



Tennessee Captive Insurance Specific Guidance Regarding COVID-19 April 20, 2020

Over the past few weeks, the novel coronavirus (COVID-19) has suddenly and severely impacted personal lives and business operations around the world. This Tennessee Captive Insurance Specific Guidance Regarding COVID-19 is intended to serve as a resource for the captive industry in Tennessee by addressing commonly asked questions and concerns during this challenging time. A larger Department-wide COVID-19 FAQ is available [here](#).

Our Captive Section is Fully Operational

Despite the many issues surrounding the outbreak, the Captive Insurance Section of TDCI is fully operational. We are quite fortunate that our administration recognized years ago the value of working remotely and we have been able to shift seamlessly to an online environment, with 100% of our staff working remotely with full capability. In addition, our recent implementation of a paperless environment means uninterrupted support of our captive insurance companies and service providers, processing new applications and ongoing requests. Even now, we are able to process requests with the same speed and efficiency as before.

Online Notarization

Tennessee accepts online notarized documents for all filings that require a notary, which allows for notary signature when the signer of record cannot be in the same physical location. Fortunately, Tennessee addressed this issue two years ago. In 2018, the General Assembly passed the "Online Notary Public Act" and it went into effect on July 1, 2019. For Tennessee notaries, there is a process in the law for online notarization by way of two-way video and audio conferencing. Additional information is located on the Secretary of State's website [here](#).

Captive RRG Filing Extension for all Required Filings

The Department has recently issued guidance that applies to the captive risk retention groups (RRGs), addressing filing extension flexibility. This Bulletin 20-06 is located [here](#). Please note, captive RRGs do not require hard copy filings in the normal course of business so please disregard the 'Electronic Filing and Signatures' section of the bulletin, which applies to traditional carriers. We will continue accepting electronic document filings for captive RRGs (no hard copies) as we have for the past two years.

Audit Report Only Filing Extension for Non-RRG Captive Companies

The Department understands that auditors, in some circumstances, may not be able to complete the Audited Financial Report by the June 30, 2020 filing date. The Department may grant Audited Financial Reports up to a 60-day extension in 30-day increments as allowed per Tenn. Rules & Reg. 0780-01-41-.03(1)(b) "...For good cause shown in exceptional circumstances, the commissioner may allow the late filing of the audited annual financial report to preserve a captive insurance company's eligibility for a thorough examination extension." Please submit any request for an audit extension in letter form to your company's analyst, stating the specific issues related to COVID-19's impact on the audit as good cause.

In-State Board Meeting Requirement

The Department recognizes the challenges many captives now face in meeting the annual in-state board meeting requirement per T.C.A. § 56-13-103(b)(2). Travel restrictions related to COVID-19 both within their own organizations and by mandates of their home state and local governments may restrict travel to Tennessee. While many companies may be able to attend the recently rescheduled TCIA conference in Nashville in December of this year and hold their annual board meeting at that time, the Department will grant a waiver to companies who believe they will not be able to organize, plan and hold their meeting in state in calendar year 2020. All companies will still be required to hold a teleconference meeting with their Tennessee resident board member. If appropriate, please submit a request for an in-state board meeting requirement waiver in letter form to your company's analyst stating COVID-19 interruption as good cause for the request.

New Captive Owner In-Person Meeting

In the normal course of operations, the Department asks to meet with all prospective captive owners in person during their captive application process. For all pending captive applications, and until COVID-19 travel restrictions have been lifted and it is safe to meet again in person, the appropriate captive section personnel will meet with prospective owners and their captive manager through our WebEx video conferencing system so that we may still meet face-to-face. Please contact Denise Martin at denise.k.martin@tn.gov to schedule a meeting.

Other Guidance for Non-RRG Captive Insurers

Captive insurers provide many benefits to their parent organizations outside of the primary function of covering specific insurable risks as part of their overall risk management program. COVID-19 will certainly have an impact not only on captive operations, triggering certain claims payments to the insureds, but will also have an impact on the captive company's parent organization. Companies will likely suffer losses outside of the losses covered by their insurance policies. Captive companies may be able to provide support to their parent organization by:

- Leveraging captive surplus through distributions and loan backs*
- Changing business plans to expand, pause or cancel specific captive coverages
- Non-renewing and electing dormancy until the parent company is fully operational

**Please note: The Department recognizes that each captive company is unique, and we will be closely monitoring the solvency and liquidity in considering each request. Any approval to distribute funds from the captive is dependent on the financial soundness and surplus capacity of the captive company. Additionally, we require all captives to notify the Department as soon as possible of any threat to solvency of the captive insurer (and/or its parent).*

TCIA Annual Conference Postponed Until December 2020

The annual TCIA conference has been successfully rescheduled to December 7-9, 2020 at the Renaissance Hotel in Nashville, Tennessee. You may contact TCIA directly for additional conference information [here](#). The Department is committed to continuing its sponsorship of the TCIA conference as it has done in prior years.

We hope this information is helpful as you navigate through this challenging time. The Department believes the captive insurance industry will continue to grow stronger in light of COVID-19 and the ongoing tightening of the insurance market. We encourage communication during this time and welcome your calls and emails as questions arise. Our office can be reached at (615) 741-3805 or captive.insurance@tn.gov. A list of all captive section personnel and their contact information is located [here](#). As always, we are available to help and look forward to continuing to support the captive insurance industry in Tennessee.