

*DFR 2023 Draft Captive Bill Language –2/13/23 amendment*

8 V.S.A. § 6002(c) is amended to read:

(2) Each applicant captive insurance company shall also file with the Commissioner evidence of the following:

(A) its beneficial ownership, sponsorship, or membership;

(B) the amount and liquidity of its assets relative to the risks to be assumed;

(C) the adequacy of the expertise, experience, and character of the person or persons who will manage it;

(D) the overall soundness of its plan of operation;

(E) the adequacy of the loss prevention programs of its insureds; and

(F) such other factors deemed relevant by the Commissioner in ascertaining whether the proposed captive insurance company will be able to meet its policy obligations.

(3) Information submitted pursuant to this subsection, including any subsequent updates, amendments, or revisions of or to such information, shall be and remain confidential, and may not be made public by the Commissioner or an employee or agent of the Commissioner without the written consent of the company, except that:

(A) such information may be discoverable by a party in a civil action or contested case to which the captive insurance company that submitted such information is a party, upon a showing by the party seeking to discover such information that:

(i) the information sought is relevant to and necessary for the furtherance of such action or case;

(ii) the information sought is unavailable from other nonconfidential sources; and

(iii) a subpoena issued by a judicial or administrative officer of competent jurisdiction has been submitted to the Commissioner; provided, however, that the provisions of this subdivision (3) shall not apply to any risk retention group; and

(B) the Commissioner may, in the Commissioner's discretion, disclose such information to a public officer having jurisdiction over the regulation of insurance in another state, provided that:

(i) such public official shall agree in writing to maintain the confidentiality of such information; and

(ii) the laws of the state in which such public official serves require such information to be and to remain confidential.