

**State of Vermont**  
**Department of Financial Regulation**  
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## **BULLETIN 43**

(Revised March 23, 2022)

# **CRITERIA FOR COMPANY AUTHORIZATION AND APPLICATION PROCEDURES**

### **A. Introduction:**

The Vermont Department of Financial Regulation has revised its criteria and application procedures for companies seeking authority to transact business in Vermont. This revision replaces all earlier versions of Bulletin #43 and #97 and is effective immediately. Companies seeking authority from the Commissioner to transact business in Vermont under 8 V.S.A. Chapters 101 must satisfy the following criteria. This bulletin does not apply to companies seeking to be accredited reinsurers, certified reinsurers, reciprocal reinsurers (8 V.S.A. §3634a), Surplus Lines Insurers (8 V.S.A. §5026) or HMOs (8 V.S.A. Chapter 139). Those types of companies should refer to the specific statute for the applicable criteria. As provided by Vermont law, the Commissioner has the authority to waive or impose other criteria as circumstances dictate.

Applicants must submit a complete National Association of Insurance Commissioner's Uniform Certificate of Authority Application (UCAA). Applicants must also address the Vermont specific requirements and information requested in part B. below. Additional information deemed necessary to evaluate an application for admission may be requested by the Department at any time.

Please direct any questions to [dfr.complic@vermont.gov](mailto:dfr.complic@vermont.gov).

### **B. Criteria for licensing: Vermont specific requirements for UCAA Expansion Application:**

1. **Capital & Surplus:** (specific requirements to section 3 of the UCAA):



a. Traditional Stock Companies (pursuant to 8 V.S.A. §3304). Traditional Stock companies must have and retain capital of \$2,000,000 and free surplus of \$3,000,000. Capital is defined as all types of stock less any treasury stock. Surplus notes are not generally considered capital. Free surplus is defined as Gross Paid-in or Contributed Surplus and Unassigned Funds.

b. Mutual Insurance Companies (pursuant to 8 V.S.A. §3309). Mutual Companies must have and retain surplus of \$5,000,000.

## 2. **Zone Licenses:**

The company should be licensed in one or more states in the NAIC's Northeastern Zone (Zone 1). The Department will consider an application from a company not licensed in Zone 1, providing the parent company or an affiliated company is licensed in Vermont.

## 3. **Examination Report:**

The company must have been subject to a financial examination by its domestic state for a reporting year ending within forty-eight months of the application date. The examination must confirm reported surplus and indicate the adequacy of control and operational procedures. All market conduct examinations completed within the last 48 months of the application date must also be submitted along with a description of the examination(s).

## 4. **CPA Reports:**

The company must provide the following to supplement the Public Records Package required by the UCAA:

- a. Audited SAP financial statements from a qualified independent CPA firm,
- b. Auditor's letter regarding internal controls related matters noted in an audit; and
- c. Management's Report of Internal Controls over Financial Reporting (if annual direct written premium and assumed premium exceeds \$500,000,000).

## 5. **Seasoning:**

The company must demonstrate at least five years of profitability. In determining compliance with this requirement, the applicant must display profitability in each of the most recent five years. The Department may consider any or all of the following as indicators of profitability:

- a. Statutory net income
- b. Net gain or loss from operations or net underwriting gain or loss; and/or



c. Profitability indicators of the applicant's parent in the case of wholly owned subsidiaries.

The Department will use statutory annual statements in consideration of this requirement. In special circumstances the Department may waive the requirement for profitability in each of the five years and look at the cumulative results of the most recent five years to determine compliance with the seasoning requirement. This requirement may be waived if the applicant's parent or affiliate is profitably writing the coverage(s) proposed by the applicant and a valid reason for the new company's application can be demonstrated. Companies involved with government insurance programs (such as Medicare D coverage) may be given special consideration. Other very limited situations may result in this requirement being waived after careful review and consideration.

#### **6. IRIS Results:**

The applicant must not have had three or more exceptional results on its IRIS tests in any one of the past three years or a cumulative total of more than six exceptional results in the most recent three years. This requirement may be waived upon review and satisfactory explanation.

#### **7. Management:**

All officers and directors of the company must be of good repute and competent to manage an insurance company and carry out the company's insurance contracts in good faith. The Department will consider information provided in the Biographical Affidavits provided in section 13 of the UCAA. An Independent Third Party Background Report may be required to evaluate the general reputation of the officers and directors of the company.

#### **8. Regulatory Actions/Status of Licenses:**

Significant regulatory actions taken by any jurisdiction against the company within the last five years may disqualify an applicant.

#### **9. Reinsurance:**

The reinsurance companies currently in use as well as those listed in the Plan of Operation must be financially sound and able to perform if called upon. No application will be approved unless the commissioner can be assured that the reinsurers will perform on all treaties and contracts.

#### **10. Service of Process:**



The company must include UCAA Form 12 Uniform Consent to Service of Process in its application.

## **11. Health Company:**

Health companies are required to be URAC or NCQA (National Committee for Quality Assurance) accredited and agree to participate in the Vermont Blueprint for Health.

### **C. Approval Process:**

#### **1. Initial Review:**

The Department will acknowledge receipt of an application that is timely, substantially complete, and contains the correct fee or retaliatory fee, if applicable. If the application is not complete, the Department will notify the Company or its representative as to why the application is not acceptable. The Company will have 45 calendar days to perfect the application. The application fee will not be returned. If the Company does not perfect the application within 45 days, it will be considered withdrawn. If the Company wishes to continue the licensing process, it must file a new application with a new filing fee. If the Company does not have the correct fee or retaliatory fee, it will have 10 business days from the date of notification to provide the correct fee. If the correct fee is not paid within 10 business days, the application will be considered withdrawn.

#### **2. Final Review:**

The goal of the Department is to complete the review of the application within 90 days from the time that the application is deemed complete. This may not always be possible because of workflow and resources. The Company will be informed in writing of the approval of the application. If the application cannot be approved, the Company will be informed in writing why it cannot be approved. The Company will be given one opportunity to withdraw the application without prejudice. If the Company wishes the Department to continue consideration of its application, it must perfect the deficiencies within 45 days. If the Company fails to perfect the deficiencies within 45 days or withdraws its application and later wants the Department to reconsider its position, the Company must file a new application with a new application fee.

If the Department needs additional information or documentation, it will inform the Company. The Company will have 45 days to deliver the additional information or documentation to the Department. If the Company fails to deliver the information or documentation within 45 calendar days and wishes the Department to continue to process the application, it must file a new application and pay a new application fee.



### 3. Fees:

Each application must be accompanied by a check for the non-refundable application fee of \$200 or the appropriate retaliatory application fee payable to the Vermont Department of Financial Regulation (8 V.S.A. §3361(b)). The fee is due with each application, regardless of whether an earlier application by the same Company was returned, withdrawn, or denied for any reason. In accordance with 8 V.S.A. §18, an applicant will pay reasonable costs incurred by the Department in excess of any fee paid in reviewing the application.

### 4. Form of Authorization:

Approved companies will be issued an annually renewable license and will be responsible for the annual \$300 license fee (8 V.S.A. §3361(b)). All fees are subject to retaliation (see 8 V.S.A. §3367).

### E. Other Requirements:

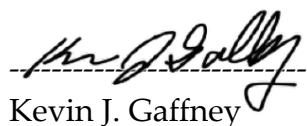
In accordance with 8 V.S.A. §3612 and §4155, licensed property and casualty and life and health companies are required to participate in the applicable Vermont Guaranty Associations.

Companies authorized to write workers' compensation must comply with all requirements imposed by the Vermont Department of Labor including participation in the Vermont Workers Compensation Assigned Risk Plan. Please contact that Department for information, <http://www.labor.vermont.gov/>.

Companies authorized to write automobile insurance must participate in the Vermont Auto Insurance Plan.

A deposit of readily marketable securities to be held by the Department or the Vermont State Treasurer may be required.

Date at Montpelier, Vermont this 16th day of June 2022

  
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Kevin J. Gaffney

Interim Commissioner, Department of Financial Regulation

