

## How to Incorporate a Texas Insurance Company

As a UCAA (Uniform Certificate of Authority Application) member state, we require the filing of a UCAA Primary Application [UCAA Primary Application Instructions \(naic.org\)](#) for entities wishing to be incorporated and licensed as a Texas domestic insurance company. For legal references see Texas Insurance Code Chapters 822, 841, 861, 882, 883, and 2551.

The UCAA Primary Application is designed to provide a more uniform process for the formation of a new insurer. The Company Licensing and Registration Office strives to process the primary application within 90 calendar days of receipt of a completed application. The 90-day processing goal may not be met in instances when the Applicant Company files during peak business periods, or due to limited resources, or if the application requires substantial follow-up. If additional information is requested, the state suspends the 90-day goal until the requested information is received. Applicants should respond promptly to our requests.

### Filing Requirements

Submit a cover letter with the filing summarizing information about the proposed incorporation, what type of insurance it plans to offer in Texas, and the justification for omitting any of the filing requirements listed below and in the UCAA Primary Application. For detailed instructions [UCAA Primary Application Instructions \(naic.org\)](#) for UCAA Forms [Uniform Certificate of Authority Application \(naic.org\)](#).

1. Application Form and Attachments
  - Completed Primary Application Checklist (UCAA Form 1P),
  - Original UCAA Primary Application executed and signed (UCAA Form 2P),
  - Include all lines of insurance applicant is requesting to transact as identified in the Applicant's plan of operation. (UCAA Form 3)
2. Filing Fee – There is no filing fee for an incorporation.
3. Minimum Capital and Surplus Requirements – Submit an explanation of applicant's compliance with the minimum capital and surplus requirements.
  - Property & Casualty - \$2.5 million in paid-in surplus; \$2.5 million in capital stock
  - Life & Health - \$700,000 in paid-in surplus; \$700,000 in capital stock
  - Title - \$1 million in paid-in surplus; \$1 million in capital stock
4. Statutory Deposit Requirements – Submit documentation explaining how the applicant has met or will meet the statutory deposit requirement. Title insurer - \$100,000.
5. Name Approval – Submit a [Name Application \(FIN300\) \(texas.gov\)](#) form (FIN300), a filing fee is no longer required for the name reservation application. Texas requires a name reservation process prior to name approval. The name may not be similar to other licensed companies to avoid consumer confusion. A proposed life company must have "Insurance Company" in its name.
6. Plan of Operation – Include the completed Questionnaire (UCAA Form 8), Pro Forma financial statements/projections (UCAA Form 13), and a brief narrative. The narrative should include significant information not captured in the questionnaire.

7. Holding Company Form "B" Registration Statement – The UCAA Primary application provides detailed information of what is required.
8. Statutory Membership(s) – Texas does not have any statutory membership requirements as part of its licensing process.
9. SEC Filings or Consolidated GAAP Financial Statement – The UCAA Primary application provides detailed information of what is required.
10. Debt-to-Equity Ratio Statement – This ratio allows the department to determine the amount of debt held at a holding company level that will possibly be serviced by revenue from the proposed insurance corporation. The UCAA Primary application provides detailed information of what is required.
11. Custody Agreements – The UCAA Primary application provides detailed information of what is required. In addition, see **Appendix** for **Required Provisions for Custodial Agreements**.
12. Public Records Package – Submit proposed Articles of Incorporation, By-laws, and a balance sheet representing proposed initial capitalization. See **Appendix** for **Articles of Incorporation Guidelines** and **Affidavit Requirements**.
13. Biographical Affidavits (UCAA Form 11) and Independent Third-Party Verifications [Third Party Vendors - Industry UCAA | NAIC](#) – Submit for all officers, directors, and key managerial personnel of the applicant company and individuals with a 10%, or more, beneficial ownership in the applicant and the applicant's ultimate controlling parent ("Affiant"). We DO NOT require biographical affidavits for Vice Presidents or Assistant-officers. Anyone with a felony conviction involving moral turpitude cannot be an officer or director of an insurance company in Texas.
14. Fingerprinting is required for all biographical affidavits submitted with the application. For fingerprinting information [Fingerprint requirements and instructions \(texas.gov\)](#).

## Information about Specific Lines

### Liability

The applicant must submit a loss control plan, after licensing approval but prior to writing, if the applicant was granted authority to write auto liability or liability other than auto, and will write any one of the following products:

- Commercial automobile liability insurance
- Professional liability insurance for hospitals
- Professional liability insurance for insureds other than hospitals
- General liability insurance
- Medical liability insurance for insureds other than hospitals

For further information, contact the Loss Control Division at [LossControl@tdi.texas.gov](mailto:LossControl@tdi.texas.gov).

### Workers' Compensation

If applicant is planning to write workers' compensation insurance, contact TDI's Division of Workers' Compensation (TDI-DWC) at 512-804-4626 or visit the DWC website at <https://www.tdi.texas.gov/wc/safety/aps.html>. After licensing approval, but prior to writing workers' compensation insurance, the applicant must file an Accident Prevention Plan to be reviewed by TDI-DWC.

### **Variable Life and Variable Annuity**

If the applicant is planning to write variable life/annuity, the following must be addressed:

1. A copy and a general description of the variable life/annuity contract.
2. General description of the methods of operation for the variable life/annuity business, including distribution of contracts and the names of firms providing related investment advisory, custodial or distributive services.
3. A statement of investment policy, including but not limited to, a description of the investment objectives intended for the separate account.
4. A statement from an actuary describing the mortality and expense risks which the insurer will bear under contract.
5. Submit formally adopted standards of conduct with respect to the purchase/sale of separate account investments.
6. For insurers seeking approval to enter the variable life business, a written statement specifying standards of suitability to be used by the insurer.
7. All persons with access to assets allocated to separate accounts shall be under bond in the amount of no less than \$100k.
8. Contracting for advisory services (such contracts shall have a 60-day cancellation notice). Contracting entity is registered under 15 USC Sections 80B-1-80B-21, or under 29 USC Sections 1001, or files with the commissioner, and continues to file:
  - Name/form of its organization
  - Principal place of business
  - Names/addresses of its partners, officers, directors
  - Written standard of conduct with respect to the purchase/sale of separate account investments
  - A statement as to whether the advisors or any of its associates:
    - Have within the past 10 years been convicted of embezzlement, etc. or a violation of 18 USC Sections 1341, 1342, or 1343; or
    - Have been enjoined by an order from acting as an investment adviser, etc. or as an employee of an investment company, insurer, etc.; or
    - Have been found under federal or state regulation to have willfully violated federal or state securities laws or regulations; and had their registration denied, revoked, etc. by federal or state regulators.

## Appendix

### Articles of Incorporation Guidelines:

For legal references see the appropriate chapter in the Texas Insurance Code

Requirements for Property and Casualty (P&C) Articles of Incorporation	Requirements for Life, Accident and Health (Life/A&H) Articles of Incorporation
State the name of the Company; If a Mutual the name must contain "mutual"	State the name of the Company, the Company's name must contain the words "Insurance Company"; If a Mutual the name must contain "mutual"
The principal business office in Texas	The principal business office in Texas
Language stating that if its office can be moved out-of-state, prior notice to TDI is required	Language stating that if its office can be moved out-of-state, prior notice to TDI is required
State charter's duration	State charter's duration
State that insurer will do the business of a Property and Casualty insurer in the state of Texas.	State that insurer will do the business as a Life (could include accident and health, if appropriate) insurer in the state of Texas.
At least one half of the amount of authorized shares (number of authorized shares times par value) must equal \$2.5 million dollars. If no parvalue stock is proposed, there must be a stated value. Stock par value cannot be less than \$1 or more than \$100	At least one half of the amount of authorized shares (number of authorized shares times parvalue) must equal \$700K. If no par value stock is proposed, there must be a stated value. Stock par value cannot be less than \$1 or more than \$100.
Proposed surplus (paid in capital) must be at least \$2.5 million.	Proposed surplus (paid in capital) must be at least \$700K
<b>Effective September 1, 2023:</b> The shareholders of an insurance company authorizing shares of stock without par value must pay a total amount of at least \$250,000 for the shares before the company is granted a charter or has its charter amended to authorize the issuance of shares without par value.	<b>Effective September 1, 2023:</b> The shareholders of an insurance company authorizing shares of stock without par value must pay a total amount of at least \$250,000 for the shares before the company is granted a charter or has its charter amended to authorize the issuance of shares without par value.
Capital and surplus must equal at least \$5million	Capital and surplus must equal at least \$1.4million
Language stating that insurance corporation will have at least five (5) directors, appointed by shareholders, at all times.	Language setting forth that insurance corporation will have at least five (5) directors, appointed by shareholders, at all times
Language stating that the insurance corporation will require the directors to keep a full and correct record of all board transactions	Language stating that the insurance corporation will require the directors to keep a full and correct record of all board transactions
Language authorizing the directors to fill any vacancy that may occur during the year, between shareholder meetings	Language stating that the insurance corporation will require the directors to keep a full and correct record of all board transactions
Language setting forth that the annual meeting of shareholders for the election of directors required to be held prior to May 1 of each calendar year	Language setting forth that the annual meeting of shareholders for the election of directors required to be held prior to May 1 of each calendar year
Language that directors will elect corporate officers in accordance with its By-laws	Language stating that the shareholders are required to adopt bylaws to govern the company

The elected president of the corporation must also be a director	The elected president of the corporation must also be a director
Include the name and address of at least three (3) incorporators, all must be residents of Texas, and have each incorporator acknowledge and sign the Articles of Incorporation	Include the name and address of at least three (3) incorporators, all must be residents of Texas, and have each incorporator acknowledge and sign the Articles of Incorporation

**Affidavit Requirements**

In addition to Articles of Incorporation/charter, submit an INCORPORATORS' AFFIDAVIT, signed by at least two incorporators and sworn before a notary public, stating:

- The aggregate number of shares subscribed and aggregate consideration received for them;
- That the stock of the company has been subscribed in good faith and fully paid for in the amount of at least \$2,500,000 capital and that the company is possessed of at least \$2,500,000 surplus in addition to its capital (FOR P&C COMPANY); or
- That the stock of the company has been subscribed in good faith and fully paid for in the amount of at least \$700,000 capital and that the company is possessed of at least \$700,000 surplus in addition to its capital (FOR LIFE COMPANY); and
- That the funds representing the capital and surplus are the bona fide property of the proposed company.
- That the facts set forth in the application and in the Articles of Incorporation are true and correct.

**Required Provisions for Custodial Agreements**

Any arrangement involving an insurer's deposit of its securities with a custodian must be evidenced by an agreement signed by the insurer and the custodian. The agreement signed by the insurer and the custodian must provide for the conditions described in paragraphs (1) - (12) of this subsection:

1. The custodian shall exercise the same due care that is in accordance with reasonable commercial standards expected of a custodian with the responsibility for the safeguarding of the insurer's custodied securities and for compliance with all provisions of the custodial agreement, whether the insurer's custodied securities are in the custodian's possession or have been redeposited by the custodian with a sub-custodian.
2. The custodian shall indemnify the insurer for any loss of custodied securities occasioned by the negligence or dishonesty of custodian's officers and employees, or burglary, robbery, hold-up, theft or mysterious disappearance, including loss by damage or destruction. In the event of such loss, the custodian must promptly replace the custodied securities or the value thereof, and the value of any loss of rights or privileges resulting from said loss of custodied securities.
3. Custodied securities shall be segregated at all times from the proprietary assets of the custodian and sub-custodian.
4. The custodian's official records shall separately identify custodied securities owned by the insurer,

whether held by the custodian or sub-custodian. If held by a sub-custodian, the custodian's records shall also identify the sub-custodian.

5. Custodied securities that are in registered form shall be registered only in the name of the insurer, the custodian or its nominee, or the sub-custodian or its nominee.
6. All activities involving the insurer's custodied securities shall be subject to the insurer's instructions and the custodied securities shall be withdrawable upon demand of the insurer.
7. The custodian shall furnish, upon request by the insurer, a confirmation of all transfers of custodied securities to or from the account of the insurer, and reports of custodied securities sufficient to verify information reported in the insurer's annual statement filed with the Texas Department of Insurance and supporting schedules and information required in any audit of the insurer's financial statements whether the custodied securities are held by the custodian or by a sub-custodian.
8. The insurer or its designee shall be entitled to examine all records maintained by the custodian or sub-custodian relating to the insurer's custodied securities during the custodian's regular business hours. This paragraph does not apply to a clearing corporation or the Federal Reserve Book Entry System.
9. Upon request of the insurer, the custodian shall be required to send to the insurer all reports it receives from a clearing corporation or the Federal Reserve book-entry system on their respective systems of internal accounting control, and all reports prepared on the custodian's and sub-custodian's systems of internal accounting control of custodied securities.
10. The custodian shall not use any of the insurer's custodied securities for the custodian's benefit and none of the insurer's custodied securities shall be loaned, pledged, or hypothecated by the custodian or sub-custodian without a written contract executed by the insurer separate and apart from the custodial agreement.
11. The custodian is authorized and instructed by the insurer to honor any requests made by the Texas Department of Insurance for information concerning the insurer's custodied securities. The department, from time to time, may request, and the custodian shall furnish a detailed listing of the insurer's custodied securities (whether in the possession of the custodian or with a sub-custodian). The custodian's response to such requests shall be made directly to the department and shall encompass all the insurer's custodied securities (whether in the possession of the custodian or with a sub-custodian).
12. The custodian and sub-custodian shall maintain the usual and customary insurance coverage for custodial banking risks at levels considered reasonable and customary for the custodian banking industry covering the custodian's duties and activities as custodian for the insurer's assets and shall describe the nature and extent of such insurance protection. Any change in such insurance protection during the term of the custodial agreement shall be promptly disclosed to the insurer.