

## 2019 Kansas Statutes

**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, as a nonstock corporation, or may be formed as a limited liability company, partnership or limited partnership.

(b) An association captive insurance company may be incorporated as a stock corporation or as a nonstock corporation, or may be formed as a limited liability company, partnership or limited partnership.

(c) A captive insurance company incorporated or organized in Kansas shall have one or more incorporators or organizers, as applicable, at least one of whom shall be a resident of Kansas.

(d) In the case of a captive insurance company:

(1) Formed as a corporation, with at least one of the members of the board of directors who shall be a resident of Kansas, or have that member's personal place of business in Kansas;

(2) formed as a limited liability company, with at least one of the managers who shall be a resident of, or have its principal place of business in Kansas;

(3) formed as a partnership, with at least one member or person in whom management of the partnership is vested or to whom rights and powers to manage and control the business and affairs of the partnership have been delegated, shall be a resident of, or have such member's or person's principal place of business in Kansas; or

(4) formed as a limited partnership, with at least one general partner or person in whom management of the limited partnership is vested or to whom rights and powers to manage and control the business and affairs of the limited partnership have been delegated, shall be a resident of, or have such partner's or person's principal place of business in Kansas.

(e) The articles of incorporation or bylaws of a captive insurance company formed as a corporation may authorize a quorum of its board of directors to consist of no less than 1/3 of the full board of directors, provided that a quorum shall not consist of fewer than two directors.

(f) 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. 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 findings that the establishment and maintenance of the proposed corporation will promote the general good of the state.

(1) In arriving at such finding the commissioner shall consider:

(A) The character, reputation, financial standing and purpose of the incorporators;

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

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

(2) The articles of incorporation, certificate of general good and the filing fee shall be transmitted to the secretary of state, who shall thereupon record both the articles of incorporation and the certificate.

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

(h) A captive insurance company incorporated, formed or organized under the laws of Kansas or under the laws of another jurisdiction that is authorized under the provisions of this act shall have the privileges and be subject to the provisions of the laws of Kansas or the laws of such other jurisdiction, as applicable, under which such captive insurance company is incorporated, formed or organized as well as the applicable provisions contained in this act.

(i) 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; L. 2018, ch. 50, § 40; July 1.