

PANORAMIC

# **US INSURANCE (STATE-BY-STATE)**

USA - Delaware

 LEXOLOGY

# US Insurance (state-by-state)

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## LEGAL AND REGULATORY FRAMEWORK

### Key laws and regulations

What key legislation and regulations govern the insurance industry in your state?

The State of Delaware ("Delaware") regulates the business of insurance through a comprehensive statutory and administrative framework centred on the [Delaware Insurance Code](#) and administered by the [Delaware Department of Insurance](#) (the "Department"). This framework governs insurer authorisation and licensing, solvency regulation, policy requirements, rate and form filing, market conduct, insurance intermediaries, consumer protection and insurer receivership, as well as specialised sectors including captive insurance, workers' compensation insurance and surplus lines insurance.

#### Delaware insurance code

The principal source of insurance law in Delaware is the [Delaware Insurance Code](#), codified in [Title 18 of the Delaware Code](#). [Title 18](#) establishes the legal framework governing insurance operations, including insurer authorisation, financial condition, investments, policy provisions, claims practices, producer licensing and regulatory enforcement. The Delaware Insurance Code applies to domestic, foreign and alien insurers transacting or authorised to transact insurance business in Delaware.

The Delaware Insurance Code establishes the [Department](#) and the office of the Insurance Commissioner (the "Commissioner") under [Chapter 3 of Title 18](#). The Commissioner is vested with authority to administer and enforce the Delaware Insurance Code, including licensing insurers and insurance professionals, conducting examinations, reviewing filings and taking enforcement action for noncompliance.

Under [Chapter 5 of Title 18](#), insurers must generally obtain a certificate of authority before transacting insurance business in Delaware, subject to statutory exceptions including nonadmitted and surplus lines insurance. [Section 102](#) defines an authorised insurer as one holding a subsisting certificate of authority issued by the Commissioner. [Chapter 7](#) further governs fees and premium taxes applicable to insurers. In addition, [Chapter 9](#) sets out provisions on kinds of insurance, limits of risk and reinsurance, forming a core framework for permissible insurance business and risk assumption.

#### Prudential regulation and solvency framework

The Delaware Insurance Code contains detailed provisions governing insurer financial condition and solvency. [Chapter 11](#) regulates assets and liabilities, and [Chapter 13](#) establishes standards for insurer investments. [Chapter 50](#) governs insurance holding company systems, including requirements relating to acquisitions, changes of control and affiliate transactions. [Chapter 58](#) establishes risk-based capital requirements applicable to insurers and certain health organisations. [Chapter 59](#) governs rehabilitation, liquidation and delinquency proceedings and authorises the Commissioner to seek court supervised receivership for financially impaired insurers.

#### Insurance contracts and class specific regulation

Insurance contract law is addressed in [Chapter 27 of Title 18](#), which establishes general rules governing the formation and operation of insurance contracts. These provisions are supplemented by class specific statutory regimes, including [Chapter 29](#) for life insurance and annuity contracts, [Chapter 33](#) for health insurance contracts, [Chapter 39](#) for casualty insurance, and [Chapter 41](#) for property insurance. These chapters prescribe mandatory policy provisions and minimum standards applicable to each class of insurance.

#### Producer licensing and intermediary regulation

Insurance producers and other professional insurance personnel are regulated under [Chapter 17 of Title 18](#), which establishes licensing, qualification and conduct requirements. Additional statutory frameworks apply to specialised intermediaries, including the Reinsurance Intermediary Act in [Chapter 16](#) and the Managing General Agents Act in [Chapter 18](#). These provisions govern licensing, fiduciary duties, compensation and disciplinary action for intermediaries operating in the state.

#### Market conduct and consumer protection

Market conduct regulation is primarily set out in [Chapter 23](#), which prohibits unfair methods of competition and unfair or deceptive acts or practices in the business of insurance, including misrepresentation, unfair discrimination, rebating and unfair claims settlement practices. [Chapter 24](#) addresses insurance fraud and establishes offences relating to fraudulent insurance acts. The Commissioner is authorised to investigate violations, conduct market conduct examinations and impose administrative sanctions, including penalties, licence suspension and restitution orders. Policyholder protection is further supported by guaranty association schemes established under [Chapter 42](#), which creates the Delaware Insurance Guaranty Association for property and casualty insurance, and [Chapter 44](#), which establishes the [Delaware Life and Health Insurance Guaranty Association](#). These provisions provide limited protection to policyholders in the event of insurer insolvency.

#### Captive, nonadmitted and specialised insurance frameworks

Delaware maintains specialised statutory regimes for certain sectors. [Chapter 69](#) establishes the regulatory framework for captive insurance companies, including requirements relating to licensing, capitalisation, governance and reporting. [Chapter 19](#), known as the Delaware Nonadmitted Insurance Act, governs nonadmitted and surplus lines insurance, including the placement of insurance with unauthorised insurers through licensed surplus lines brokers. The Delaware Insurance Code also includes provisions relating to reinsurance, risk retention groups and other forms of alternative risk transfer.

Workers' compensation insurance is affected by statutory provisions outside the core Delaware Insurance Code framework, including [Title 19 of the Delaware Code](#), particularly [Chapter 23](#) governing workers' compensation, in addition to provisions of the Delaware Insurance Code, including [Chapter 4](#) thereof relating to workers' compensation self-insurance groups.

#### Delaware administrative code

The statutory framework is supplemented by regulations contained in [Title 18 of the Delaware Administrative Code](#) (each a “Delaware Insurance Regulation”), promulgated by the [Department](#) under its rulemaking authority. These regulations establish detailed requirements relating to insurer financial reporting, producer licensing, rate and form filings, market conduct standards, claims handling practices and class specific insurance obligations. These administrative rules have the force of law and provide the operational framework implementing the provisions of [Title 18](#).

#### Regulatory authority and federal context

The [Department](#) is responsible for administering the regulatory framework. Its functions include licensing insurers and intermediaries, monitoring financial condition and solvency, conducting examinations, reviewing filings, investigating consumer complaints and fraud, and administering insurer receivership proceedings. The Commissioner serves as the chief regulatory authority and exercises supervisory, enforcement and rulemaking powers under [Title 18](#).

Although insurance regulation in the United States is primarily a matter of state law, Delaware’s authority is reinforced by the [McCarran Ferguson Act](#), 15 U.S.C. §§1011 to 1015, which provides that regulation and taxation of the business of insurance remain within state jurisdiction unless Congress provides otherwise. Accordingly, the [Department](#) serves as the primary regulator of insurance activities conducted within the state.

**Law stated - 14 September 2026**

### Regulatory agencies

**Which agencies are responsible for regulating the business of insurance in your state? Are certain types of insurance-related companies or products regulated by different or multiple agencies?**

The principal agency responsible for regulating the business of insurance in Delaware is the [Department](#), headed by the Commissioner. The Department is established under [Chapter 3 of Title 18](#) of the Delaware Code and administers the [Delaware Insurance Code](#). The Commissioner is the primary state official responsible for supervising authorised insurers, insurance producers, adjusters, surplus lines brokers, captive insurers, reinsurance intermediaries, managing general agents and other insurance-related persons and entities in the state.

#### [Delaware Department of Insurance](#)

The Department regulates the main categories of insurance business conducted in the state. Its authority under [Title 18](#) extends to insurer authorisation, certificates of authority, solvency oversight, financial reporting, examinations, policy forms, rates where regulated, market conduct, producer licensing, unfair insurance practices, insurance fraud, guaranty association matters and insurer rehabilitation and liquidation.

The Department also adopts and administers regulations in [Title 18 of the Delaware Administrative Code](#). These regulations implement the [Delaware Insurance Code](#) and

contain detailed requirements for licensing, financial reporting, rate and form filings, market conduct, consumer protection and class specific insurance obligations.

Specialised insurance entities are also regulated by the Department under specific chapters of [Title 18](#). Captive insurance companies are regulated under [Chapter 69](#). Nonadmitted and surplus lines insurance is regulated under [Chapter 19](#), the Delaware Nonadmitted Insurance Act. Reinsurance intermediaries and managing general agents are regulated under [Chapter 16](#) and [Chapter 18](#) respectively.

Insurance products and entities involving additional agencies

Some insurance-related products and activities are subject to more than one Delaware regulatory framework. Workers' compensation insurance is the principal example. Insurers and workers' compensation self-insurance groups are regulated under [Title 18](#), including [Chapter 4](#). The underlying workers' compensation system is governed by [Chapter 23 of Title 19](#) of the Delaware Code. It covers compensation benefits, claims procedures, compulsory insurance, self-insurance and substitute compensation systems. That system is administered through the [Delaware Department of Labor](#), including the [Office of Workers' Compensation](#) and the [Industrial Accident Board](#).

Health insurance is principally regulated by the Department under [Title 18](#). Where a health insurer, health maintenance organisation or managed care arrangement participates in public health programmes, health care delivery or public assistance programmes, other Delaware health authorities may also have regulatory responsibilities under their separate statutory mandates. The Department remains the primary regulator for insurance authorisation, solvency, market conduct and insurance product regulation.

Insurance fraud is regulated under [Chapter 24 of Title 18](#). The Department has statutory responsibility for insurance fraud detection, investigation and administrative enforcement through the [Delaware Insurance Fraud Prevention Bureau](#). Criminal prosecution may involve the [Delaware Department of Justice](#) and other law enforcement authorities where the matter proceeds as a criminal offence.

Accordingly, the [Department](#) is the central regulator of insurance business in Delaware. Multiple agency oversight arises mainly where the insurance product is connected to a separate statutory scheme, particularly workers' compensation, certain health-related programmes and criminal insurance fraud enforcement.

**Law stated - 14 September 2026**

### **Scope of regulated insurance business**

How does your state insurance code define doing or transacting insurance business? Is there state guidance on whether parametric insurance qualifies as insurance? Are there any state-specific rules regarding unauthorized insurance?

Delaware defines the business of insurance broadly under [Title 18 of the Delaware Code](#). The statutory framework focuses on the substance of the transaction, including the making of an insurance contract, the assumption of risk, solicitation, negotiation, effectuation of coverage

and post contract activity arising out of an insurance contract. There is no express statutory provision in [Title 18](#), and no publicly available [Department](#) guidance, that treats parametric insurance as a separate class of insurance.

#### Definition of insurance and transacting insurance

Under [§102 of Title 18](#), insurance means a contract whereby one person undertakes to pay or indemnify another for loss from specified contingencies or perils, referred to as risks, or to pay or grant a specified amount or determinable benefit in connection with ascertainable risk contingencies, or to act as surety. The same section defines an insurer as a person engaged as principal and as indemnitor, surety or contractor in the business of entering into contracts of insurance.

[Section 103](#) defines transacting insurance. It provides that, in addition to other aspects of insurance operations to which [Title 18](#) applies, transact, with respect to the business of insurance, includes solicitation or inducement, negotiations, effectuation of a contract of insurance, and the transaction of matters after effectuation that arise out of the contract.

Accordingly, Delaware's definition is not limited to issuing the policy itself. It extends to pre-contract solicitation and negotiation, the formation of the insurance contract and post contract administration arising from that contract.

#### Parametric insurance

Delaware does not expressly define parametric insurance as a separate statutory category. In the absence of a specific Delaware rule, the general statutory definitions in [§102](#) and [§103](#) are the relevant starting point.

Such arrangements fall within the statutory definition where they involve an undertaking to pay a specified amount or determinable benefit in connection with an ascertainable risk contingency. The classification of a particular parametric product would depend on its structure, the nature of the risk trigger and whether the arrangement otherwise satisfies the statutory characteristics of insurance.

#### Authorised and unauthorised insurance

Delaware distinguishes authorised insurers from unauthorised or nonadmitted insurers. Under [§102](#), an authorised insurer is one duly authorised to transact insurance in Delaware by a subsisting certificate of authority issued by the Commissioner. An insurer that does not hold that authority is not authorised to transact admitted insurance business in the state, unless the activity falls within a statutory exception or an authorised nonadmitted insurance framework.

[Chapter 5 of Title 18](#) governs authorisation of insurers and general requirements. The general framework requires insurers transacting insurance business in Delaware to hold a certificate of authority, subject to statutory exceptions. Separately, [Chapter 21](#) contains the Unauthorized Insurers Process Act and the Unauthorized Insurers False Advertising Process Act. Those provisions are designed to subject certain unauthorised insurers to the jurisdiction of the Commissioner and Delaware courts in proceedings involving Delaware insureds, beneficiaries or the Commissioner.

Under [§2104](#), solicitation, effectuation or delivery of an insurance contract within Delaware by an unauthorised insurer, whether by mail or otherwise, or the performance in Delaware of another service or transaction connected with that insurance, constitutes an appointment of the Commissioner as the insurer's attorney for service of process in proceedings arising out of the contract or transaction. [Chapter 21](#) also provides for jurisdiction where a foreign or alien insurer not authorised by the Commissioner solicits or transacts insurance business in Delaware as defined by [§103](#).

#### Nonadmitted and surplus lines insurance

Delaware permits certain nonadmitted insurance through the surplus lines framework in [Chapter 19 of Title 18](#), known as the Delaware Nonadmitted Insurance Act. The chapter applies to nonadmitted insurance business where Delaware is the insured's home state.

Surplus lines insurance may be procured from nonadmitted insurers only where the statutory conditions are satisfied. Under [§1912](#), coverage that cannot be procured from authorised insurers may be obtained from nonadmitted insurers if the insurer is an eligible surplus lines insurer, the insurer is authorised to write the relevant type of insurance in its domiciliary jurisdiction, the full amount of required insurance is not procurable from authorised insurers after diligent effort, the insurance is not exported for the purpose of securing advantages as to premium rate or policy terms, and the other requirements of [Chapter 19](#) are met.

[Chapter 19](#) also sets eligibility standards for surplus lines insurers. Under [§1931](#), the Commissioner may consider a nonadmitted insurer eligible if it satisfies specified minimum financial eligibility standards, including capital and surplus requirements for United States domestic insurers or, for non-United States insurers, listing on the [National Association of Insurance Commissioners](#) Quarterly Listing of Alien Insurers.

Delaware also recognises domestic surplus lines insurers under [§1932](#). A Delaware domestic insurer with policyholder surplus of at least 15 million dollars may, with board action and written approval of the Commissioner, be designated as a domestic surplus lines insurer. Such an insurer may write surplus lines insurance, but in Delaware may insure a Delaware risk only where coverage is procured under [Chapter 19](#).

Accordingly, Delaware does not allow general unauthorised insurance activity. Nonadmitted insurance is permitted only within the statutory surplus lines and related nonadmitted insurance framework, or where another statutory exception applies.

**Law stated - 14 September 2026**

## INSURANCE COMPANIES

### Formation and licensing

#### What are the key elements and requirements for the formation and licensing of insurance companies in your state?

In Delaware, the licensing of insurance companies is governed principally by [Title 18 of the Delaware Code](#). Delaware law distinguishes between forming an insurance company as a legal entity and obtaining authority to transact insurance business. With limited exceptions,

including Delaware captive insurance companies, Delaware insurance companies must be formed as corporations. Corporate formation for Delaware insurance companies is governed principally by the Delaware General Corporation Law, [Title 8 of the Delaware Code](#). Corporate formation alone does not authorise an entity to write insurance. An insurer must obtain and maintain a certificate of authority from the Commissioner to transact insurance in the state unless a statutory exception applies.

#### Formation of domestic insurers

Domestic stock and mutual insurers are governed by [Chapter 49 of Title 18](#) and are also subject to Delaware's general private corporation laws, except where those laws conflict with [Title 18](#). A domestic insurer may not engage in business other than insurance business and activities reasonably and necessarily incidental to insurance business, subject to statutory exceptions.

[Chapter 49](#) contains additional requirements for domestic mutual insurers. A proposed mutual insurer must satisfy organisation requirements before obtaining an original certificate of authority, including qualifying insurance applications, required premiums, surplus or deposits and, before soliciting qualifying applications, a solicitation permit and deposit under [§4906](#).

#### Certificate of authority

The central licensing requirement is in [§505](#). No person may act as an insurer, and no insurer may transact insurance in Delaware by mail or otherwise, except under a subsisting certificate of authority granted by the Commissioner or as otherwise expressly provided in [Title 18](#). A Delaware formed insurer, or an insurer operating through offices, personnel or facilities in Delaware, may not solicit applications or transact insurance in another jurisdiction unless it holds a Delaware certificate of authority for the same kind or kinds of insurance.

[Section 506](#) provides exceptions, including specified claim investigation, settlement and litigation activity, transactions under policies lawfully solicited and delivered outside Delaware covering non-Delaware risks, surplus lines insurance lawfully written under [Chapter 19](#), certain reinsurance activity, insurance exchange membership and restricted automobile club activity.

#### Eligibility and application requirements

An insurer must satisfy the general eligibility requirements in [Chapter 5](#) before obtaining or maintaining authority. It must comply with [Title 18](#) and its charter powers, and must generally be a stock insurer, mutual insurer or reciprocal insurer of a type that may be formed as a domestic insurer in Delaware. Foreign insurers must satisfy Delaware reserve requirements and must be authorised, or qualified for authorisation, to transact the relevant kind of insurance in their domiciliary jurisdiction. An insurer may not be authorised to transact workers' compensation insurance in Delaware unless approved by the [Delaware Department of Labor](#) under Part II of [Title 19](#).

[Title 18](#) also contains ownership, management and name restrictions. A foreign insurer owned or controlled in substantial part by a government or governmental agency may

not be authorised. The Commissioner may refuse or decline to continue authority where management is incompetent, dishonest, untrustworthy, of unfavourable business repute, or lacks sufficient insurance company managerial experience so that the proposed operation would be hazardous or contrary to the interests of the Delaware insurance buying or investing public.

An insurer applying for an original certificate of authority must file a written application with the Commissioner and pay the applicable fees under [§701](#). The application must identify the insurer's name, its home office or United States principal office for an alien insurer, the kinds of insurance proposed, the date and form of organisation, domicile and other information reasonably required by the Commissioner. Required supporting materials may include organisational documents, bylaws, reciprocal power of attorney, financial statements, examination reports, service of process appointment, domiciliary certificate of authority for foreign or alien insurers, deposit certificates, policy forms and rate materials where required.

#### Capital, surplus and deposits

[Section 511](#) sets minimum capital and surplus requirements by insurer type and kind of insurance. To transact one kind of insurance, or authorised combinations of insurance, an insurer must possess and maintain unimpaired paid in capital stock, a capital account or unimpaired basic surplus, together with required free surplus when first authorised. The statutory schedule generally requires 650,000 dollars of capital or basic surplus and 350,000 dollars of free surplus for life, health, property, casualty, marine and transportation, surety, multiple line and title insurance, subject to the detailed line and entity requirements in [§511](#).

Deposit requirements are addressed in [§513](#) and [§514](#). A foreign insurer, other than an alien insurer, generally must maintain a qualifying deposit of at least 100,000 dollars in Delaware or another state. Additional deposits apply to specified insurers and lines, including surety, workers' compensation and title insurance. Domestic insurers other than title insurers must maintain a deposit of at least 100,000 dollars. Alien insurers are subject to a separate deposit requirement based on the combined capital and surplus required of a comparable foreign insurer.

#### Issuance, continuation and specialised insurers

The Commissioner must issue a certificate of authority if the Commissioner finds that the applicant satisfies the requirements of [Title 18](#). The certificate states the kind or kinds of insurance authorised and may be limited to specified types of insurance or coverages. It continues as long as the insurer remains entitled to it, unless suspended, revoked or terminated. Annual continuance requires payment of the continuation fee, filing of the annual statement required by [§526](#) and payment of premium taxes.

The Commissioner must refuse to continue, suspend or revoke a certificate on mandatory grounds under [§519](#), including loss of eligibility by a foreign insurer, failure by a domestic insurer to cure impairment of capital or surplus, suspension or revocation in the insurer's domicile, or failure to pay required premium taxes. The Commissioner may also act under [§520](#) for discretionary grounds, including violation of law, unsound financial condition, fraudulent conduct, hazardous business practices, failure to pay claims as a general business practice, refusal to be examined or failure to pay final judgments.

Certain insurers are subject to specialised licensing regimes. Captive insurance companies are governed by [Chapter 69 of Title 18](#), which contains Delaware's captive insurance framework, including rules for sponsored captive insurance companies, special purpose financial captive insurance companies and branch captive insurance companies.

**Law stated - 14 September 2026**

### **Market entry and exit**

**What are the requirements for re-domesticating into or out of your state (or alien jurisdiction), including any seasoning requirements and withdrawal restrictions or requirements?**

Delaware expressly permits both inbound and outbound insurer re-domestications. The principal statutory provision is [§4946 of Title 18](#), which governs the transfer of insurer domicile into and out of Delaware. Separate requirements apply to captive insurance companies under [Chapter 69 of Title 18](#). Delaware does not impose a general statutory seasoning requirement for insurer re-domestications. However, re-domestications are subject to regulatory approval by the Commissioner and must satisfy the applicable requirements of the [Delaware Insurance Code](#).

#### Re-domestication into Delaware

Under [§4946\(a\)](#), an insurer organised under the laws of another state and admitted to transact insurance in Delaware may become a Delaware domestic insurer by complying with the legal requirements applicable to the organisation and licensing of a domestic insurer of the same type, including the filing of a written application with the Commissioner containing information reasonably required by the Commissioner, and by designating its principal place of business in Delaware. Following approval, the insurer becomes subject to the authority and jurisdiction of Delaware as a domestic insurer and is entitled to the certificates and licences available to similarly situated domestic insurers.

An insurer seeking to re-domesticate into Delaware must therefore satisfy both the requirements of [§4946](#) and the general licensing requirements applicable to domestic insurers under [Chapter 5](#) and other relevant provisions of [Title 18](#). This includes obtaining and maintaining a certificate of authority where required.

#### Re-domestication out of Delaware

Under [§4946\(b\)](#), a Delaware domestic insurer may transfer its domicile to another state in which it is admitted to transact insurance, subject to approval by the Commissioner. Upon completion of the transfer, the insurer ceases to be a Delaware domestic insurer and may continue to operate in Delaware as a foreign insurer if it remains qualified for admission.

[Section 4946](#) provides that the Commissioner may approve the proposed transfer and must consider whether the transaction is consistent with the interests of Delaware policyholders. Protection of policyholders is therefore the principal statutory consideration in the approval process.

## Effect of re-domestication and continuity of authority

[Section 4946\(c\)](#) contains continuity provisions designed to preserve regulatory approvals and contractual relationships following a transfer of domicile. Where an insurer licensed in Delaware transfers its domicile to or from Delaware through merger, consolidation or another lawful method, existing certificates of authority, agent appointments, licences, rates and other regulatory approvals may continue in force to the extent permitted by the Commissioner, provided the insurer remains qualified to transact insurance business in Delaware.

The statute also provides continuity for existing insurance obligations. Policies generally remain in force and do not require reissuance solely because of the transfer of domicile. The insurer must notify the Commissioner of the transaction, file resulting amendments to corporate documents and submit any required policy form amendments associated with the transfer.

## Seasoning requirements

Delaware does not impose a general statutory seasoning requirement for insurer re-domestications. Neither [§4946](#) nor the general insurer licensing provisions require an insurer to have been domiciled in its existing jurisdiction for a specified minimum period before transferring into or out of Delaware.

Similarly, Delaware's captive insurance statutes do not establish a general statutory seasoning period applicable to captive insurer re-domestications. Instead, approval is based on compliance with the applicable statutory requirements and the Commissioner's review of the proposed transaction.

## Withdrawal restrictions and continuing obligations

Delaware does not permit a domestic insurer to withdraw its domicile without regulatory approval. A domestic insurer seeking to transfer its domicile must obtain approval under [§4946\(b\)](#) and remain qualified under the laws of the receiving jurisdiction.

Re-domestication does not extinguish existing liabilities, policy obligations or regulatory responsibilities. [Section 4946](#) preserves continuity of policies and regulatory approvals following the transfer, and the insurer remains responsible for obligations arising from business written before the re-domestication. Where the insurer continues to transact insurance in Delaware following the transfer, it must maintain the authority required under Delaware law for its continued operations.

Where a re-domestication forms part of a merger or consolidation, additional approval requirements may arise under [§4930](#), or if it forms part of a merger, acquisition or other transaction resulting in a change of control of a domestic insurer, additional approval requirements may arise under [Chapter 50](#) (Insurance Holding Company System Registration). Those provisions require regulatory review of certain acquisitions and changes of control involving domestic insurers and may apply in parallel with the re-domestication process.

## Captive insurance companies

Captive insurance companies are subject to Delaware's specialised captive insurance framework under [Chapter 69 of Title 18](#). While [§4946](#) governs insurer transfers of domicile generally, captive insurance companies are also subject to the specific requirements of [Chapter 69](#), which operates alongside the general re-domestication framework.

Delaware permits captive insurers to transfer their domicile into Delaware and to transfer a Delaware captive insurer to another jurisdiction, subject to the approval of the Commissioner. The captive re-domestication process typically requires submission of organisational, financial and regulatory information, including evidence of good standing in the existing domicile and materials necessary for the Commissioner to evaluate the proposed transfer. Following approval, the captive insurer generally continues its existence as an entity and succeeds to its rights, obligations and liabilities without interruption.

Accordingly, Delaware permits both inbound and outbound insurer re-domestications and captive insurer transfers, subject to regulatory approval and compliance with [Title 18](#). The governing statute for insurer domicile transfers is [§4946](#), which facilitates continuity of corporate existence, licences and policy obligations while protecting the interests of policyholders. Similarly, [§6922](#) governs domicile transfers for Delaware captive insurers. Delaware does not impose a general statutory seasoning requirement, but the Commissioner retains authority to review and approve the proposed transaction in accordance with the [Delaware Insurance Code](#).

**Law stated - 14 September 2026**

### **Corporate governance**

**What are the board and director qualification requirements for insurance companies? What are the audit committee or other board committee requirements? Does the state require fingerprinting or anything beyond NAIC Biographical Affidavit requirements for new directors and officers?**

Delaware does not prescribe a comprehensive statutory qualification framework for directors and officers comparable to those applicable to certain licensed insurance professionals. Instead, board and management qualifications are addressed through a combination of insurer licensing requirements, ownership and management standards, corporate governance requirements, financial reporting regulations and regulatory oversight by the Commissioner. The principal provisions are found in [Chapters 5, 50, 84](#) and [85](#) of [Title 18](#), together with regulations implementing Delaware's audited financial reporting requirements.

#### Director and officer qualification requirements

Delaware law requires insurer management to be competent, trustworthy and suitable. However, the [Delaware Insurance Code](#) does not establish detailed statutory requirements such as minimum educational qualifications or professional designations for directors and officers of insurers. Nor does it establish a residency requirement for directors and officers of insurers, except that Delaware domiciled captive insurance companies generally must have at least 1 director, if organized as a corporation, or similar manager if not organized as a corporation, who is a resident of Delaware or has a principal place of business in Delaware.

[Section 508 of Title 18](#) governs ownership and management standards and authorises the Commissioner to evaluate the suitability of persons responsible for the management of an insurer. The Commissioner may refuse to issue or continue a certificate of authority where management is incompetent, dishonest, untrustworthy, of unfavourable business repute, or lacks sufficient insurance company managerial experience such that operation of the insurer would be hazardous or contrary to the interests of the Delaware insurance buying or investing public.

Directors and officers of domestic insurers are also subject to the governance requirements applicable to the insurer's organisational form, including the provisions governing domestic stock and mutual insurers under [Chapter 49](#).

#### Change of control and suitability review

Director and officer qualifications are subject to heightened regulatory scrutiny in connection with acquisitions and changes of control under [Chapter 50 of Title 18](#), the Insurance Holding Company System Registration Act.

Any person seeking to acquire control of a Delaware domestic insurer must obtain regulatory approval. As part of that process, the Commissioner may review the identity, background, business experience, competence, integrity and financial condition of the acquiring persons and proposed directors and officers. The Commissioner may disapprove a transaction if the competence, experience or integrity of the persons who would control the insurer indicate that the acquisition would not be in the interests of policyholders or the public.

#### Corporate governance requirements

Delaware has adopted the Corporate Governance Annual Disclosure Act in [Chapter 85 of Title 18](#). The Act requires the ultimate controlling person of an insurer or insurance group to submit an annual confidential disclosure describing the insurer's corporate governance framework.

The disclosure must address matters such as the insurer's governance structure, board oversight functions, committee structure, senior management oversight and governance practices. [Chapter 85](#) does not mandate a particular board composition or committee structure. Instead, it requires insurers to disclose and explain the governance framework used to oversee the insurer and its insurance group.

In addition, [Chapter 84](#) establishes Delaware's Own Risk and Solvency Assessment framework. Although [Chapter 84](#) does not require a specific board committee, it requires insurers to maintain processes for identifying, assessing, monitoring and managing material risks and for evaluating the adequacy of capital in relation to those risks.

#### Audit committee requirements

Audit committee requirements arise principally through Delaware's financial reporting regulations rather than through the Delaware Insurance Code itself. Delaware has adopted audited financial reporting requirements based on the [National Association of Insurance](#)

[Commissioners](#) (NAIC) Annual Financial Reporting Model Regulation through [Delaware Insurance Regulation 301](#).

Under these requirements, certain insurers must maintain an audit committee responsible for overseeing the insurer's financial reporting process, independent audit functions and related governance matters. If an audit committee is not designated by the insurer, [Delaware Insurance Regulation 301](#) provides that the insurer's entire board of directors shall constitute the audit committee. For insurers meeting specified premium thresholds, audit committee members must satisfy independence requirements. Insurers that are members of an insurance holding company system may, where permitted by the regulations, rely on an audit committee established at the group level rather than maintaining a separate insurer level committee.

The audit committee requirements are designed to strengthen oversight of financial reporting, internal controls and external auditing processes.

#### Other board committees

Delaware law does not generally require insurers to establish specific standing board committees beyond those required under applicable financial reporting regulations. However, insurers commonly maintain audit, risk, investment, governance, nomination and compensation committees as part of their governance framework.

Where such committees exist, information concerning their structure and responsibilities may form part of the insurer's Corporate Governance Annual Disclosure under [Chapter 85](#).

#### NAIC Biographical Affidavits, background reviews and fingerprinting

Delaware generally follows [National Association of Insurance Commissioners](#) (NAIC) regulatory practices when reviewing directors, officers and controlling persons. For insurer licensing applications, change of control transactions, captive insurer formations and other regulatory approval processes, the [Department](#) commonly requires NAIC Biographical Affidavits and related background information for directors, officers and key management personnel.

These materials are used by the Commissioner to evaluate the competence, integrity, experience and suitability of individuals responsible for managing the insurer. Depending on the nature of the filing, the Department may require additional information or background verification beyond the NAIC Biographical Affidavit requirements.

Delaware law does not impose a uniform statutory fingerprinting requirement applicable to all directors and officers of authorised insurers. Instead, the state primarily relies on suitability reviews, biographical affidavits and supporting background information (including third party background checks) submitted in connection with licensing, change of control, captive insurance and other regulatory approval processes.

Accordingly, Delaware's approach is primarily principles based. Rather than imposing detailed statutory qualification standards for directors and officers, the state relies on management suitability review under [§508](#), regulatory oversight of acquisitions and changes of control under [Chapter 50](#), corporate governance disclosure under [Chapter 85](#), risk

governance requirements under [Chapter 84](#) and financial reporting oversight through audit committee requirements adopted under Delaware insurance regulations.

Law stated - 14 September 2026

### Capital and surplus requirements

What are the minimum capital and surplus requirements for licensure of insurance companies in your state, and any additional deposit requirements? Are there significant capital or reserve requirements that deviate from the NAIC Risk-Based Capital (RBC) framework or Statutory Accounting Principles (SAP)? Are certain types of insurers subject to different capital or reserve requirements under your state's insurance laws? Are there any state requirements regarding surplus notes? What thresholds or other requirements apply to the payment of dividends?

Delaware's capital, surplus, deposit, reserve and dividend requirements are governed principally by [Title 18](#) of the Delaware Code, including [Chapter 5](#) for licensing and capital requirements, [Chapter 11](#) for reserves and valuation, [Chapter 50](#) for holding company regulation and dividends, [Chapter 58](#) for [National Association of Insurance Commissioners](#) (NAIC) Risk Based Capital (RBC), and [Chapter 69](#) for captive insurance companies.

Minimum capital and surplus for authorised insurers

The general capital and surplus requirements for authorised insurers are set out in [§511](#) of Title 18.

[Section 511\(a\)](#) establishes a line specific framework under which minimum capital and surplus requirements vary depending on the class of insurance written, the number of lines authorised, and the insurer's organisational form.

While [§511](#) includes a structured statutory table, it is commonly expressed in baseline terms requiring, for certain major lines, minimum paid in capital or basic surplus of 650,000 dollars and free surplus of 350,000 dollars upon authorisation under [§511\(a\)](#) and [§511\(b\)](#). However, these figures are not uniform across all insurer classes, and [§511](#) prescribes different thresholds depending on the specific type of insurance authorised, including life, health, property, casualty, surety, marine and transportation, and title insurance.

[Section 511\(c\)](#) further requires domestic mutual insurers to maintain policyholders' surplus, in accordance with [Chapter 49](#), at a level that is reasonable in relation to the nature and volume of business written, net of reinsurance. In applying this standard, the Commissioner exercises express discretion under [§511\(c\)](#) and [Chapter 49](#), taking into account NAIC standards and the desirability of interstate uniformity, while retaining authority to require additional surplus where necessary to protect solvency.

Deposit requirements

Deposit requirements are governed by [§513](#) and [§514](#) of Title 18.

A foreign insurer (other than an alien insurer) must generally maintain a qualifying deposit of at least 100,000 dollars in Delaware or another approved jurisdiction for the protection of policyholders or policyholders and creditors.

Surety insurers are subject to an additional statutory deposit requirement under [§513](#), generally requiring an additional 10,000 dollars, unless the insurer maintains at least 10,000,000 dollars in paid in capital and surplus together with qualifying deposits of at least 400,000 dollars, in which case the Commissioner may apply the statutory relief provisions.

A domestic title insurer must maintain a Delaware deposit of 25,000 dollars, and domestic insurers other than title insurers must maintain a deposit of 100,000 dollars unless otherwise provided.

Insurers writing workers' compensation insurance are subject to an additional Delaware deposit requirement of 100,000 dollars under [§513](#).

For alien insurers, [§514](#) requires a deposit equal to the amount required of a comparable foreign insurer writing the same kinds of insurance in Delaware, determined on an equivalency basis reflecting capital and surplus rather than a fixed statutory amount.

#### Risk Based Capital (RBC) framework and statutory accounting principles

Delaware has adopted the NAIC Risk Based Capital framework in [Chapter 58 of Title 18](#). [Chapter 58](#) applies RBC standards both to traditional insurers and separately to health organisations under distinct RBC formulas applicable to those entities.

RBC functions as a supervisory intervention mechanism rather than a substitute for minimum capital requirements under [§511](#). It operates alongside reserve requirements under [Chapter 11](#) and ongoing solvency oversight by the Commissioner.

Delaware follows Statutory Accounting Principles as prescribed or permitted by the Commissioner. These are implemented through NAIC accounting standards and Delaware regulatory guidance, with limited discretion for permitted practices.

#### Reserve requirements

Reserve requirements are governed by [Chapter 11 of Title 18](#). Insurers must maintain adequate reserves for life insurance, annuities, accident and health insurance, and property and casualty obligations.

For life insurers, Delaware has also adopted Delaware Insurance Regulation 1212 based on NAIC valuation standards, including principle based reserving. Non-life insurers remain subject to statutory reserving methodologies under SAP, with reserve adequacy subject to supervisory review.

The Commissioner retains express discretion to require additional reserves where necessary to ensure adequacy of liabilities or where standard actuarial assumptions do not sufficiently reflect underlying risk exposure.

#### Special capital or reserve regimes

Certain insurers are subject to specialised capital frameworks under Delaware law.

Captive insurance companies under [Chapter 69](#) are subject to tailored minimum capital and surplus requirements depending on structure, including pure, association, industrial insured, sponsored, risk retention and special purpose captives. Minimum capital requirements are lower than traditional insurers and may be satisfied through cash, letters of credit or other Commissioner approved assets. The Commissioner may also impose additional capital requirements based on risk profile and business plan.

Title insurers are subject to line specific capital requirements under [§511](#) and must also maintain the statutory deposit required under [§513](#).

### Surplus notes

Surplus notes are expressly recognised in the captive insurance framework under [§6905 of Title 18](#). In that context, surplus notes may be included in statutory surplus subject to prior approval of the Commissioner and are treated in accordance with SAP principles.

For non-captive insurers, surplus notes are recognised under NAIC SAP, including SSAP No. 41R, and are treated as surplus instruments only where approved or non-disapproved by the Commissioner. Their classification depends on subordination, repayment restrictions and solvency impact, and they remain subject to ongoing regulatory oversight.

### Dividends and extraordinary dividends

Dividend regulation is governed principally by [§4922](#) and under the insurance holding company system framework by [§5005](#) of Title 18. In addition, insurers that are Delaware corporations must comply with the applicable provisions of [Title 8](#).

Ordinary dividends may generally be paid from earned surplus, subject to maintaining adequate surplus and solvency. Earned surplus is determined under statutory accounting principles and may include realised gains and permitted surplus adjustments.

An extraordinary dividend is defined under [§5005](#) as a dividend or distribution that exceeds the greater of:

- 10 percent of surplus as regards policyholders as of the preceding 31 December, or
- net gain from operations (for life insurers) or net income excluding realised capital gains (for non-life insurers), for the 12-month period ending 31 December.

Under [§5005\(b\)\(1\)](#), extraordinary dividends are subject to a 30-day prior notice period, during which the Commissioner may review and disapprove the proposed distribution.

The Commissioner also has authority to restrict or prohibit dividend payments where surplus is inadequate, RBC results indicate weakening capitalisation, or payment would be inconsistent with policyholder protection. Dividend practices are subject to ongoing supervisory review.

**Law stated - 14 September 2026**

## Investments

## What rules govern the types and amounts of investment that insurance companies may make? Are there any special rules regarding custodian requirements, derivatives, securities lending or retained asset accounts?

Delaware regulates insurer investments principally through [Chapter 13 of Title 18](#) of the Delaware Code, which establishes a structured eligible investments regime, supplemented by diversification requirements, quantitative limitations, and supervisory oversight by the Commissioner. Additional relevant provisions are found in [Chapter 11](#), [Chapter 50](#), and Delaware insurance regulations incorporating NAIC investment and accounting standards.

### Types and amounts of permitted investments

[Chapter 13 of Title 18](#) provides a detailed statutory framework specifying the types of investments insurers may make. Rather than relying solely on a general prudent person standard, Delaware adopts a categorised eligible-investments system, under which insurers may invest only in statutorily permitted asset classes set out in [§§1306 to 1334](#), subject to qualitative and quantitative conditions.

Permitted investments include government obligations, corporate securities, mortgage loans, real property, and certain equity interests, each subject to eligibility criteria and statutory limitations. Many investment categories are subject to percentage-based caps calculated by reference to admitted assets or surplus, together with issuer concentration limits designed to prevent excessive exposure to single obligors or related groups.

[Section 1302\(d\)](#) and related provisions require insurers to maintain diversification and limit investment concentrations so that no investment strategy may be used in a manner that would impair solvency.

These concentration and diversification constraints are reinforced across multiple specific asset sections within [Chapter 13](#), including [§§1308, 1311](#), and [1313](#), which embed additional exposure limits and asset class specific restrictions alongside the general provisions in [§§1302\(d\)](#) and [1305](#).

Accordingly, Delaware's framework is best characterised as a structured statutory investment regime with layered asset-specific limits and prudential safeguards, rather than a purely discretionary investment system.

### Custodian requirements

Delaware does not set out a single consolidated custodian statute within [Chapter 13](#). Instead, custodial arrangements with qualified custodians, typically regulated banks or trust institutions, may be appropriate through the application of statutory accounting principles applied under [Chapter 11](#) and financial reporting rules.

Custodial arrangements are reviewed by the Commissioner during financial examinations and ongoing solvency supervision.

### Derivatives

Derivatives are permitted but are not comprehensively codified within [Chapter 13](#). Their use is primarily governed through regulation under [Delaware Insurance Regulation 404](#), based on NAIC model investment standards, and statutory accounting principles.

Derivatives may be used for hedging, risk reduction, and portfolio management efficiency, provided they are supported by board-approved investment policies and are not used for speculative purposes inconsistent with solvency objectives.

Derivative exposure is assessed by the Commissioner as part of overall risk profiling and is reflected in Risk Based Capital requirements under [Chapter 58](#).

#### Securities lending

Securities lending is permitted subject to general prudential safeguards and investment restrictions derived from NAIC model investment frameworks and statutory accounting principles rather than detailed statutory provisions in [Chapter 13](#).

Collateral and reinvested assets are subject to valuation rules under [Chapter 11](#) and supervisory review through financial examinations.

#### Retained asset accounts

Retained asset accounts are not regulated as part of the investment framework in [Chapter 13](#). They are addressed instead through claims settlement regulation, policy form requirements, and unfair practices provisions under [Chapter 23 of Title 18](#).

When appropriate, these accounts are used in settlement of insurance proceeds, particularly in life insurance and annuity contexts, and must comply with requirements relating to disclosure, accessibility of funds, fair claims handling, prompt payment and compliance with approved policy terms.

Regulatory oversight is therefore exercised through market conduct regulation rather than investment regulation.

#### Affiliate and group investment restrictions

Additional restrictions apply where investments involve affiliated entities under [Chapter 50](#) (Insurance Holding Company System Registration). Transactions with affiliates must be conducted on fair and reasonable terms and may require prior notice or approval depending on materiality.

These provisions are designed to prevent improper upstreaming of capital and to ensure that intra-group investments do not adversely affect insurer solvency.

**Law stated - 14 September 2026**

### **Change of control**

What regulatory requirements govern the change of control of domestic insurance companies? Are foreign citizens, companies or governments

## subject to any licensing requirements or other restrictions on their investment in domestic insurance companies?

Delaware regulates changes of control of domestic insurance companies primarily through [Chapter 50 of Title 18](#), the Insurance Holding Company System Registration Act, including [§5003](#) governing acquisitions of control (Form A filings), together with related provisions of [Chapter 5](#) for licensing and management suitability. These provisions, supported by regulations adopted by the [Department](#), define control, prescribe filing requirements, and establish procedures for regulatory review, including for foreign investors.

### Definition of control

Under [§5001\(3\) of Title 18](#), “control” is generally defined as the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a person, and it is presumed to exist if a person directly or indirectly owns, controls or holds with the power to vote, 10 percent or more of the voting securities of an entity. This definition may include control through non-voting equity interests when such rights confer the practical ability to direct corporate decisions. Ownership of 10 percent or more voting securities creates a presumption of control, which may be rebutted with evidence demonstrating lack of practical influence.

Insurers and investors may submit a disclaimer of affiliation pursuant to [§5003A\(b\)](#), and in the manner provided by [§5004\(k\)](#), allowing a shareholder or affiliate to demonstrate that despite ownership or influence, it does not exercise control and is not part of an insurance holding company system for regulatory purposes. The Commissioner evaluates these disclaimers based on governance, voting agreements, management influence, and financial relationships.

### Form A filing and regulatory approval

Under [§5003](#), any person or entity acquiring control of a Delaware domestic insurer must submit a Form A filing in accordance with NAIC-based requirements. The filing must include:

- Identification of the acquirer, including principal business address
- Source of funds and arrangements relating to control
- Biographical affidavits of proposed directors and officers
- Evidence of competence, integrity, and financial capacity to operate the insurer
- Organizational, operational, and financial information sufficient for regulatory assessment of policyholder protection and solvency

The Commissioner reviews the Form A filing to determine whether the proposed acquisition is consistent with insurer solvency, policyholder protection, and public interest. Approval may be conditioned on changes in management, corporate governance, or additional capital or surplus requirements.

### Public hearing

Section [§5003](#) explicitly requires that the Commissioner must give notice and hold a public hearing on Form A filings prior to approval. The statutory process ensures transparency and provides stakeholders with the opportunity to participate in cases where material objections to the acquisition of control exist.

#### Foreign investors

Delaware generally allows foreign citizens, companies, and governments to acquire control of domestic insurers, subject to the same Form A filing and suitability review as domestic investors. Section 508(a) limits control by any government or governmental agency of foreign insurers authorized to transact insurance in Delaware; however, there is no general statutory prohibition on foreign ownership of domestic insurers. Foreign investors are subject to enhanced scrutiny by the Commissioner to evaluate:

- competence, experience, and integrity of controlling parties
- financial capacity to maintain solvency and meet capital requirements
- any potential policyholder protection concerns

While Delaware law does not directly impose national security or reciprocity restrictions, federal statutes may apply separately, and regulatory oversight is coordinated accordingly.

#### Supervisory and prudential review

The Commissioner has broad authority under [§5003](#) to approve, condition, or disapprove a change of control if the proposed transaction would compromise policyholder protection, insurer solvency, or public interest. Review may include assessment of:

- ownership structure and voting agreements
- indirect control via affiliates
- management influence and corporate governance
- impact on capital, surplus, and RBC levels

The Commissioner may require remedial action, including changes to proposed management, corporate governance, or capitalisation, to mitigate risks associated with the acquisition.

**Law stated - 14 September 2026**

#### **Organization and restructuring**

Are there any state laws regarding insurance business transfer, division or similar restructuring methods? Does your state allow the formation of reciprocals; the formation or conversion into a mutual holding company structure; demutualization; and the conversion of mutuals, reciprocals and stock insurers into other forms?

Delaware's statutory insurance framework provides for certain forms of insurer restructuring and organisation, including provisions for the formation and operation of reciprocal insurers,

as well as a comprehensive regime governing the conversion of mutual insurers, including the formation of mutual holding companies and demutualisation. Delaware does not have a dedicated insurance business transfer (IBT) or corporate division statute; instead, transfers or reorganisations of blocks of insurance business typically occur through mergers, novations, or assumption reinsurance agreements, subject to regulatory approval by the Commissioner under [Title 18](#) and, where applicable, corporate law under [Title 8](#).

#### Insurance business transfer and division

While Delaware does not provide a standalone statutory IBT mechanism, insurers may effectuate transfers of business through mergers, novation, or assumption reinsurance, which are the standard market mechanisms for transferring all or part of an insurance portfolio. These mechanisms may require approval from the Commissioner to ensure compliance with solvency, capital, and policyholder protection standards.

#### Reciprocals

Delaware authorises the formation and operation of reciprocal insurers under [Chapter 57 of Title 18](#). [Chapter 57](#) defines the insuring powers, organisation, and governance of reciprocals, including the role of an attorney-in-fact, certificate of authority requirements, subscriber liability, and financial reporting obligations. The conversion or restructuring of reciprocals is addressed within [Chapter 57](#) and is supplemented by general corporate law, with all such transactions subject to Commissioner approval to protect policyholders and ensure solvency.

#### Mutual holding companies and demutualisation

Delaware law contains a comprehensive statutory regime for the conversion of mutual insurers into stock form, including the formation and operation of mutual holding companies, codified in [Chapter 49A of Title 18](#). Under these provisions:

- A domestic or foreign mutual insurer may adopt a plan of conversion to reorganise into a stock insurer.
- All assets, rights, franchises, and interests vest in the converted stock company on the effective date of the conversion.
- Policyholders are granted rights, including first-priority access to purchase stock in the converted entity or holding company as compensation for surrendering membership interests.
- Mutual holding companies may be formed as nonstock corporations resulting from a mutual insurer reorganisation and may subsequently convert to stock form under statutory procedures.

The statutory framework specifies procedural steps including approval by the insurer's governing body, member voting thresholds, Commissioner review and approval, proxy and notice requirements, and governance rules for the resulting mutual holding company.

#### Conversion of mutuals and reciprocals

In addition to the statutory provisions that contemplate the conversion of mutual insurers into stock form and the creation of mutual holding companies, [Title 18](#) provides for mergers and conversions involving reciprocal insurers. While reciprocal conversions are less explicitly detailed, they are governed by [Chapter 57](#) and general corporate law, with Commissioner approval required. Conversion or restructuring transactions must comply with statutory requirements protecting policyholder rights and maintaining solvency.

Where such conversions result in a change of control, the acquirer must comply with holding company filings under [Chapter 50](#), including any regulatory review of affiliated transactions, capital, and surplus.

Law stated - 14 September 2026

### Group supervision and capital requirements

In your state, are there any deviations from or enhancements to the NAIC Model Insurance Holding Company System Regulatory Act and Regulation? What are the triggers for requiring Form D filings and approval/deemed approval requirements? Are there any special requirements for inter-affiliate investment management or reinsurance agreements?

Delaware's insurance holding company system regulatory framework is set out in [Chapter 50 of Title 18](#), which substantially adopts the [National Association of Insurance Commissioners](#) (NAIC) Model Insurance Holding Company System Regulatory Act and Regulation. The framework is supplemented by [Delaware Insurance Regulation 1801](#), which implements NAIC model reporting forms and procedures, including Forms A, B, C, D, E and F. Delaware incorporates key NAIC developments, including group capital calculation (GCC), liquidity stress testing (LST), and enterprise risk reporting, while preserving supervisory discretion for the Commissioner.

#### NAIC Model alignment and enhancements

Delaware follows the NAIC Model Holding Company Act under [§5004](#), requiring insurers that are part of a holding company system to register with the Commissioner and disclose ownership structure, affiliate relationships, and material inter-company transactions.

Delaware incorporates modern NAIC enhancements including:

- Group Capital Calculation (GCC) under [§5004\(l\)\(2\)](#), requiring annual filing by the ultimate controlling person, subject to specified exemptions and lead state discretion
- Liquidity Stress Test (LST) under [§5004\(l\)\(3\)](#), requiring filing of liquidity stress results for insurers within the NAIC defined scope
- Enterprise Risk Report (Form F) under [§5004](#), requiring disclosure of material risks that could affect the insurer or insurance group

The framework also incorporates NAIC-based definitions of internationally active insurance groups, focused on cross-border operations, asset scale, and geographic diversification.

## Form D filings – triggers and statutory basis

Form D filings are required under [§5005\(a\)\(2\) of Title 18](#), implemented through [Delaware Insurance Regulation 1801](#). A Form D filing is required prior to entering into certain material inter-affiliate transactions between a registered insurer and its affiliates.

These transactions include, where applicable materiality thresholds are met:

- sales, purchases, exchanges, loans, or extensions of credit
- guarantees
- investments
- reinsurance agreements
- management, service, tax allocation, or cost-sharing agreements

The filing requirement, with certain exceptions, is triggered only where transactions exceed statutorily defined materiality thresholds, generally based on a percentage of the insurer's policyholder surplus or comparable NAIC-prescribed benchmarks. Certain transactions, including reinsurance pooling, management, service, tax allocation, and cost-sharing agreements, do not have a materiality threshold for the filing requirement. All covered transactions must be fair and reasonable and must not adversely affect policyholders or the insurer's financial condition.

## Approval and deemed approval mechanism

Under [§5005\(a\)\(2\)](#) and the NAIC Model Regulation as adopted in Delaware, Form D transactions operate under a prior notice review framework.

Transactions are deemed approved unless the Commissioner disapproves the transaction within the statutory review period, which is 30 days, unless extended or tolled through information requests or additional regulatory review.

During this period, the Commissioner may require further information, impose conditions, or disapprove the transaction if it is not fair and reasonable or if it would adversely affect policyholder protection, solvency, or financial stability.

## Inter-affiliate investment management and reinsurance agreements

Delaware imposes substantive standards on inter-affiliate transactions under [§5005 of Title 18](#), including investment management agreements, service arrangements, and reinsurance contracts.

Such agreements must:

- be conducted on fair and reasonable terms
- include provisions required by regulation in the case of agreements for cost-sharing services and management
- not have unreasonable charges or fees for services
- comply with statutory accounting principles and sound insurance practices

- not adversely affect insurer solvency or policyholder protection
- be fully documented and subject to regulatory reporting

For inter-affiliate reinsurance agreements, heightened scrutiny applies. The Commissioner may require additional safeguards such as collateralisation, security arrangements, or other risk mitigation measures where necessary to protect the insurer's financial condition. These arrangements are also evaluated in conjunction with RBC requirements under [Chapter 58](#) and reserve adequacy standards under [Chapter 11](#).

#### Enterprise risk and Form F reporting

Delaware adopts the NAIC Form F Enterprise Risk Report under [§5004](#). The ultimate controlling person of an insurer must file an annual enterprise risk report identifying material risks within the insurance holding company system that could affect the insurer or the broader group.

This report includes disclosure of:

- material developments regarding strategy, internal audit findings, compliance or risk management
- changes in shareholders exceeding ten percent of voting securities
- developments in various investigations, regulatory activities or litigation
- potential negative movement in credit ratings
- information on corporate or parental guarantees

Form F is confidential and used by the Commissioner for group-wide supervisory oversight.

#### Supervisory framework

The Commissioner has broad authority under [Chapter 50](#) to review, approve, or disallow holding company transactions and affiliate arrangements. This includes the power to impose conditions where necessary to protect solvency, policyholders, or market stability.

The Delaware regime operates as an integrated supervisory system combining:

- holding company registration and reporting (Forms A–F)
- GCC and LST analysis
- Form D prior notice review for certain affiliate transactions
- ongoing solvency oversight under RBC ([Chapter 58](#)) and statutory accounting principles

Delaware substantially adopts the NAIC Model Insurance Holding Company System framework with modern enhancements including GCC, LST, and Form F enterprise risk reporting under [§5004](#). Form D filings under [§5005\(a\)\(2\)](#) are required for certain inter-affiliate transactions exceeding statutory thresholds, where applicable, and are subject to a 30-day deemed approval period, unless extended or tolled by regulatory action.

Affiliate investment management and reinsurance agreements must be fair, reasonable, properly documented, and consistent with solvency protection standards. The Commissioner retains broad supervisory discretion to impose conditions or disapprove transactions where necessary to protect policyholders and maintain insurer financial stability.

Law stated - 14 September 2026

### **Insolvent and financially troubled companies**

**What is the guaranty association regime in your state? Are there any administrative supervision, hazardous financial condition or similar statutes regarding financially troubled insurers prior to receivership proceedings? Are there any deviations from or enhancements to the NAIC Insurer Receivership Model Act?**

Delaware maintains a comprehensive guaranty association regime designed to protect policyholders in the event of insurer insolvency. The principal statutory frameworks are the Delaware Insurance Guaranty Association Act ([Chapter 42 of Title 18](#)) and the Delaware Life and Health Insurance Guaranty Association Act ([Chapter 44 of Title 18](#)). These statutes establish separate associations for property/casualty insurers and life/health insurers, with the latter including sub-accounts for life insurance, annuities, and health benefits, including long-term care (LTC) benefits, which are generally treated under the health insurance coverage limits. The statutes authorize these associations to pay covered claims of insolvent member insurers and to levy assessments on solvent members to fund obligations.

#### Guaranty fund triggers and coverage limitations

The guaranty association is triggered by a court-ordered liquidation of an insurer following insolvency. Under [Chapter 42](#), covered claims include first-party claims arising from property and casualty policies, subject to statutory limitations. [Chapter 44](#) establishes similar rules for life, health, and annuity contracts, including LTC benefits. Coverage caps for life and health associations are specified in [§4403](#) and include, for example:

- Life insurance death benefits: capped at \$300,000
- Present value of annuity benefits: capped at \$250,000
- Health benefit plans: capped at \$500,000
- Disability income/LTC benefits: capped at \$300,000
- Health benefits not defined as disability income, health benefit plans or LTC: capped at \$100,000

Claims exceeding these limits are the responsibility of the policyholder. Delaware's life and health guaranty association statutes explicitly provide for sub-accounts to separate life, annuity, and health/LTC claims for assessment and reimbursement purposes.

#### Assessment mechanics and premium offsets

Member insurers are assessed based on net direct written premiums or another statutory allocation formula to fund covered claims. Assessments are structured in classes (Class A, B, C), with annual assessment caps relative to premiums, generally consistent with NAIC standards. The statutes allow deferment or adjustment of assessments that would materially impair a member insurer's ability to fulfil its contractual obligations.

For life and health insurers, assessments may be offset against premium taxes, reducing net costs to solvent insurers. Property/casualty (P&C) assessments may be recoverable through rate mechanisms or statutory offsets, depending on applicable tax and rate regulations. This ensures equitable sharing of assessment burdens across members while maintaining insurer solvency.

#### Administrative supervision and hazardous financial condition statutes

Delaware provides pre-receivership supervisory tools under [Chapter 59 of Title 18](#), governing rehabilitation, liquidation, and delinquency proceedings. The Commissioner may seek court-ordered rehabilitation or conservation for insurers on grounds including insolvency, hazardous financial condition, impairment of capital, or unsound methods of operation.

Formal standards used for identifying hazardous financial conditions are described in [Delaware Insurance Regulation 304](#), and the Commissioner may impose interim supervision, restrict transactions, or require additional capital prior to initiating receivership. Formal delinquency proceedings are judicially supervised through the Court of Chancery, rather than via a separate administrative receivership, ensuring due process.

#### Deviations from or enhancements to the NAIC Insurer Receivership Model Act

Delaware largely aligns with the NAIC Insurer Receivership Model Act regarding the use of guaranty associations, judicially supervised rehabilitation and liquidation, and structured assessment procedures. Delaware-specific features include:

- Strict reliance on the Court of Chancery for all receivership actions
- Separate sub-accounts for life, annuity, and health/LTC claims
- Explicit coverage caps per policy type
- Premium tax credits for life and health insurers, with P&C assessments recoverable through rate mechanisms or statutory offsets
- Statutory assessment classes and caps for member insurers to avoid disproportionate financial burden

These enhancements ensure protection of policyholders, equitable allocation of financial responsibility, and orderly administration of insolvent estates in Delaware.

**Law stated - 14 September 2026**

## INSURANCE PRODUCTS AND MARKETS

### | Product regulation

## What is your state's general approach to product rate, form filing and approval requirements? Are any notable products or lines regulated or restricted in comparison to other states?

Delaware regulates insurance product rates and policy forms through a comprehensive framework under [Title 18](#) of the Delaware Code, principally [Chapter 25](#) (Rates and Rating Organizations), [Chapter 27](#) (The Insurance Contract), and related line-specific provisions across health, life, and specialty insurance statutes. The regulatory system is broadly aligned with NAIC model standards and is administered by the [Department](#), with oversight focused on solvency protection, consumer protection, and prevention of unfair discrimination.

### General approach to rate regulation

Delaware's general rate regulatory standard is set out in [Chapter 25 of Title 18](#), which requires that insurance rates must not be:

- excessive
- inadequate
- unfairly discriminatory

This "file-and-use" or "prior approval" structure (depending on line of insurance) requires insurers to file rates with the Commissioner, supported by actuarial and statistical justification where required. Under [§2504](#), insurers must file rates, rating plans, and rating manuals before use, and the Commissioner has authority to review, disapprove, or require modification where statutory standards are not met.

The rate regulatory system is therefore prudential and consumer protection driven, with the Commissioner exercising discretion to ensure rates reflect actuarial soundness while maintaining market fairness.

### Form filing and approval framework

Policy form regulation is primarily governed by [§2712 of Title 18](#), which requires insurers to file policy forms for annuity contracts and policy forms, including policy forms for property, casualty, surety, and title insurance, at least 30 days before use, unless otherwise approved or disapproved earlier by the Commissioner. Forms become effective if not affirmatively disapproved within the statutory review period, subject to extension.

The Commissioner may disapprove forms that violate [Title 18](#) of the Delaware Code, including forms that are misleading, inconsistent, or ambiguous, that provide benefits unreasonable in relation to the premium charged, or that contain provisions that encourage misrepresentation. Certain filings may also be exempted where regulatory review is not required for policyholder protection.

### Line-specific regulatory structure

Delaware applies differentiated regulatory intensity depending on the type of insurance product:

#### Health insurance

Health insurance products are subject to more detailed statutory controls under [Chapters 33 to 36](#) of Title 18. These include mandatory benefit standards, coverage requirements, and form content rules. Rate regulation in health insurance is also influenced by federal requirements, including Affordable Care Act standards, particularly for individual and small group markets.

#### Life insurance and annuities

Life insurance is generally less rate-regulated than property and casualty insurance. Regulation focuses more heavily on policy form approval, disclosure requirements, and solvency oversight, rather than prior approval of pricing assumptions. Annuity products are similarly governed by form standards and suitability requirements rather than strict rate filing controls.

#### Group products

Group life insurance products, like individual life insurance products, are generally less rate regulated. Regulation focuses more heavily on policy form approval, disclosure requirements, and solvency oversight, rather than prior approval of pricing assumptions.

Group health insurance products, like individual health insurance products, are subject to rate filing requirements and forms must still comply with statutory standards. Employer-based group products are subject to federal overlay where applicable.

#### Specialty products and restricted lines

#### Viatical and life settlements

Viatical settlement transactions are regulated under [Chapter 75 of Title 18](#), which requires filing and approval of contract forms and disclosure materials. The Commissioner may disapprove forms that are unreasonable, contrary to the interests of the public, otherwise misleading or unfair, or not in compliance with the general statutory consumer protection standards. Regulation focuses heavily on disclosure, investor protection, and anti-fraud controls rather than rate regulation. At the Commissioner's discretion, the Commissioner may also require the submission of advertising material.

#### Compulsory motor vehicle insurance

Motor vehicle insurance is subject to mandatory coverage requirements, including minimum liability standards and uninsured/underinsured motorist coverage under [§3902 of Title 18](#). Rates and forms must comply with these mandatory coverage requirements, and filings must reflect statutory minimum protections.

#### Service contracts and warranties

Service contracts, vehicle theft protection products, and similar warranty or maintenance arrangements are generally excluded from the definition of insurance under [§918](#) unless expressly brought within regulatory scope. As a result, they are not subject to standard rate and form regulation unless otherwise specified by statute.

#### Funding agreements and guaranteed investment contracts (GICs)

Funding agreements and GICs issued by life insurers are generally treated as institutional, contract-based products rather than retail insurance products. Regulation is primarily

through solvency oversight, rather than traditional rate filing requirements. These products are typically negotiated contracts with sophisticated counterparties, and regulatory focus is placed on reserving, and asset adequacy, rather than consumer rate controls.

General regulatory character and comparative approach

Delaware's regulatory framework is largely NAIC-consistent and consumer protection oriented, combining:

- actuarial rate standards (not excessive, not inadequate, not unfairly discriminatory)
- form filing and approval requirements under [§2712](#)
- line-specific statutory mandates for health, life, and motor vehicle insurance
- specialised regimes for settlements, warranties, and institutional products
- solvency-based oversight rather than rigid price regulation for institutional contracts

**Law stated - 14 September 2026**

## Market conduct

**Are there any notable market conduct requirements for insurers in your state?**

Delaware imposes comprehensive market conduct, consumer protection, and operational compliance requirements on insurers primarily under [Title 18](#) of the Delaware Code, including [Chapter 23](#) (Unfair Practices in the Insurance Business), [Chapter 24](#) (Insurance Fraud), [Chapter 50](#) (Insurance Holding Company System Registration), and associated regulations issued by the [Department](#). These requirements are supplemented by federal privacy and cybersecurity statutes and NAIC-based model regulations adopted in Delaware.

Unfair trade practices, inducements, and claims handling

[Chapter 23](#) prohibits unfair methods of competition and unfair or deceptive acts in the insurance business, including misrepresentation, false advertising, unfair discrimination, and improper claims practices.

Delaware explicitly regulates unfair claims settlement practices, generally requiring insurers to:

- promptly investigate claims
- make timely payment of valid claims
- settle claims fairly and in accordance with policy provisions

[Chapter 24](#) establishes anti-fraud enforcement mechanisms, giving the Commissioner authority to investigate fraudulent insurance conduct and impose administrative sanctions. Generally, rebates or similar inducements are prohibited unless expressly authorised under statute.

Suitability and best interest regulations

Delaware applies NAIC-based suitability standards for annuities and other complex life insurance products. Insurers and producers must ensure recommendations are suitable for the consumer's financial situation, objectives, and risk tolerance. Best interest standards require insurers to act in the policyholder's best interest, including disclosure of conflicts, product comparisons, and reasonable analysis of suitability.

Producer conduct is further reinforced through licensing obligations, which may include oversight of training, sales practices, and compliance with fair marketing rules, although these are not codified beyond the licensing framework.

#### Privacy requirements

Insurers in Delaware are primarily subject to the [Gramm-Leach-Bliley Act](#) (GLBA) for privacy protection, requiring notice, safeguarding of nonpublic personal information, and limitations on disclosure. Delaware supplements federal rules with DOI guidance and regulatory expectations regarding privacy notices and data handling, providing a state-level overlay for additional consumer protection.

#### Cybersecurity requirements

Delaware has adopted a cybersecurity framework substantially aligned with the NAIC Insurance Data Security Model Law, implemented through statute and regulation. Insurers are required to maintain an information security program, conduct risk assessments, and notify the Commissioner of cybersecurity events. These obligations provide a comprehensive framework for operational and data security compliance with regulatory oversight.

#### Credit reports, algorithmic underwriting, and AI/Big Data

Use of credit reports for underwriting is permitted subject to [Chapter 83](#), FCRA compliance and anti-discrimination rules under [Chapter 23](#). While Delaware does not have a dedicated statute for AI or algorithmic underwriting, the Commissioner and NAIC guidance increasingly scrutinize algorithmic bias, model governance, and data quality to ensure fair treatment and avoid discriminatory outcomes.

#### Insurtech, climate risk, and DEI/ESG considerations

Delaware does not maintain a dedicated insurance sandbox, but innovative insurance products remain subject to standard licensing, rate/form filing, and market conduct oversight. Delaware also incorporates enterprise risk management (ORSA) under [Chapter 50](#), which can capture climate and environmental, social and governance (ESG) risks where material. ESG, climate risk, and diversity, equity and inclusion (DEI) considerations are therefore addressed indirectly through enterprise risk, governance, and solvency oversight rather than prescriptive statutory mandates.

#### Supervisory enforcement and regulatory approach

The [Department](#) enforces market conduct standards through:

- targeted market conduct examinations
- financial and operational investigations
- enforcement actions under [Chapter 23](#) and [Chapter 24](#)
- holding company system oversight under [Chapter 50](#), including enterprise risk monitoring

The regulatory approach is primarily principles-based and enforcement-driven, focusing on consumer protection, solvency, and fair treatment across traditional and emerging insurance practices.

**Law stated - 14 September 2026**

### Reinsurance

In your state, are there any deviations from or enhancements to the NAIC Credit for Reinsurance Model Law and Regulation? Are there any bulk reinsurance or similar laws or regulations governing material reinsurance transactions? What are the requirements for collateral trusts and letters of credit (LOCs)? Has your state adopted any special disclosure or other regulations pertaining to offshore reinsurance or asset-intensive reinsurance?

Delaware regulates credit for reinsurance primarily through Subchapter III of [Chapter 9 of Title 18](#) of the Delaware Code, together with implementing provisions in [Delaware Insurance Regulation 1003](#), which substantially adopt the NAIC Credit for Reinsurance Model Law and Model Regulation. The framework determines when ceding insurers may take financial statement credit for reinsurance and establishes conditions relating to reinsurer qualification, collateral, trust structures, and supervisory oversight.

General alignment with NAIC Credit for Reinsurance Model Law

Delaware's regime is broadly aligned with the NAIC Model framework but incorporates modern enhancements reflecting post-reform NAIC standards. Under [§911 of Title 18](#), credit for reinsurance is permitted only where the assuming insurer satisfies prescribed statutory conditions, including licensure, accreditation, qualification as a certified reinsurer, maintenance of qualifying trust collateral, or satisfaction of other regulatory criteria approved by the Commissioner.

The framework is principles-based in application but structurally dependent on defined eligibility categories and collateral requirements, including reciprocal jurisdiction arrangements, certified reinsurer status, and trust-based security mechanisms.

The Commissioner retains express discretion under [§911](#) and related provisions to deny or limit credit even where technical criteria are met, where necessary to protect policyholders or ensure adequate reserving and solvency protection.

Certified reinsurers and reciprocal jurisdiction framework

Delaware recognises the NAIC modern framework for certified reinsurers and reciprocal jurisdictions, which represents a key enhancement to the traditional Model Law structure.

Under this framework:

- Reinsurers domiciled in reciprocal jurisdictions may benefit from reduced collateral requirements, subject to regulatory equivalence determinations
- Certified reinsurers are assigned security ratings based on financial strength, regulatory supervision, and claims-paying ability
- Collateral requirements are adjusted based on assigned rating levels, potentially reducing collateral to below full 100 percent requirement or eliminating it in appropriate circumstances

These provisions represent a significant enhancement to the traditional NAIC credit model by introducing risk-sensitive collateral scaling rather than fixed collateral mandates.

Bulk reinsurance and material reinsurance transactions

Delaware regulates bulk reinsurance pursuant to [§4944](#). It requires a filing with the Commissioner. The Commissioner shall disapprove such agreement if the Commissioner finds that the agreement is not free from reasonable objections. Examples of such reasonable objections include that the agreement is unfair, that the agreement would reduce protection to policyholders, that the agreement contains inadequate provisions for the reinsurer's liability to insureds, that the agreement is with a reinsurer that is not appropriately authorized to transact such insurance and that the agreement would lessen competition. These requirements are in addition to provisions generally related to reinsurance transactions, including:

- [§911](#) credit for reinsurance requirements
- holding company system review under [Chapter 50](#) (Form D where applicable)
- policyholder protection standards applicable to assumption reinsurance structures
- reserve credit and statutory accounting treatment under NAIC SAP principles

Material reinsurance transactions involving affiliates may require prior notice under the holding company regime (Form D) where thresholds are met, particularly where transactions affect surplus, control, or risk transfer materially.

Collateral trusts and letters of credit (LOCs)

Delaware permits credit for reinsurance where the assuming insurer establishes a qualified trust fund or provides eligible collateral, including letters of credit, in accordance with [§911](#) and [Delaware Insurance Regulation 1003](#).

A qualifying trust agreement must:

- be established with a qualified U.S. financial institution
- vest legal title in trustees for the benefit of U.S. ceding insurers
- maintain assets at least equal to the assuming insurer's reinsurance obligations

- remain continuously in effect for outstanding liabilities
- be subject to regulatory reporting and examination

Letters of credit must be:

- clean, irrevocable, and unconditional
- issued by a qualified financial institution meeting regulatory eligibility standards
- structured in accordance with credit-for-reinsurance security requirements
- available for immediate drawdown upon triggering events related to reinsurer default

#### Offshore reinsurance and asset-intensive reinsurance oversight

Delaware does not impose a separate standalone offshore reinsurance statute, but offshore and non-domestic reinsurance transactions are subject to enhanced supervisory scrutiny under [§911](#) and related NAIC-aligned frameworks.

For offshore reinsurers, credit is typically conditioned on:

- qualification as a certified reinsurer or eligible assuming insurer
- establishment of collateral through trust or LOC arrangements
- domiciliary regulatory equivalence or reciprocal jurisdiction recognition
- submission to Delaware examination authority where required

In practice, offshore reinsurance involving life and annuity liabilities may be subject to heightened scrutiny, particularly where transactions are asset-intensive or reserve-backed, such as:

- life reinsurance with certain guarantees
- annuity blocks involving interest rate or investment spread risk
- structured reinsurance transactions affecting statutory reserves

These arrangements are evaluated through a combination of:

- NAIC statutory accounting principles (SAP)
- actuarial reserving frameworks and asset adequacy analysis
- Risk-Based Capital (RBC) requirements under [Chapter 58](#)
- Commissioner discretionary review of reserve credit and risk transfer

The Commissioner may require additional collateral, impose limits on reserve credit, or disallow credit where risk transfer is insufficient or asset risk is concentrated offshore.

#### Commissioner oversight and supervisory discretion

Across various forms of reinsurance credit, Delaware retains broad supervisory discretion under [§911](#) and related provisions to:

- deny or reduce reinsurance credit

- require additional collateral beyond statutory minimums
- impose conditions on offshore or affiliated reinsurance arrangements
- review transactions affecting solvency, reserving, or policyholder protection

This discretion is exercised alongside NAIC Model Law standards to ensure consistency with solvency regulation and policyholder protection principles.

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## Intermediaries

**What is the general regime governing insurance producer licensing, including producer appointments and termination of appointments, and producer ability to charge fees and collect commissions? Are any other intermediaries subject to state licensing?**

Delaware regulates insurance producers and related intermediaries primarily through [Chapter 17 of Title 18](#), supported by additional statutory regimes governing specialised intermediary categories, including reinsurance intermediaries, third-party administrators, managing general agents, adjusters, and pharmacy benefit managers. The regime is broadly aligned with NAIC producer licensing and intermediary model frameworks and is administered by the [Department](#).

### Insurance producer licensing framework

The general licensing framework is set out in [Chapter 17 of Title 18](#), which requires any person or business entity acting as an insurance producer in Delaware to obtain a licence issued by the Commissioner. An insurance producer is defined broadly as any person or entity that sells, solicits, or negotiates contracts of insurance or annuity.

Licensing is subject to statutory qualification requirements, including education, examination (where applicable), background review, and continuing compliance obligations. The Commissioner has authority to issue, renew, suspend, or revoke licences based on statutory grounds, including violations of insurance law, lack of fitness, or unfair trade practices under [Chapter 23](#).

Delaware applies a line-of-authority structure, under which producers are licensed for specific categories of insurance such as life, health, property, casualty, and variable products.

### Producer appointments and termination

Insurers may not transact business through a producer unless the producer is appointed by the insurer. Appointment establishes authority for the producer to act on behalf of the insurer.

Under [Chapter 17](#):

- insurers must file and maintain producer appointment records with the Department
- appointments must be reported to the Commissioner

- termination of appointments must also be reported within statutory timeframes

Termination of an appointment does not automatically affect the producer's licence but may be considered in licensing or disciplinary determinations. The Commissioner retains authority to investigate conduct underlying appointment termination where regulatory concerns arise.

#### Producer compensation, fees, and commissions

Delaware permits producers to receive commissions and compensation for insurance transactions, subject to regulatory constraints under [Chapter 17](#) and unfair trade practice provisions in [Chapter 23](#).

Commissions must be:

- earned in connection with licensed insurance activity
- consistent with applicable contracts and agreements
- not structured as rebates or unfair inducements

In addition to commissions, Delaware allows certain disclosed service or administrative fees in limited contexts, provided that:

- the fees are clearly disclosed to the insured
- they do not constitute prohibited rebating or inducements
- where required, they are supported by a written agreement between the parties

Any compensation structure remains subject to general prohibitions against unfair, deceptive, or discriminatory practices.

#### Managing general agents (MGAs)

MGAs are recognised under [Chapter 18 of Title 18](#) and typically function as entities with delegated authority from insurers to perform underwriting, policy issuance, premium collection, or claims handling functions.

MGAs are subject to:

- regulatory oversight through producer licensing (under [Chapter 17](#)) and contractual authority principles
- NAIC-aligned MGA framework requirements governing delegated underwriting authority
- written agreements defining scope of authority, fiduciary obligations, and reporting duties
- Commissioner review where MGA arrangements materially affect underwriting control or insurer risk exposure

MGAs must operate within clearly defined contractual parameters to ensure that underwriting authority remains consistent with insurer control and solvency oversight.

## Third-party administrators (TPAs)

TPAs are regulated under separate provisions in [Title 18](#) of the Delaware Code and must be licensed or registered where they administer insurance functions such as claims processing, benefit administration, or premium handling.

TPAs are subject to:

- licensing or registration requirements
- fiduciary obligations regarding funds handling
- financial responsibility standards
- recordkeeping and reporting requirements
- examination and enforcement authority by the Commissioner

TPA regulation is primarily focused on safeguarding insurer and policyholder funds and ensuring proper administration of insurance functions.

## Reinsurance intermediaries

Reinsurance intermediaries are governed by [Chapter 16 of Title 18](#) (Reinsurance Intermediary Act). The statute distinguishes between:

- reinsurance intermediary-brokers (acting for ceding insurers)
- reinsurance intermediary-managers (acting for assuming reinsurers)

Both categories must be licensed and are subject to:

- fiduciary duties to principals
- segregation and proper handling of funds
- contractual requirements governing authority and reporting
- regulatory oversight and examination powers

The framework is designed to ensure transparency and financial integrity in reinsurance transactions affecting insurer solvency.

## Insurance adjusters

Insurance adjusters are separately licensed under Delaware law and are authorised to investigate, evaluate, and settle insurance claims.

Adjusters are subject to:

- licensing and qualification requirements
- conduct standards under [Chapter 23](#)
- unfair claims settlement provisions
- obligations for fair, prompt, and reasonable claims handling
- disciplinary oversight by the Commissioner

Both independent adjusters and public adjusters are regulated under this framework, depending on the nature of their representation.

#### Pharmacy benefit managers (PBMs)

PBMs are subject to regulatory oversight under Delaware statutory provisions governing pharmacy benefit management services. These requirements include registration or licensing obligations and conduct standards governing prescription drug benefit administration.

PBMs are regulated with a focus on:

- regulatory oversight of pricing and rebate arrangements
- contractual fairness with insurers and pharmacies
- prevention of unfair or deceptive practices
- regulatory oversight of benefit administration functions

#### Supervisory authority and enforcement

The [Department](#) exercises broad supervisory authority over all licensed producers and intermediaries. This includes:

- issuance, suspension, and revocation of licences
- enforcement of [Chapter 23](#) unfair trade practice provisions
- market conduct examinations
- investigation of producer misconduct and intermediary compliance
- imposition of penalties, restitution, and corrective measures

The Commissioner may also coordinate enforcement across intermediary categories to address systemic or market-wide issues.

*The views expressed in this article are those of the authors and not necessarily of Richards, Layton & Finger, P.A. or its clients.*

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