



Guidelines for the Formation of a Texas Captive Insurance Company

Texas Insurance Code (TIC) §964.053 sets forth the formation criteria for a Texas captive insurance company start up. A captive insurance company may be formed and operated in any form of business organization authorized under the Texas Business Organizations Code (BOC), except as a risk retention group or general partnership. A captive insurance company may only be formed as a nonprofit corporation if it is controlled by a nonprofit corporation.

The term "general partnership" is defined in Texas Administrative Code (TAC) §6.1 to include a general partnership designated as a limited liability partnership. This is based on information from the Texas Secretary of State (SOS) that a limited liability partnership is not a separate type of entity, but a designation that a general partnership or limited partnership may hold. This distinction is necessary because TIC §964.053(b) prohibits formation of a captive insurance company as a general partnership.

As part of the licensing application, the proposed captive insurance company will submit a draft copy of its certificate of formation. TDI staff will provide an outline of items to be included in the certificate of formation during the "initial process" as described in TDI Form FIN183.

The draft certificate of formation will be filed along with the rest of the application for review by TDI staff. Additionally, an affidavit is to be filed in accordance with TIC §964.057, see [TDI Form FIN186, Captive Insurance Company Officers' Certification and Attestation](#).

Once the review is complete and licensing is recommended, the applicant will take the final certificate of formation and related attachments, along with a TDI certificate of good, to the SOS for the actual formation of the legal entity. The applicant will then submit the formation documents, verified as a certificate of filing received from the SOS, to TDI staff at which time TDI will issue the captive license.