

Captive Insurance Frequently Asked Questions



Consumers 1-800-686-1526 • OSHIP 1-800-686-1578 • Fraud & Enforcement 1-800-686-1527

What is a captive insurance company?

A captive is an insurance company created by its parent company to insure its risk(s) and better manage its costs. Captives are essentially a form of self-insurance whereby the insurer is owned wholly by the insured. They are typically established to meet the risk-management needs of the owners or members. The type of entity forming a captive varies from major multinational corporations to small nonprofit organizations. Once established, the captive operates like any commercial insurance company and is subject to state regulatory requirements, including reporting, examination, capital and reserve requirements.

In 2014, Governor Kasich signed into law House Bill 117, legislation Ohio businesses the ability to form captive insurance companies in the state, making Ohio the 30th state to become a captive domicile in the United States. This new law provides significant new opportunities for Ohio businesses to better manage their own risk by insuring themselves instead of seeking insurance in the commercial market

What types of captives may I form in Ohio?

Ohio law specifically defines the following types of captives: pure, protected cell, and special purpose financial captives. Group or association based captives are not permitted to domicile in Ohio.

What is Ohio's definition of a pure captive?

In Ohio, a pure captive is defined as any insurer that insures **only** the risks of its parent or affiliated companies of its parent.

What is Ohio's definition of a protected cell captive?

A protected cell captive is a captive insurance company that is formed and licensed according to sections [3964.17](#) of the Ohio Revised Code, that insures or reinsures risks of separate participants through a participant contract, and that separates each participant's liabilities into a protected cell.

What specific types of risk may an Ohio captive insure?

Commercial multiple peril, ocean marine, inland marine, medical malpractice, workers compensation (pursuant to ORC [4123.82](#)), commercial auto liability, commercial auto physical damage and fidelity.

Are Ohio captives permitted to assume and/or cede reinsurance?

An Ohio captive insurance company may purchase (cede) reinsurance coverage for any risk it is permitted to write directly. Further, with the Superintendent's approval, an Ohio captive may reinsure (assume) any risk insured by its parent or an affiliated company.



Continued on page 2 ➔

John R. Kasich
Governor

Mary Taylor
Lt. Governor / Director



What are the capitalization requirements for Ohio captives?

A pure captive is required to possess and maintain a minimum of \$250,000 in unimpaired capital and surplus, while protected cell captives must possess and maintain a minimum of \$500,000. Note: the Superintendent may require a captive to maintain additional capital and surplus based upon the type, volume and nature of insurance business written.

Capital and surplus may be in the form of cash or approved (by the Superintendent) marketable securities

Does Ohio have annual filing requirements for its captives?

Yes, Ohio captives are required to file the following documents: a statement of financial condition; an actuarial opinion from a qualified actuary, including an actuarial memorandum supporting the actuary's opinion; an annual audit by an independent certified public accountant, including an evaluation of internal controls; and a premium tax return.

Forms and deadlines to comply with Ohio requirements can be found on the ODI's webpage or by clicking [here](#).

Regarding the statement of financial condition (annual report) and annual audit report, what basis of accounting does Ohio permit for captives?

Each captive insurance company shall report using generally accepted accounting principles (GAAP).

Does Ohio require an examination of its captive insurance companies?

Yes, all Ohio captives will be examined prior to being licensed. Once licensed, Ohio captives may be examined as infrequently as once every five (5) years or as frequently as every three (3) years depending upon the results of financial statement analyses and ratios, changes in management, actuarial opinions, reports of independent certified public accountants, and any other criteria the Superintendent considers appropriate.

What are the investment restrictions for Ohio captive insurance companies?

There are no specific investment restrictions. The captive insurance company's Board of Directors is responsible for the appropriateness of investments exercising reasonable judgment and care in accordance with section [3964.10](#) of the Ohio Revised Code.

What are the fees associated with forming a captive in Ohio?

There is a \$500 application fee for forming a captive, a \$500 annual renewal fee, and a \$50 fee for operating each additional cell under a protected cell captive.

Continued on page 3 ➔





How do I form a captive in Ohio?

- Select a captive manager to assist you with the preparation of the documents and to assist in selecting other service providers considered necessary. Incorporate the company with the [Ohio Secretary of State's Office](#) and provide these documents in electronic form or hardcopy to the Department.
- Contact the Office of Captive Insurance to arrange a meeting to discuss the captive insurance company's plan of operation with the Chief of Captive Insurance, [Tracy Snow](#), at 614-728-1753.
- Submit a completed application in electronic form or hardcopy to the Department's Office of Captive Insurance. Applications must be accompanied by a check for the prescribed fees sent via USPS or courier to the Department.
- A license will be provided by the Department along with a welcome letter. Expect the process to take approximately 30 days depending on complexity, following the receipt of a completed application.
- You may begin writing business following receipt of approval from the Department.

What are the residency requirements for Ohio captive insurance companies?

A captive insurance company must maintain Ohio as the principal place of business, and the captive manager must reside in the state of Ohio.

Are there any other annual requirements for an Ohio captive insurance company?

Yes, the board of directors of a Ohio captive insurance company must hold at least one meeting in the state of Ohio each year.

Is the premium paid for captive insurance considered a tax deductible expense?

This is a question of fact. Generally, if it is a situation involving an insurable risk (or risks) that meet the commonly accepted notions of insurance and there is both risk shifting and risk distribution premium paid to the captive insurance company may be deductible. Please note, however, that this is a question for your legal, accounting and/or tax professionals. Further, tax considerations should not be the primary reason for establishing a captive in Ohio and ODI does not provide tax advice.

How do I redomesticate my captive to Ohio?

1. Contact the Office of Captive Insurance to arrange a meeting to discuss your captive's operations and to determine whether it would be a good fit for Ohio.
2. Applicants should bring an outline of their current business plan and the most recent audited financial statements and actuarial analysis for review to determine if adjustments are needed to the program or the capital structure. Any information provided is considered confidential by statute.
3. Obtain the assistance of local counsel (recommended) to assist in the drafting of the required board and



Continued on page 4 ➔



shareholder resolutions, as well as to assist in the process of filing your captive's documents with the [Ohio Secretary of State's](#) office. Also, although it is possible to retain the same captive manager; note that Ohio has a residency requirement for captive managers.

4. After meeting with the Department, provide the Office of Captive Insurance with the following materials:

- A letter of intent and explanation of the plan to re-domicile signed by the captive's president, including the reason for redomestication.
- Board and shareholder resolutions approving the redomestication.
- An application for admission into Ohio.
- Documentation of the current domicile's approval of or "no objection" to the redomestication.
- A written statement of whether application for licensure, registration or redomestication have ever been denied or withdrawn from any jurisdiction.

You may refer to Ohio Revised Code section [3964.20](#) and [3913.40](#).

5. When re-domiciling an existing captive to Ohio, expect a slightly longer review period due to the coordination and communication with the other regulatory jurisdiction involved.

You may refer to Ohio Revised Code section [3964.20](#) and [3913.40](#).

What are the laws associated with captive management in Ohio?

- Ohio Revised Code, [Chapter 3964.01 - 3964.21](#)
- Ohio Administrative Code, [Chapter 3901-11](#)

Where can I find the forms required to comply with Ohio requirements?

Forms to comply with Ohio requirements can be found on ODI's webpage or by clicking [here](#).

Do Ohio captives pay fees (taxes) based upon premium?

Yes, the fee is calculated at .35 percent on direct premiums and .15 percent on revenue from assumed reinsurance premiums. The annual minimum fee or tax is \$7,500 while the maximum is \$250,000.

What is the due date for premium-based fees?

Premium-based fees (taxes) are due no later than March 2nd of each year.

Is an Ohio captive required to join a rating organization?

No, captive insurance companies are not required to join a rating organization.

Continued on page 5 ➡





Are Ohio captives permitted to join or contribute to the state guaranty fund?

No, captive insurance companies are not permitted to join or contribute to the state guaranty or insolvency fund, nor is it permitted to receive any benefits from it.

What are the potential benefits of a captive insurance company?

- Ability to tailor coverage, deductibles, limits and rates.
- Rate/price stability.
- Improved cash flow, incentivizes accountability, and loss control.
- Reduced operating costs long-term.
- May produce underwriting profits and investment income.
- Provides direct access to reinsurance markets.
- Tax deduction for the parent company for the insurance premium paid to the captive.

Who may I contact with additional questions?

Tracy Snow, Chief, Office of Captive Insurance
Ohio Department of Insurance
50 W. Town Street,
3rd Floor – Suite 300
Columbus OH 43215

614-728-1753 tracy.snow@insurance.ohio.gov

Click [here](#) to email the ODI Office of Captive Insurance

Disclaimer: The information provided on this page is a summary of Ohio's law and requirements for captive insurance companies, but is not a full representation of the law. To learn more about the law in its entirety, visit Chapter 3964 of the Ohio Revised Code by clicking [here](#).

