

40-4306. Incorporation of companies; incorporators, number and residency requirements; petition of commissioner for issuance of certificate that company promotes welfare of state; certificate and articles of incorporation to be filed with secretary of state; organization fee; capital stock requirements; board of directors, residency requirements; application of general corporation code. (a) A pure captive insurance company shall be incorporated as a stock insurer with its capital divided into shares and held by the stockholders.

(b) An industrial insured captive insurance company may be incorporated:

(1) As a stock insurer with its capital divided into shares and held by the stockholders; or

(2) as a mutual insurer without capital stock.

(c) A captive insurance company shall have not less than three incorporators of whom not less than two shall be residents of this state.

(d) Before the articles of incorporation are transmitted to the secretary of state, the incorporators shall petition the commissioner to issue a certificate setting forth such commissioner's finding that the establishment and maintenance of the proposed corporation will promote the general good of the state. In arriving at such finding the commissioner shall consider:

(1) The character, reputation, financial standing and purposes of the incorporators;

(2) the character, reputation, financial responsibility, insurance experience and business qualifications of the officers and directors; and

(3) such other aspects as the commissioner shall deem advisable.

(e) The articles of incorporation, such certificate and the organization fee shall be transmitted to the secretary of state, who shall thereupon record both the articles of incorporation and the certificate.

(f) The capital stock of a captive insurance company incorporated as a stock insurer shall be issued at not less than par value.

(g) At least one of the members of the board of directors of a captive insurance company incorporated in this state shall be a resident of this state.

(h) Captive insurance companies formed under the provisions of this chapter shall have the privileges and be subject to the provisions of the general corporation code as well as the applicable provisions contained in this act. In the event of conflict between the provisions of the general corporation code and the provisions of this act, the latter shall control.

History: L. 1988, ch. 156, § 6; July 1.