

2023 Kansas Statutes

40-4334. Same; certification required; requirements. (a) To transact business in Kansas, a special purpose insurance captive shall:

- (1) Obtain from the commissioner a certificate of authority authorizing it to conduct reinsurance business in Kansas;
- (2) hold at least one meeting of its board of directors each year within Kansas;
- (3) maintain its principal place of business in Kansas;
- (4) authorize the commissioner to accept service of process on its behalf in accordance with K.S.A. 40-218, and amendments thereto;
- (5) maintain unimpaired paid-in capital and surplus of not less than \$5,000,000;
- (6) maintain a risk-based capital of at least 200%; and
- (7) pay all applicable fees as required by this act.

(b) A special purpose insurance captive, when permitted by its organizational documents, may apply to the commissioner for a certificate of authority to conduct reinsurance in Kansas as authorized by this section.

(1) An authorized special purpose insurance captive may only reinsure the risks of its ceding company. A special purpose insurance captive may reinsure risks of more than one ceding company, provided all ceding companies from which a special purpose insurance captive assumes risks shall be affiliated with one another.

(2) An authorized special purpose insurance captive may cede all or a portion of its assumed risks under ceded reinsurance agreements.

(3) An authorized special purpose insurance captive may take credit or a reduction from liability for the reinsurance of risks or portions of risks ceded to a reinsurer in accordance with K.S.A. 40-221a, and amendments thereto, or as otherwise approved by the commissioner.

(c) To obtain a certificate of authority to transact business as a special purpose insurance captive in Kansas, the special purpose insurance captive shall:

(1) File an application, which shall include the following:

- (A) Certified copies of its organizational documents;
- (B) a statement under oath from any of the applicant's officers as to the financial condition of the applicant as of the time the application is filed;
- (C) evidence of the applicant's assets as of the time of the application;
- (D) complete biographical sketches for each officer and director on forms created by the NAIC;
- (E) a plan of operation as described in K.S.A. 40-4335, and amendments thereto;
- (F) an affidavit signed by the applicant that the special purpose insurance captive will operate only in accordance with the provisions of this section and its plan of operation;
- (G) a description of the investment strategy the special purpose insurance captive will follow; and
- (H) a description of the source and form of the initial minimum capital proposed in the plan of operation; and

(2) have deposited with the commissioner of insurance pursuant to K.S.A. 40-229a, and amendments thereto, securities authorized by K.S.A. 40-2a01 et seq., and amendments thereto, in an amount equal to not less than the minimum capital stock required of such company for the protection of its policyholders or creditors, or both;

(3) demonstrate that the minimum surplus required is established and held in Kansas; and

(4) provide copies of any filings made by the ceding company with the ceding company's domiciliary insurance regulator to obtain approval for the ceding company to enter into the special purpose insurance captive contract and copies of any filings made by any affiliate of the special purpose insurance captive to obtain regulatory approval to contribute capital to the special purpose insurance captive or to acquire direct or indirect ownership of the special purpose insurance captive. The special purpose insurance captive shall provide copies of any letters of approval or disapproval received from the insurance regulator responding to such filing.

(d) The commissioner may require the special purpose insurance captive to revise its plan of operation under K.S.A. 40-4335, and amendments thereto, and meet all

requirements imposed by a revised plan of operation as approved by the commissioner thereunder.

(e) The department shall act upon a complete application within 30 days of its filing. Upon good cause shown, the commissioner may extend the time to act on the application by 30 days.

(f) In the event the ceding company is not required to make filings with its domiciliary insurance regulator as described in subsection (c)(4), no such filing shall be required under subsection (c)(4) in Kansas, provided the applicant provides the commissioner with a certification signed by one of its officers attesting that no such filing is required with the ceding company's domiciliary regulator.

(g) Once granted, a certificate of authority under this section shall continue until March 1 of each year. At such time, the certificate of authority may be renewed at the discretion of the commissioner.

(h) A special purpose insurance captive shall pay to the commissioner a nonrefundable application fee of \$10,000 for examining, investigating and processing its application for certificate of authority, and the commissioner is authorized to retain legal, financial, actuarial and examination services from outside the department, the reasonable costs of which may be additionally charged against the applicant. In addition, each special purpose insurance captive shall pay a renewal fee for each year thereafter of \$10,000.

History: L. 2018, ch. 50, § 17; July 1.