



## Ohio Revised Code

### Section 3964.17 Protected cell captive insurance company.

Effective: April 12, 2021

Legislation: Senate Bill 276 - 133rd General Assembly

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(A) As used in sections 3964.17 to 3964.1710 of the Revised Code:

(1) "Protected cell" means an incorporated cell that is organized pursuant to Chapter 1701., 1702., 1705., or 1706. of the Revised Code and that has a separate legal identity from the protected cell captive insurance company of which it is a part.

(2) "Protected cell captive insurance company" means a captive insurance company that meets all of the following requirements:

(a) Is formed and licensed under the provisions of this chapter;

(b) Insures or reinsures the risks of separate participants through a participant contract;

(c) Segregates each participant's liability into a protected cell.

(3) "Participant" means an individual, company, corporation, partnership, limited liability company, and their affiliated entities that insure or reinsure with a protected cell. "Participant" includes an insurance agent licensed in this state that accepts a stated percentage of risk on a pro rata basis within a defined category of business underwritten by a licensed insurance company that is domiciled in this state and that is affiliated with a protected cell captive insurance company.

(4) "Participant contract" means a contract by which a protected cell insures or reinsures the risks of a participant.

(a) A participant that is not an insurance agent licensed in this state shall insure or reinsure only its own risks through a protected cell.

(b) If the participant is an insurance agent licensed in this state, the participant contract must define



each risk covered by the contract with fixed and certain terms.

(B) A captive insurance company may be organized as a protected cell captive insurance company and shall be permitted to form one or more protected cells under this section to insure or reinsure risks of one or more participants.

(C) The assets and liabilities of each protected cell shall be held separately from the assets and liabilities of all other protected cells.

(D) A protected cell of a protected cell captive insurance company shall be organized pursuant to Chapter 1701., 1702., 1705., or 1706. of the Revised Code.

(E) A protected cell captive insurance company shall, at the time of paying the annual fee required under section 3964.13 of the Revised Code, pay an additional annual fee for each protected cell in an amount to be established by the superintendent.

(F) Each protected cell of a protected cell captive insurance company shall be treated as a captive insurance company for purposes of this chapter.

(G) Unless otherwise permitted by the articles of incorporation, bylaws, code of regulations, or other organizational document of a protected cell captive insurance company, each protected cell of the protected cell captive insurance company shall have the same directors, secretary, and registered office as the protected cell captive insurance company.

(H) A protected cell captive insurance company may provide in its articles of incorporation, bylaws, code of regulations, or other organizational documents that a protected cell it creates shall be wound up and dissolved upon any of the following:

(1) The bankruptcy, death, expulsion, insanity, resignation, or retirement of any participant of the protected cell;

(2) The happening of some event that is not the expiration of a fixed period of time;



(3) The expiration of a fixed period of time.

(I)(1) The articles of incorporation, bylaws, code of regulations, or other organizational documents, of a protected cell captive insurance company shall provide that a protected cell shall not own shares or membership interests in the protected cell captive insurance company of which it is a part.

(2) Such a document may provide that a protected cell may own shares or membership interests in any other protected cell of the protected cell captive insurance company of which it is a part.

(J) The name of a protected cell captive insurance company shall include the words "protected cell captive" or the abbreviation "PCC."

(K) A protected cell captive insurance company shall assign a distinctive name to each of its protected cells that meets all of the following:

(1) The name identifies the protected cell as being part of the protected cell captive insurance company.

(2) The name distinguishes the protected cell from any other protected cell of the protected cell captive insurance company.

(3) The name includes the words "protected cell" or the abbreviation "PC."

(L) A protected cell may enter into an agreement with its protected cell captive insurance company or with another protected cell of the same protected cell captive insurance company.

(M)(1) The assets of a protected cell captive insurance company shall be either cell assets or general assets.

(2) The cell assets comprise the assets of the protected cell captive insurance company that are held within or on behalf of its protected cells.

(3) The general assets of a protected cell captive insurance company comprise the assets of the



protected cell captive insurance company that are not cell assets.

(N)(1) The liabilities of a protected cell captive insurance company shall be either cell liabilities or general liabilities.

(2) The cell liabilities comprise the obligations of the protected cell captive insurance company attributable to its protected cells.

(3) The general liabilities of a protected cell captive insurance company comprise the obligations of the protected cell captive insurance company that are not cell liabilities.

(O) Each protected cell insurance company shall account separately on its books and records for each of its protected cells to reflect the financial condition and results of operations of the protected cell, including net income or loss, dividends or other distributions to participants, and such other factors as may be provided by participant contracts or required by the superintendent.

(P) Each protected cell captive insurance company shall annually file with the superintendent such financial reports as the superintendent requires, which shall include financial statements detailing the financial experience of each protected cell and a statement regarding the adequacy of reserves kept to make full provision for the liabilities insured by each protected cell.

(Q) An officer or manager of a protected cell captive insurance company shall immediately notify the superintendent if any protected cell of the protected cell captive insurance company or the protected cell captive insurance company itself is trending toward reserves that are inadequate, or if a protected cell or the protected cell captive insurance company becomes insolvent or is otherwise unable to meet its claims or other obligations.

(R) The duties of a director of a protected cell captive insurance company under this chapter shall be in addition to, and not in lieu of, those under other applicable law.