's name, address, phone number, and contact person.
8. Reinsurance Broker's name, address, phone number, and contact person.

SECTION F: FEES

Type	Amount	Payable To
<u>Initial Application:</u>		
License (1 st Year or partial year)	\$1,000	Arizona Department of Insurance and Financial Institutions
Charter Document (Bylaws)	\$75	Arizona Department of Insurance and Financial Institutions
Examiners' Revolving Fund	\$100	Arizona Department of Insurance and Financial Institutions
Initial Examination	<u>\$Varies</u> *	Arizona Department of Insurance and Financial Institutions
Total Application Fees	<u>\$1,175</u> *	Arizona Department of Insurance and Financial Institutions
<u>Other Initial Fees:</u>		
Articles of Incorporation	\$60	Arizona Corporation Commission (ACC)
Per Cell Application Fee	\$1,000	Arizona Department of Insurance and Financial Institutions
<u>Renewal and Other Ongoing:</u>		
License Renewal	\$5,500	Arizona Department of Insurance and Financial Institutions
Per Cell License Renewal	\$2,500	Arizona Department of Insurance and Financial Institutions
Ongoing Examinations	\$Varies	Arizona Department of Insurance and Financial Institutions

*Initial examination fees (at application) are not common, except for RRG applications, but do occur in some circumstances if and when additional technical resources are needed to perform one or more aspects of any application review. We will consult with the applicant if this is anticipated.

All fees are non-refundable whether the Department approves or denies an application (A.R.S. § 20-1098.01.J., 20-167, A.A.C. R20-6-2002). The initial application fees may be combined in one check, or separate checks sent together.

Assuming licensure, the first full license renewal fee, along with other captive annual filings, will be due after the captive insurer's first fiscal year-end regardless of the length of time licensed.

SECTION G: CERTIFICATION

I certify that the information given in this application is true and correct and that all estimates given are true estimates based upon facts that have been carefully considered and assessed. Furthermore, I affirm that pursuant to A.R.S. § 20-1098.01, the proposed captive insurer will notify the Arizona Director of Insurance and Financial Institutions within thirty days of any material change in the information filed with this application.

If applicant is a Protected Cell Captive Insurer, I further acknowledge pursuant to A.R.S. § 20-1098.01.H.2 that all financial records of the Protected Cell Captive Insurer, including records pertaining to protected cells, shall be available for inspection or examination by the Director or the Director’s designee.

Name	Title	Date
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Signature _____

Subscribed and sworn to before me this _____ day of _____, 20____

Signature of Notary Public _____

NOTARY SEAL: Notary Public authorized by law of the State of _____

My commission expires on _____