

Department of Banking, Insurance  
Securities and Health Care Administration  
89 Main Street, Montpelier, VT 05620

**BULLETIN 43**  
(REVISED 10/2008)

**CRITERIA FOR COMPANY AUTHORIZATION AND APPLICATION PROCEDURES**

**A. Introduction:**

The Vermont Department of Banking, Insurance, Securities and Health Care Administration 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. Foreign and alien insurance companies seeking authority from the Commissioner to transact business in Vermont under 8 V.S.A. § 3361 through § 3371 must satisfy the following criteria. This bulletin does not apply to companies seeking to be accredited reinsurers (8 V.S.A. §3634a), Surplus Lines Insurers (8 V.S.A. §5026) or HMO's (8 V.S.A. Chapter 139). Those types of companies should refer to the specific statute for the specific criteria. As provided by Vermont law, the Commissioner has the authority to waive or impose other criteria as circumstances dictate.

This printing of Bulletin 43 requires the use of the National Association of Insurance Commissioner's Uniform Certificate of Authority Application (UCAA) and procedure as available on the NAIC's Website, [http://www.naic.org/industry\\_ucaa.htm](http://www.naic.org/industry_ucaa.htm). Applicants should submit the UCAA with the Vermont specific requirements and information requested in part B. below.

Additional information deemed necessary to evaluate an application for admission might be requested by the Department at any time.

Please direct any questions to [complic@bishca.state.vt.us](mailto:complic@bishca.state.vt.us).

**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 must 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 twenty-four months of the application date. The examination must confirm reported surplus and indicate the adequacy of control and operational procedures. The Department will consider an application from a company when, through no fault of its own, it cannot supply a current examination report.

### **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.** A letter regarding the CPA's internal control evaluation if a material weakness was reported. If the insurer is domiciled in a State that requires a "No Material Weaknesses" letter, that letter should be submitted.

### **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;
- 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 be a member of the NAIC and 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. The applicant cannot have been designated as a Level "A" or "B" company by the NAIC's Financial Analysis Team in the current or prior year. 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 12 of the UCAA.

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

Significant regulatory actions taken by any jurisdiction against the company within the last five years will 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 is assured that the reinsurers will perform on all treaties and contracts.

## **10. Service of Process**

Applicants must give Power of Attorney to the Secretary of State of the State of Vermont for purpose of Service of Process. To do so, please complete the Vermont Power of Attorney form found at [http://www.bishca.state.vt.us/InsurDiv/Forms\\_CompanyLicensing/powerofattorney.pdf](http://www.bishca.state.vt.us/InsurDiv/Forms_CompanyLicensing/powerofattorney.pdf).

## **C. Applications**

Each application for authorization must contain the information needed to determine compliance with this Bulletin and be submitted using the Uniform Certificate of Authority Application (UCAA) found at [http://www.naic.org/industry\\_ucaa.htm](http://www.naic.org/industry_ucaa.htm).

Additional information deemed necessary to evaluate an application for admission might be requested by the Department at any time.

## **D. 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. If the Company does not perfect the application within 45 days it will be considered withdrawn. The application fee will not be returned. 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 ten business days from the date of notification to provide the correct fee. If the correct fee is not paid within ten 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 calendar 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 Insurance Division. (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.

### **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**

Licensed companies are required to participate in the appropriate Vermont Guaranty Association and must designate the Vermont Secretary of State as agent for the service of process on the appropriate Vermont Power of Attorney form (see B.10. for instructions on accessing this form).

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 Vermont State Treasurer may be required.

Dated at Montpelier, Vermont this \_\_\_ day of October, 2008

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Paulette J. Thabault  
Commissioner