



Update from the Bureau of Captive and Financial Insurance Products

Delaware Captive Insurance Association Fall Forum November 3, 2022

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Delaware Department of Insurance



DELAWARE DEPARTMENT OF INSURANCE
INSURANCE COMMISSIONER TRINIDAD NAVARRO
Bureau of Captive and Financial Insurance Products
Delaware is the 3rd Largest U.S. Captive Domicile
and the World's 5th Largest Captive Domicile

Agenda



- **Status of Delaware's Captive Insurance Program**
- **Captive Application Process**
- **Service Providers**
- **Examinations**
- **Department Updates**



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Thank You for Selecting Delaware!



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Delaware's Captive Status



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Delaware Licenses

as of October 15, 2022



<u>License Types</u>	<u>Number Licensed</u>
Agency	2
Association	1
Cell	11
RRG	2
Industrial	2
Pure	282
Series	372
Special Purpose	44 (includes 35 LLC core)
Special Purpose Financial	6
Sponsored	4
<u>Total Active</u>	<u>726</u>



Delaware Dormant Licenses

as of October 15, 2022



<u>License Types</u>	<u>Number Licensed</u>
Pure	33
Series	35
Special Purpose	6
<u>Total Dormant</u>	74



2022 Delaware Licenses

as of October 15, 2022



New Applications Received in 2022	33	
Conditional Licensees	30	
Pure		11
Cell		3
Series		16
Standard Licensees	3	

Comparison to 2020 & 2021

As of September 23, 2020, 24 applications had been received.

In 2020, 70 new applications were received.

As of September 30, 2021, 26 applications had been received.

In 2021, 70 new applications were received.



2022 Delaware Dissolutions

as of October 15, 2022



Captive Dissolutions in 2022	56
Pure	20
Series	34
Agency	1
Cell	1

Comparison to 2021

As of September 10, 2021, 86 captive insurers had dissolved.
There were 125 captive dissolutions in 2021.

Comparison to 2020

As of September 10, 2020, 101 captive insurers had dissolved.
There were 177 captive dissolutions in 2020.



2022 Delaware Dissolutions

as of October 15, 2022



Top Reasons for Captive Dissolutions in 2022 Compared to 2021 & 2020

	<u>2022</u>	<u>2021</u>	<u>2020</u>
Managing Risk Through Other Means	14	42	19
Perceived IRS Overreach	0	12	0
Owners are Closing the Captive	11	9	9
Result of IRS Settlement	0	5	5
Owner/Management Does not Wish to Continue Captive	4	2	9
Adverse IRS Audit	0	2	5
Do Not Need Captive Due to Current Market Conditions	3	2	5

Other 2022 Reasons Include:

- Merging with an affiliated captive
- Tail liability for the sale of their business has expired
- Insured's business is being sold
- No Longer Writing Policies or Conducting Insurance Policies



Top 5 U.S. State Captive Domiciles in 2021



➤ Vermont 620 captives



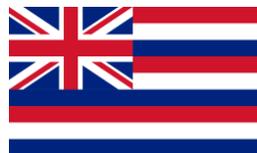
➤ Utah 384 captives



➤ Delaware 313 captives



➤ North Carolina 257 captives



➤ Hawaii 251 captives

Source: Business Insurance, March 2022



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Captive Application Process



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Common Application Issues

The Department applauds the work of Captive Managers to improve the application process and the quality of applications.



We are finding some recurring mistakes and list them as reminders when submitting applications.

Conditional license applications without the required information or misdirected:

- Conditional license cover sheet missing
- Statement of Compliance missing
- Proof of Funds-Screen shot of Bank Statement or Letter of Credit
- No application for the conditional license was ever received in the captive resource mailbox captive@delaware.gov but application fee was submitted
- Application fee is sent to Dover
- Application to the captive resource mailbox: captive@delaware.gov



Common Application Issues

Conditional license applications without the required information:



- **Incorrect Conditional License application fee submitted:**
 - \$3,600 for Conditional License
 - \$3,500 for Regular License
- Not completing all fields on both Application and Biographical Affidavit, especially where the owner is not an individual. For example, provide name, address, telephone and email address of company. This information is required.

Thanks again for better applications. Please review the directions for the application process for further guidance at the following link:

[Application Process - Captive Insurance Program - State of Delaware](#)





Service Providers



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Delaware Captive Insurance Authorized Service Providers as of October 15, 2022



Provider Type

Number Authorized

Captive Managers	107 (only 43 actively managing captives?)
Certified Public Accountants	120
Actuaries/Actuarial Firms	105
Self-Managed Captives	14

List of Service Providers available at: <https://captive.delaware.gov/authorized-service-providers/>





Captive Exams



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Examinations

As of October 15, 2022



- **Open exams YE 2019, 2020 and 2021 - 112 captives**
- **Exam reports being processed under the 30-day letter – 18 captives**
- **Completed exams by the examination team waiting to be processed for the final exam report – 28 (*Undergoing approval or waiting to be published*)**
- **See handout for most common examination findings**



Examinations

Common Examination Findings



- Failure to provide prior notice for material transactions or changes to the organizational documents of the company, including new or updated reinsurance agreements.
- Missing annual conflict of interest statements for all executives.
- Failure to keep and update the company's books and records.
- Inappropriate or inaccurate annual reports.



Examinations

Common Examination Findings



- Lack of minimum capital and surplus.
- Failure to classify invested assets in accordance with the Annual Report Instructions.
- Failure to file changes in the external auditor.
- Failure to file an amended Annual Report for material audit changes, or a written explanation for immaterial changes.



Examinations

Common Examination Findings



- **Non-compliance with the company's investment policy.**
- **Failure to hold at least one board meeting annually in Delaware.**
- **Failure to timely file in officers, directors, and managers.**



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Updates



- ***United States of America v. Delaware Department of Insurance***
 - Scheduled for oral argument before the U.S. Third Circuit Court of Appeals on November 8, 2022

- **Side A Directors and Officers Coverage by Captives**
 - First Captive was approved last month
 - Department plans to issue guidance for captives issuing Side A coverage

- **Conditional Licensing Portal**



Questions

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Please copy our Office Manager, Darlinda Moffett, darlinda.moffett@delaware.gov
on all correspondence.

Please also use the Captive Resource Mailbox
captive@delaware.gov for official filings



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