

**HB415 ENGROSSED**



1 HB415  
2 841PZFF-2  
3 By Representative Ellis  
4 RFD: Insurance  
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A BILL  
TO BE ENTITLED  
AN ACT

Relating to insurance, to amend Sections 27-31B-3, 27-31B-6, 27-31B-8, 27-31B-9, and 27-31B-16, Code of Alabama 1975; to impose additional requirements on captive insurers; to require notice of any subsequent material change in any of the items required to be submitted; to increase the minimum paid in capital certain captive insurers are required to maintain; to require the commissioner to take into consideration the competence of the captive manager and legal counsel of the captive insurer and to consider the company's business plan when determining whether the company will promote the general good of the state; and to require licensed captive insurers to annually file an audited financial statement and an actuarial certification of loss reserves and loss expense reserves.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Sections 27-31B-3, 27-31B-6, 27-31B-8, and 27-31B-9, Code of Alabama 1975, are amended as follows:

"§27-31B-3

(a) Any captive insurance company, when permitted by its articles of association, charter, or other organizational



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29 document, may apply to the commissioner for a license to do  
30 any and all insurance defined in Sections 27-5-2, 27-5-4, and  
31 27-5-5, in subdivisions (1), (2), (4), (5), (6), (7), (8),  
32 (9), (10), (11), (12), (13), and (14) of subsection (a) of  
33 Section 27-5-6, in Sections 27-5-7, 27-5-8, 27-5-9, and  
34 27-5-10, and to grant annuity contracts as defined in Section  
35 27-5-3, subject, however, to all of the following:

36 (1) No pure captive insurance company may insure any  
37 risks other than those of its parent and affiliated companies  
38 or controlled unaffiliated business.

39 (2) No agency captive insurance company may insure  
40 risks other than those affiliated with the controlling  
41 insurance producer.

42 (3) No association captive insurance company may insure  
43 any risks other than those of the member organizations of its  
44 association, and their affiliated companies.

45 (4) No industrial insured captive insurance company may  
46 insure any risks other than those of the industrial insureds  
47 that comprise the industrial insured group, and their  
48 affiliated companies.

49 (5) No risk retention group may insure any risks other  
50 than those of its members and owners.

51 (6) No captive insurance company may provide personal  
52 motor vehicle coverage or any component thereof. Homeowner's  
53 insurance coverage may be written by an Alabama Coastal  
54 Captive Insurance Company as defined in Chapter 31C, but only  
55 in the gulf front, beach, and seacoast areas as designated by  
56 the Insurance Services Office, Inc.



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57 (7) No captive insurance company may accept or cede  
58 reinsurance except as provided in Section 27-31B-13.

59 (8) Any captive insurance company may provide excess  
60 workers' compensation insurance to its parent and affiliated  
61 companies and member organizations unless prohibited by the  
62 laws of the state having jurisdiction over the transaction.  
63 Any captive insurance company may reinsure workers'  
64 compensation.

65 (9) Any captive insurance company which insures risks  
66 described in Sections 27-5-2 and 27-5-4 shall comply with all  
67 applicable state and federal laws.

68 (10) Insurance may be placed on risks in alien and  
69 foreign jurisdictions if the underlying business in the  
70 jurisdiction is legal in the jurisdiction, subject to  
71 commissioner approval.

72 (11) No protected cell captive insurance company may  
73 insure any risks other than those of its participants.

74 (b) To conduct insurance business in this state, a  
75 captive insurance company shall comply with all of the  
76 following:

77 (1) It must obtain from the commissioner a license  
78 authorizing it to do insurance business in this state.

79 (2) Its board of directors or managers, or in the case  
80 of a reciprocal insurer, its subscribers' advisory committee,  
81 must hold at least one meeting each year in this state.

82 (3) It must maintain its principal place of business in  
83 this state, or in the case of a branch captive insurance  
84 company, maintain a place of business for its branch



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85 operations in this state.

86 (4) It must appoint a registered agent to accept  
87 service of process and to otherwise act on its behalf in this  
88 state; subject further to the following:

89 a. If formed as a corporation or other legal entity,  
90 whenever the registered agent cannot with reasonable diligence  
91 be found at the registered office of the captive insurance  
92 company, the Secretary of State shall be an agent of the  
93 captive insurance company upon whom any process, notice, or  
94 demand may be served.

95 b. If formed as a reciprocal insurer, whenever the  
96 registered agent cannot with reasonable diligence be found at  
97 the registered office of the captive insurance company, the  
98 commissioner shall be an agent of the captive insurance  
99 company upon whom any process, notice, or demand may be  
100 served.

101 (5) It must own a financial account with a bank or  
102 credit union with a brick and mortar location in Alabama  
103 approved by the commissioner or a veteran-related financial  
104 institution approved by the commissioner.

105 (6)a. It must employ or enter into a contract with a  
106 natural person or business organization to manage the affairs  
107 of the captive insurer that meets the standards of competence  
108 and experience satisfactory to the commissioner.

109 b. The captive insurer shall promptly notify the  
110 commissioner of any failure of the captive insurer to comply  
111 with this chapter.

112 c. The commissioner may require a captive insurer to



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113 discharge a captive manager for failure to substantively  
114 fulfill the captive manager's duties under this chapter.

115 d. The captive manager, if a natural person, or the  
116 officers and directors of the captive manager, if a business  
117 organization, shall not serve as the president of a captive  
118 insurer, except in the case where a captive insurer has  
119 contracted with its parent or its affiliated companies or a  
120 controlled unaffiliated business for captive management  
121 services.

122 (7) It must employ or enter into a contract with a  
123 qualified and experienced independent certified public  
124 accountant that is approved by the commissioner.

125 (8) It must employ or enter into a contract with a  
126 qualified and experienced actuary who is approved by the  
127 commissioner.

128 (9) It must submit biographical background information,  
129 on a form prescribed by the commissioner, for each director  
130 and officer of the captive insurer and for each person who  
131 controls, directly or indirectly, 10 percent or more of the  
132 captive insurer.

133 (10) It must submit a plan of operation that clearly  
134 indicates the method of operation of the captive insurer  
135 including all of the following items:

136 a. The types and limits of insurance that will be  
137 provided.

138 b. Pro forma financial statements for a period covering  
139 three years, which shall include a balance sheet, income  
140 statement, and cash flow statement.



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141 c. A description of the captive insurer's reinsurance  
142 program.

143 d. A description of the captive insurer's underwriting  
144 policy, including who will perform those functions.

145 e. A description of the captive insurer's claims  
146 handling procedures, including who will perform those  
147 functions.

148 f. A description of the captive insurer's investment  
149 policy.

150 g. A description of the captive insurer's rate making  
151 policies and procedures.

152 (11) It must submit a feasibility study, or other  
153 analysis, prepared by a qualified actuary.

154 (12) It must submit a statement disclosing the identity  
155 and percentage of ownership of the captive insurer for all  
156 persons who control, directly or indirectly, 10 percent or  
157 more of the captive insurer.

158 (13) It must submit evidence of its beneficial  
159 ownership, sponsorship, or membership.

160 (14) It must submit any other factors or information  
161 deemed relevant by the commissioner in ascertaining whether  
162 the proposed captive insurance company will be able to meet  
163 its policy obligations.

164 (c) If there is a subsequent material change in any  
165 item or information submitted pursuant to subsection (b)  
166 including, but not limited to, the plan of operation, the  
167 captive insurer shall submit an appropriate revision for  
168 approval by the commissioner. The captive insurer may not



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169 offer any additional kinds of insurance until a revision of  
170 the description is approved by the commissioner.

171 ~~(e)~~ (d) (1) Before receiving a license, a captive  
172 insurance company shall comply with one of the following:

173 a. If formed as a corporation or other legal entity, it  
174 shall file with the commissioner a certified copy of its  
175 organizational documents and bylaws, a statement under oath of  
176 its president and secretary or other authorized official  
177 showing its financial condition, and any other statements or  
178 documents required by the commissioner.

179 b. If formed as a reciprocal insurer, it shall comply  
180 with both of the following:

181 1. File with the commissioner a certified copy of the  
182 power of attorney of its attorney-in-fact, a certified copy of  
183 its subscribers' agreement, a statement under oath of its  
184 attorney-in-fact showing its financial condition, and any  
185 other statements or documents required by the commissioner.

186 2. Submit to the commissioner for approval a  
187 description of the coverages, deductibles, coverage limits,  
188 and rates, together with any additional information as the  
189 commissioner may reasonably require. In the event of any  
190 subsequent material change in any item in the description, the  
191 reciprocal captive insurance company shall submit to the  
192 commissioner for approval an appropriate revision and shall  
193 not offer any additional kinds of insurance until a revision  
194 of the description is approved by the commissioner. The  
195 reciprocal captive insurance company shall inform the  
196 commissioner of any material change in rates within 30 days of



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197 the adoption of the change.

198 (2) In addition to the information required by  
199 subdivision (1), each applicant captive insurance company  
200 shall file with the commissioner evidence of all of the  
201 following:

202 a. The amount and liquidity of its assets relative to  
203 the risks to be assumed.

204 b. The adequacy of the expertise, experience, and  
205 character of the person or persons who will manage it.

206 c. The overall soundness of its plan of operation.

207 d. The adequacy of the loss prevention programs of its  
208 parent, member organizations, industrial insureds, or other  
209 insureds as applicable.

210 e. Any other factors deemed relevant by the  
211 commissioner in ascertaining whether the proposed captive  
212 insurance company will be able to meet its policy obligations.

213 (3) In addition to the information required by  
214 subdivisions (1) and (2), each applicant protected cell  
215 captive insurance company shall file with the commissioner all  
216 of the following:

217 a. A business plan demonstrating how the applicant will  
218 account for the loss and expense experience of each protected  
219 cell at a level of detail found to be sufficient by the  
220 commissioner and how it will report the experience to the  
221 commissioner.

222 b. A statement acknowledging that all financial records  
223 of the protected cell captive insurance company, including  
224 records pertaining to any protected cells, shall be made



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225 available for inspection or examination by the commissioner or  
226 the commissioner's designated agent.

227 c. All contracts or sample contracts between the  
228 protected cell captive insurance company and any participants.

229 d. Evidence that expenses shall be allocated to each  
230 protected cell in a fair and equitable manner.

231 (4) Information submitted pursuant to this subsection  
232 shall be and remain confidential, and may not be made public  
233 by the commissioner or by an employee or agent of the  
234 commissioner without the written consent of the company,  
235 except as provided in the following:

236 a. The information may be discoverable by a party in a  
237 civil action or contested case to which the captive insurance  
238 company that submitted the information is a party, upon a  
239 showing by the party seeking to discover the information that:  
240 (i) the information sought is relevant to and necessary for  
241 the furtherance of the action or case~~;~~; (ii) the information  
242 sought is unavailable from other nonconfidential sources~~;~~; and  
243 (iii) a subpoena issued by a judicial or administrative  
244 officer of competent jurisdiction has been submitted to the  
245 commissioner. Notwithstanding the foregoing, this subdivision  
246 shall not apply to any industrial insured captive insurance  
247 company insuring the risks of an industrial insured group as  
248 defined in ~~paragraph b. of subdivision (19) of Section~~  
249 ~~27-31B-2(19)b.~~ 27-31B-2(19)b. or to a captive risk retention group.

250 b. The commissioner may disclose the information to a  
251 public officer having jurisdiction over the regulation of  
252 insurance in another state, provided that: (i) the public



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253 official ~~shall agree~~ agrees in writing to maintain the  
254 confidentiality of the information~~;~~ and (ii) the laws of the  
255 state in which the public official serves require the  
256 information to be and to remain confidential.

257 ~~(d)~~ (e) Each captive insurance company shall pay to the  
258 commissioner a nonrefundable fee as set forth in Section  
259 27-31B-4 for examining, investigating, and processing its  
260 application for license, and the commissioner ~~is authorized to~~  
261 may retain legal, financial, and examination services from  
262 outside the department, the reasonable cost of which may be  
263 charged against the applicant in accordance with Section  
264 27-2-25. In addition, each captive insurance company shall pay  
265 a license fee for the year of registration and a renewal fee  
266 for each year thereafter as set forth in Section 27-31B-4.

267 ~~(e)~~ (f) If the commissioner is satisfied that the  
268 documents and statements filed by a captive insurance company  
269 comply with this chapter, the commissioner may grant a license  
270 authorizing the company to ~~do~~ conduct insurance business in  
271 this state until April 1 thereafter, which license may be  
272 renewed.

273 ~~(f)~~ (g) (1) Notwithstanding any other provision of this  
274 chapter, the commissioner may issue a provisional license to  
275 any applicant captive insurance company for a period not to  
276 exceed 60 days if the commissioner deems that the public  
277 interest will be served by the issuance of the provisional  
278 license.

279 (2) As a condition precedent to the issuance of a  
280 provisional license under this subsection, the applicant shall



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281 have filed a complete application containing all information  
282 required by this section, paid all fees required for  
283 licensure, and the commissioner shall have made a preliminary  
284 finding that the expertise, experience, and character of the  
285 person or persons who will control and manage the captive  
286 insurer are acceptable.

287 (3) The commissioner, by order, may limit the authority  
288 of any provisional licensee in any way deemed necessary to  
289 protect insureds and the public. The commissioner, by order,  
290 may revoke a provisional license if the interests of insureds  
291 or the public are endangered. If the applicant fails to  
292 complete the regular licensure application process within the  
293 60-day provisional period, the provisional license shall  
294 terminate automatically at the end of the 60-day period, and  
295 any policy issued during the provisional period shall be  
296 cancelled as of the termination date and any premium unearned  
297 shall be refunded to the policyholder within 10 days."

298 "§27-31B-6

299 (a) No captive insurance company shall be issued a  
300 license unless ~~it shall possess~~ the captive insurance company  
301 possesses and thereafter ~~maintain~~ maintains unimpaired paid-in  
302 capital and surplus as follows:

303 (1) In the case of a pure captive insurance company,  
304 not less than ~~one hundred thousand dollars (\$100,000)~~ two  
305 hundred fifty thousand dollars (\$250,000) or another amount  
306 determined by the commissioner and actuarially supported by a  
307 feasibility study.

308 (2) In the case of an agency captive insurance company,



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309 not less than five hundred thousand dollars (\$500,000) or  
310 another amount determined by the commissioner and actuarially  
311 supported by a feasibility study.

312 (3) In the case of an association captive insurance  
313 company ~~or risk retention group~~, not less than five hundred  
314 thousand dollars (\$500,000) or another amount determined by  
315 the commissioner and actuarially supported by a feasibility  
316 study.

317 (4) In the case of an industrial insured captive  
318 insurance company, not less than five hundred thousand dollars  
319 (\$500,000).

320 (5) In the case of a reinsurance captive insurance  
321 company, not less than ~~ten thousand dollars (\$10,000) or~~  
322 ~~another amount determined by the commissioner and actuarially~~  
323 ~~supported by a feasibility study~~ one million dollars  
324 (\$1,000,000).

325 (6) In the case of a protected cell captive insurance  
326 company, not less than ~~one hundred thousand dollars (\$100,000)~~  
327 two hundred fifty thousand dollars (\$250,000) or another  
328 amount determined by the commissioner and actuarially  
329 supported by a feasibility study.

330 (7) In the case of a branch captive insurance company,  
331 not less than two hundred fifty thousand dollars (\$250,000).

332 (8) In the case of a risk retention group, not less  
333 than one million dollars (\$1,000,000) or another amount  
334 determined by the commissioner and actuarially supported by a  
335 feasibility study.

336 (b) Notwithstanding the requirements of subsection (a),



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337 no captive insurance company organized as a reciprocal insurer  
338 under this chapter shall be issued a license unless it has the  
339 captive insurance company organized as a reciprocal insurer  
340 possesses and thereafter maintains free surplus of one million  
341 dollars (\$1,000,000).

342 (c) The commissioner may prescribe additional capital  
343 and surplus based upon the type, volume, and nature of  
344 insurance business transacted.

345 (d) Capital and surplus may be in the form of cash,  
346 cash equivalents, surplus note, securities meeting the  
347 eligibility requirements of Section 27-6-3, or, if approved by  
348 the commissioner, a clean, irrevocable, and unconditional  
349 letter of credit issued by a bank chartered by the State of  
350 Alabama or a member bank of the Federal Reserve System and  
351 approved by the commissioner. No assets of the captive insurer  
352 shall be pledged or encumbered for the payment of the letter  
353 of credit.

354 (e) In the case of a branch captive insurance company,  
355 as security for the payment of liabilities attributable to the  
356 branch operations, the commissioner may require collateral  
357 equal to the amount of net loss reserves on branch business  
358 plus other insurance liabilities as determined by the  
359 commissioner to be maintained by the branch captive insurance  
360 company in a manner acceptable to the commissioner.

361 (f) Any captive insurance company formed under this  
362 chapter may be capitalized with a surplus note. Any captive  
363 insurance company issuing a surplus note pursuant to this  
364 section must execute a written agreement with the creditor



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365 providing the following:

366 a. The creditor may only be paid out of the portion of  
367 the captive insurance company's surplus ~~that~~ which exceeds the  
368 minimum stated in the agreement.

369 b. The minimum surplus or floor shall exceed the sum  
370 of: (i) 10 percent of the face amount of the surplus note; and  
371 (ii) the greater of the statutory minimum capital or surplus  
372 required by statute or the approved feasibility study or such  
373 other amount approved by the commissioner.

374 c. Payments may only be made if the payment does not  
375 affect the financial condition of the company.

376 d. Any payment of principal or interest requires the  
377 prior approval of the commissioner."

378 "§27-31B-8

379 (a) A pure captive insurance company, an agency captive  
380 insurance company, a reinsurance captive insurance company, a  
381 special purpose financial captive insurance company, or a  
382 protected cell captive insurance company shall be formed as a  
383 stock or mutual insurer, or as a nonprofit or limited  
384 liability company with its capital divided into units and held  
385 by the stockholders, members, or other equivalent as allowed  
386 by law.

387 (b) An association captive insurance company, an  
388 industrial insured captive insurance company, or a risk  
389 retention group may be formed in any of the following ways:

390 (1) Organized as a stock insurer with its capital  
391 divided into share units and held by the stockholders,  
392 members, or other equivalent as allowed by law.



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393 (2) Organized as a mutual insurer without capital  
394 stock, the governing body of which is elected by the member  
395 organizations of its association.

396 (3) Organized as a reciprocal insurer in accordance  
397 with Chapter 31 of this title.

398 (4) Organized as a manager-managed limited liability  
399 company.

400 (c) A captive insurance company incorporated or  
401 organized in this state shall have one or more incorporators  
402 or one or more organizers, at least one of which shall be a  
403 resident of this state.

404 (d) (1) In the case of a captive insurance company  
405 formed as a corporation, before the articles of incorporation  
406 are transmitted to the Secretary of State, the incorporators  
407 shall petition the commissioner to issue a certificate setting  
408 forth the commissioner's finding that the establishment and  
409 maintenance of the proposed corporation will promote the  
410 general good of the state. In arriving at this finding the  
411 commissioner shall consider all of the following:

412 a. The character, reputation, financial standing, and  
413 purposes of the incorporators.

414 b. The character, reputation, financial responsibility,  
415 insurance experience, and business qualifications of the  
416 officers and directors.

417 c. Any other aspects as the commissioner shall deem  
418 advisable.

419 (2) The articles of incorporation, the certificate, and  
420 the organization fee shall be transmitted to the Secretary of



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421 State, who shall ~~thereupon~~ record both the articles of  
422 incorporation and the certificate.

423 (e) In the case of a captive insurance company formed  
424 as a reciprocal insurer, the organizers shall petition the  
425 commissioner to issue a certificate setting forth the  
426 commissioner's finding that the establishment and maintenance  
427 of the proposed association will promote the general good of  
428 the state. In arriving at this finding the commissioner shall  
429 consider all of the following:

430 (1) The character, reputation, financial standing, and  
431 purposes of the organizers.

432 (2) The character, reputation, financial  
433 responsibility, insurance experience, and business  
434 qualifications of the attorney-in-fact.

435 (3) The competence of any person who, pursuant to a  
436 contract with the captive insurance company, will manage the  
437 affairs of the company.

438 (4) The competence, reputation, and experience of the  
439 company's legal counsel relating to the regulation of  
440 insurance.

441 (5) The company's business plan.

442 ~~(3)~~ (6) Any other aspects as the commissioner shall deem  
443 advisable.

444 (f) In the case of a captive insurance company licensed  
445 as a branch captive insurance company, the alien captive  
446 insurance company shall petition the commissioner to issue a  
447 certificate setting forth the commissioner's finding that,  
448 after considering the character, reputation, financial



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449 responsibility, insurance experience, and business  
450 qualifications of the officers and directors of the alien  
451 captive insurance company, the competence of any person who,  
452 pursuant to a contract with the captive insurance company,  
453 will manage the affairs of the company, the competence,  
454 reputation, and experience of the company's legal counsel  
455 relating to the regulation of insurance, and the company's  
456 business plan, the licensing and maintenance of the branch  
457 operations will promote the general good of the state. The  
458 alien captive insurance company may register to do business in  
459 this state after the commissioner's certificate is issued.

460 (g) The capital stock of a captive insurance company  
461 incorporated as a stock insurer may be authorized with no par  
462 value.

463 (h) In the case of a captive insurance company, at  
464 least one of the members of the board of directors, managing  
465 members, or equivalents as allowed by law, shall be a resident  
466 of this state.

467 (i) In the case of a captive insurance company formed  
468 as a reciprocal insurer, at least one of the members of the  
469 subscribers' advisory committee shall be a resident of this  
470 state.

471 (j) Captive insurance companies formed as corporations  
472 under this chapter shall have the privileges and be subject to  
473 the general corporation law as well as the applicable  
474 provisions of this chapter. In the event of conflict between  
475 the general corporation law and this chapter, the latter shall  
476 control. The provisions of this title pertaining to mergers,



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477 consolidations, and conversions shall apply in determining the  
478 procedures to be followed by captive insurance companies in  
479 carrying out any of the transactions described therein, except  
480 that the commissioner may waive or modify the requirements for  
481 public notice and hearing in accordance with rules which the  
482 commissioner may adopt addressing categories of transactions.  
483 If a notice of public hearing is required, but no one requests  
484 a hearing, then the commissioner may cancel the hearing.

485 (k) (1) Captive insurance companies formed as reciprocal  
486 insurers under this chapter shall have the privileges and be  
487 subject to Chapter 31 in addition to the applicable provisions  
488 of this chapter. In the event of a conflict between Chapter 31  
489 and this chapter, the latter shall control. To the extent a  
490 reciprocal insurer is made subject to other provisions of this  
491 title pursuant to Chapter 31, the provisions shall not be  
492 applicable to a reciprocal insurer formed under this chapter  
493 unless the provisions are expressly made applicable to captive  
494 insurance companies under this chapter.

495 (2) In addition to subdivision (1), captive insurance  
496 companies organized as reciprocal insurers that are industrial  
497 insured groups as defined in ~~paragraph b. of subdivision (19)~~  
498 ~~of Section 27-31B-2(19)b.~~ shall have the privileges and be  
499 subject to ~~the provisions of~~ Chapter 31A in addition to the  
500 applicable provisions of this chapter.

501 (l) The articles of incorporation, organization, or  
502 equivalent allowed by law, or bylaws of a captive insurance  
503 company may authorize a quorum of a board of directors to  
504 consist of no fewer than one-third of the fixed or prescribed



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505 number of directors determined under Title ~~10~~ 10A.

506 (m) The subscribers' agreement or other organizing  
507 document of a captive insurance company formed as a reciprocal  
508 insurer may authorize a quorum of a subscribers' advisory  
509 committee to consist of no fewer than one-third of its  
510 members."

511 "§27-31B-9

512 (a) Captive insurance companies shall not be required  
513 to make any annual report except as provided in this chapter.

514 (b) Prior to March 1 of each year, each captive  
515 insurance company shall submit to the commissioner a report of  
516 its financial condition, verified by oath of two of its  
517 executive officers. Except as provided in Section 27-31B-6,  
518 each captive insurance company shall report using statutory  
519 accounting principles, unless the commissioner approves the  
520 use of generally accepted accounting principles, with any  
521 useful or necessary modifications or adaptations thereof  
522 required or approved or accepted by the commissioner for the  
523 type of insurance and kinds of insurers to be reported upon,  
524 and as supplemented by additional information required by the  
525 commissioner. Except as otherwise provided, each association  
526 captive insurance company and each industrial insured captive  
527 insurance company insuring the risks of an industrial insured  
528 group defined in ~~paragraph b. of subdivision (18)~~ of Section  
529 27-31B-2(19)b. shall file its report in the form required by  
530 Section 27-3-26. Each risk retention group shall file its  
531 report in the form required by Section 27-3-26 and shall  
532 comply with all filing requirements set forth in this title as



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533 well as rules and bulletins of the Alabama Department of  
534 Insurance applicable to casualty insurers domiciled in the  
535 state. The commissioner shall by rule propose the forms in  
536 which pure captive insurance companies and industrial insured  
537 captive insurance companies insuring the risks of an  
538 industrial insured group defined in ~~paragraph a. of~~  
539 ~~subdivision (18) of~~ Section 27-31B-2 (19)a. shall report.  
540 ~~Subdivision (4) of subsection (c) of~~ Section 27-31B-3 (d) (4)  
541 shall apply to each report filed pursuant to this section,  
542 except the subdivision shall not apply to reports filed by  
543 industrial insured captive insurance companies insuring the  
544 risks of industrial insured groups as defined in ~~paragraph b.~~  
545 ~~of subdivision (18) of~~ Section 27-31B-2 (19)b.

546 (c) Any pure captive insurance company or an industrial  
547 insured captive insurance company insuring the risks of  
548 industrial insured groups as defined in ~~paragraph a. of~~  
549 ~~subdivision (18) of~~ Section 27-31B-2 (19)a. may make written  
550 application for filing the required report on a fiscal  
551 year-end. If an alternative reporting date is granted, the  
552 annual report shall be due 60 days after the end of the fiscal  
553 year and, in order to provide sufficient detail to support the  
554 premium tax return, the pure captive insurance company or  
555 industrial insured captive insurance company insuring the  
556 risks of industrial insureds as defined in ~~paragraph b. of~~  
557 ~~subdivision (18) of~~ Section 27-31B-2 (17) shall file prior to  
558 March 1 of each year for each calendar year-end, pages 1, 2,  
559 3, and 5 of the "Captive Annual Statement; Pure or Industrial  
560 Insured," verified by oath of two of its executive officers.



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561 (d) Sixty days after the fiscal year-end, a branch  
562 captive insurance company shall file with the commissioner a  
563 copy of all reports and statements required to be filed under  
564 the laws of the jurisdiction in which the alien captive  
565 insurance company is formed, verified by oath of two of its  
566 executive officers. If the commissioner is satisfied that the  
567 annual report filed by the alien captive insurance company in  
568 its domiciliary jurisdiction provides adequate information  
569 concerning the financial condition of the alien captive  
570 insurance company, the commissioner may waive the requirement  
571 for completion of the captive annual statement for business  
572 written in the alien jurisdiction.

573 (e) Annually on or before June 30, an audited statement  
574 of the captive insurer's financial condition prepared in  
575 accordance with generally accepted accounting principles in  
576 the United States for the preceding calendar year ending  
577 December 31, which shall include all of the following:

578 a. The report of an independent certified public  
579 accountant.

580 b. A balance sheet.

581 c. An income statement.

582 d. A statement of cash flows.

583 e. A statement of changes in capital and surplus.

584 f. Notes to financial statements.

585 (f) An annual actuarial certification of loss reserves  
586 and loss expense reserves which includes an opinion of the  
587 adequacy of the loss reserves and loss expense reserves of the  
588 captive insurer, in a format acceptable to the commissioner,



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589 shall be filed with the report required in subsection (b). The  
590 person that certifies the reserves shall be approved by the  
591 commissioner and shall be a qualified actuary as defined in  
592 the National Association of Insurance Commissioners Quarterly  
593 and Annual Statement Instructions-Property/Casualty."

594           Section 2. This act shall become effective June 1,  
595 2026.



**HB415 Engrossed**

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House of Representatives

Read for the first time and referred .....10-Feb-26  
to the House of Representatives  
committee on Insurance  
  
Read for the second time and placed .....05-Mar-26  
on the calendar:  
1 amendment  
  
Read for the third time and passed .....10-Mar-26  
as amended  
Yeas 101  
Nays 2  
Abstains 2

John Treadwell  
Clerk