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DORMANT CAPTIVE INSURANCE COMPANY

GENERAL GUIDANCE

Captive Law Source:

8 V.S.A., Chapter 141, Section 6024

<https://legislature.vermont.gov/statutes/section/08/141/06024> contains requirements for Dormant Captive Insurance Companies.

Dormant Status Criteria:

A captive insurance company seeking Dormant status will meet the criteria IF:

- 1) The captive has ceased transacting the business of insurance, including the issuance of insurance policies; and
- 2) No remaining liabilities associated with insurance business transactions, or insurance policies issued prior to the filing of its application for a certificate of dormancy under this section. Note: the intent of the legislation was to include companies with no insurance liabilities, known or unknown, so a company with in-force occurrence policies does not qualify.

How to Elect Dormant Status:

- 1) Submit a formal **Change in Business Plan** request to the Vermont DFR at DFR.CaptiveMail@vermont.gov for approval of its dormancy, based on the above criteria being met.
- 2) Upon approval, the Vermont DFR will issue a **Certificate of Dormancy**, which shall be subject to renewal every five (5) years, and shall be forfeited, if not renewed within such time.

Regulatory Requirements under Dormant Status:

Upon issuance of a **Certificate of Dormancy**, a Dormant Captive Insurance Company shall be required to adhere to the following:

- 1) **CAPITAL** - A Dormant Captive Insurance Company shall maintain unimpaired, paid-in capital and surplus of not less than \$25,000.00.
- 2) **VCAR at 12/31** - On or prior to March 15 of each year, a Dormant Captive Insurance Company shall "submit to the Commissioner a report of its financial condition, verified by oath of two (2) of its executive officers, in a form as may be prescribed by the Commissioner." **PLEASE NOTE: the required "form" shall be the Vermont Captive Annual Report (VCAR), utilizing the jurat, (2) Balance Sheet and (3) Income**

Statement pages only per Captive Memo #2016/01. Additionally, if fiscal year-end filer, only the VCAR filing at 12/31 is required.

- 3) **RENEWAL LICENSE FEE** - A Dormant Captive Insurance Company shall pay the License Renewal Fee of \$500 on or before April 1 each year as provided in **8 V.S.A., Chapter 141, Section 6002 Subsection(d)**.
- 4) **VERMONT PREMIUM TAXES** – A Dormant Captive Insurance Company must file the Vermont Captive Premium Tax Return (Form CPT-635) on or prior to March 15 of each year. With the **Certificate of Dormancy** issued, the return provides for the entry of a **TAX CREDIT of \$7,500**, which calculates -0- taxes due. Dormant Captive shall not be subject to or liable for the payment of premium tax during its approved dormancy period under **8 V.S.A., Chapter 141, Section 6014**. Further information available at <http://tax.vermont.gov/business-and-corp/miscellaneous-taxes#captiveinsuranceprem>
- 5) **VERMONT ANNUAL BOARD MEETING** – A Dormant Captive Insurance Company is relieved from any “normal” activities of operation, including annual board meeting requirements. The Captive could decide as a Best Practice to hold another type of meeting, but the “physical presence” board meeting of at least one meeting per year in Vermont would not be required.
- 6) **AUDIT, ACTUARIAL AND EXAMINATIONS** – As noted above a Dormant Captive Insurance Company is relieved from any “normal” activities of operation, which includes that annual Audits and Actuarial Certifications are not required, and Examinations are not contemplated.
- 7) **PARENT COMPANY** – Parent Company Financials need to be filed the first year-end when dormancy is elected but may be requested at our discretion. In addition, in the event of a parent/ultimate parent direct name change; or in the event of a change in parent/ultimate ownership due to a merger and/or acquisition notification is required to be provided to Vermont DFR DFR.CaptiveMail@vermont.gov.

To Resume Insurance Operations or “Active” Status:

- 1) If a Dormant Captive subsequently seeks to resume insurance operations, it shall submit a formal **Change in Business Plan** request to the Vermont DFR for approval. DFR.CaptiveMail@vermont.gov for approval. The Business Plan shall include all of the insurance activities proposed for captive operations, along with a set of five-year financial projections based on reasonable expected level assumptions. Actuarial support and review may be required.
- 2) Upon approval, surrender its **Certificate of Dormancy** to Vermont DFR; and

When items 1) and 2) have been completed and approved by the Vermont DFR, the captive may commence to conduct the business of insurance. **PLEASE NOTE:** At any time, a **Certificate of Dormancy** shall be revoked if a dormant captive insurance company no longer meets the criteria contained within the law per **8 V.S.A., Chapter 141, Section 6024**.

FREQUENTLY ASKED QUESTIONS

QUESTION 1:

If the captive meets all the criteria for dormancy (type, no insurance transactions, and no liabilities), but has assets, should the captive first request a dividend to send assets back to the parent prior to requesting dormancy?

ANSWER 1:

No, a formal request for dormancy can include approval for a dividend to reduce capital to a level that is no less than \$25,000.

QUESTION 2:

Does the captive need to submit new five-year financial projections showing the dormancy operations?

ANSWER 2:

No, that would be unnecessary as there is no added benefit to Vermont DFR.

QUESTION 3:

If the captive previously consolidated with other captives for premium tax purposes, how should that be handled?

ANSWER 3:

Since zero taxes would be owed by the dormant captive, the dormant captive would no longer be included in the consolidated return and shall file a separate return electing the dormant status to produce zero tax owed.

For questions and guidance, please contact:

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Disclaimer

While this guidance provides an outline of the minimal regulatory requirements when a captive is dormant, it may not consider all situations for each individual dormant captive. We therefore recommend that the parent together with the captive manager continue to use best practices in making its captive related decisions.