

SB207 INTRODUCED



1 SB207
2 JP9X9YF-1
3 By Senator Shelnutt
4 RFD: Banking and Insurance
5 First Read: 27-Jan-26



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4 SYNOPSIS:

5 Under existing law, the Alabama Captive Insurers
6 Act establishes certain requirements for forming
7 captive insurers in this state.

8 This bill would specifically require captive
9 insurers to arrange with a bank located in this state
10 to transfer money, to contract with a person or
11 business organization approved by the commissioner to
12 manage its affairs and to place certain requirements on
13 the captive manager, to employ or contract with a
14 certified public accountant approved by the
15 commissioner, to employ or contract with an actuary
16 approved by the commissioner, to submit biographical
17 background information for each director and officer
18 and for each person controlling 10 percent or more of
19 the captive insurer, to submit a detailed plan of
20 operation and feasibility study, to submit a statement
21 disclosing the identity and percentage of ownership of
22 all persons controlling 10 percent or more of the
23 captive insurer, to submit evidence of its beneficial
24 ownership, sponsorship, or membership, to submit any
25 other factors or information deemed relevant by the
26 commissioner, and to require notice of any subsequent
27 material change in any of the items required to be
28 submitted.



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29 Under existing law, there are minimum capital
30 requirements for captive insurance companies and a
31 minimum amount for premium taxes.

32 This bill would increase the minimum capital
33 requirements for certain captive insurers and would
34 increase the minimum amount to be paid by captive
35 insurers for premium taxes.

36 Under existing law, before approving an
37 application of a captive insurer for license, the
38 commissioner must find that the proposed captive
39 insurer will promote the general good of the state.

40 This bill would require the commissioner to take
41 into consideration the competence of the captive
42 manager and legal counsel of the captive insurer and to
43 consider the company's business plan when determining
44 whether the company will promote the general good of
45 the state.

46 This bill would also require licensed captive
47 insurers to annually file an audited financial
48 statement and an actuarial certification of loss
49 reserves and loss expense reserves.

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51
52 A BILL

53 TO BE ENTITLED

54 AN ACT

55
56 Relating to insurance, to amend Sections 27-31B-3,

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57 27-31B-6, 27-31B-8, 27-31B-9, and 27-31B-16, Code of Alabama
58 1975; to impose additional requirements on captive insurers;
59 to require notice of any subsequent material change in any of
60 the items required to be submitted; to increase the minimum
61 paid in capital certain captive insurers are required to
62 maintain; to require the commissioner to take into
63 consideration the competence of the captive manager and legal
64 counsel of the captive insurer and to consider the company's
65 business plan when determining whether the company will
66 promote the general good of the state; to require licensed
67 captive insurers to annually file an audited financial
68 statement and an actuarial certification of loss reserves and
69 loss expense reserves; and to increase the minimum amount of
70 premium tax to be paid by captive insurers.

71 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

72 Section 1. Sections 27-31B-3, 27-31B-6, 27-31B-8, and
73 27-31B-9, Code of Alabama 1975, are amended as follows:

74 "§27-31B-3

75 (a) Any captive insurance company, when permitted by
76 its articles of association, charter, or other organizational
77 document, may apply to the commissioner for a license to do
78 any and all insurance defined in Sections 27-5-2, 27-5-4, and
79 27-5-5, in subdivisions (1), (2), (4), (5), (6), (7), (8),
80 (9), (10), (11), (12), (13), and (14) of subsection (a) of
81 Section 27-5-6, in Sections 27-5-7, 27-5-8, 27-5-9, and
82 27-5-10, and to grant annuity contracts as defined in Section
83 27-5-3, subject, however, to all of the following:

84 (1) No pure captive insurance company may insure any

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85 risks other than those of its parent and affiliated companies
86 or controlled unaffiliated business.

87 (2) No agency captive insurance company may insure
88 risks other than those affiliated with the controlling
89 insurance producer.

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

93 (4) No industrial insured captive insurance company may
94 insure any risks other than those of the industrial insureds
95 that comprise the industrial insured group, and their
96 affiliated companies.

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

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

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

107 (8) Any captive insurance company may provide excess
108 workers' compensation insurance to its parent and affiliated
109 companies and member organizations unless prohibited by the
110 laws of the state having jurisdiction over the transaction.
111 Any captive insurance company may reinsure workers'
112 compensation.



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

116 (10) Insurance may be placed on risks in alien and
117 foreign jurisdictions if the underlying business in the
118 jurisdiction is legal in the jurisdiction, subject to
119 commissioner approval.

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

122 (b) To conduct insurance business in this state, a
123 captive insurance company shall comply with all of the
124 following:

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

130 (3) It must maintain its principal place of business in
131 this state, or in the case of a branch captive insurance
132 company, maintain a place of business for its branch
133 operations in this state.

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

137 a. If formed as a corporation or other legal entity,
138 whenever the registered agent cannot with reasonable diligence
139 be found at the registered office of the captive insurance
140 company, the Secretary of State shall be an agent of the



141 captive insurance company upon whom any process, notice, or
142 demand may be served.

143 b. If formed as a reciprocal insurer, whenever the
144 registered agent cannot with reasonable diligence be found at
145 the registered office of the captive insurance company, the
146 commissioner shall be an agent of the captive insurance
147 company upon whom any process, notice, or demand may be
148 served.

149 (5) It must make adequate arrangements with a bank
150 located in this state that is authorized pursuant to state or
151 federal law to transfer money.

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

156 b. The captive insurer shall promptly notify the
157 commissioner of any failure of the captive insurer to comply
158 with this chapter.

159 c. The commissioner may require a captive insurer to
160 discharge a captive manager for failure to substantively
161 fulfill the captive manager's duties under this chapter.

162 d. The captive manager, if a natural person, or the
163 officers and directors of the captive manager, if a business
164 organization, shall not serve as the president of a captive
165 insurer.

166 (7) It must employ or enter into a contract with a
167 qualified and experienced certified public accountant that is
168 approved by the commissioner or a firm of certified public



169 accountants that is nationally recognized.

170 (8) It must employ or enter into a contract with
171 qualified, experienced actuaries who are approved by the
172 commissioner to perform reviews and evaluations of the
173 operations of the captive insurer.

174 (9) It must submit biographical background information,
175 on a form prescribed by the commissioner, for each director
176 and officer of the captive insurer and for each person who
177 controls, directly or indirectly, 10 percent or more of the
178 captive insurer.

179 (10) It must submit a plan of operation that clearly
180 indicates the method of operation of the captive insurer
181 including all of the following items:

182 a. The types and limits of insurance that will be
183 provided.

184 b. Pro forma financial statements for a period covering
185 three years, which shall include a balance sheet, income
186 statement, and cash flow statement.

187 c. The amount and liquidity of its assets relative to
188 the risks to be assumed by the captive insurer.

189 d. The expertise, experience, and character of the
190 persons who will manage the captive insurer.

191 e. A description of the captive insurer's reinsurance
192 program.

193 f. A description of the captive insurer's underwriting
194 policy, including who will perform those functions.

195 g. A description of the captive insurer's claims
196 handling procedures, including who will perform those



197 functions.

198 h. A description of the captive insurer's investment
199 policy.

200 i. A statement regarding the overall soundness of the
201 plan of operation of the captive insurer.

202 j. A description of the captive insurer's rate making
203 policies and procedures.

204 k. A statement indicating the adequacy of its programs
205 providing for loss prevention by its parent or member
206 organizations.

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

209 (12) It must submit a statement disclosing the identity
210 and percentage of ownership of the captive insurer for all
211 persons who control, directly or indirectly, 10 percent or
212 more of the captive insurer.

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

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

219 (c) If there is a subsequent material change in any
220 item or information submitted pursuant to subsection (b)
221 including, but not limited to, the plan of operation, the
222 captive insurer shall submit an appropriate revision not later
223 than 30 days after the adoption of the change for approval by
224 the commissioner. The captive insurer may not offer any



225 additional kinds of insurance until a revision of the
226 description is approved by the commissioner.

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

229 a. If formed as a corporation or other legal entity, it
230 shall file with the commissioner a certified copy of its
231 organizational documents and bylaws, a statement under oath of
232 its president and secretary or other authorized official
233 showing its financial condition, and any other statements or
234 documents required by the commissioner.

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

237 1. File with the commissioner a certified copy of the
238 power of attorney of its attorney-in-fact, a certified copy of
239 its subscribers' agreement, a statement under oath of its
240 attorney-in-fact showing its financial condition, and any
241 other statements or documents required by the commissioner.

242 2. Submit to the commissioner for approval a
243 description of the coverages, deductibles, coverage limits,
244 and rates, together with any additional information as the
245 commissioner may reasonably require. In the event of any
246 subsequent material change in any item in the description, the
247 reciprocal captive insurance company shall submit to the
248 commissioner for approval an appropriate revision and shall
249 not offer any additional kinds of insurance until a revision
250 of the description is approved by the commissioner. The
251 reciprocal captive insurance company shall inform the
252 commissioner of any material change in rates within 30 days of



253 the adoption of the change.

254 (2) In addition to the information required by
255 subdivision (1), each applicant captive insurance company
256 shall file with the commissioner evidence of all of the
257 following:

258 a. The amount and liquidity of its assets relative to
259 the risks to be assumed.

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

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

263 d. The adequacy of the loss prevention programs of its
264 parent, member organizations, industrial insureds, or other
265 insureds as applicable.

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

269 (3) In addition to the information required by
270 subdivisions (1) and (2), each applicant protected cell
271 captive insurance company shall file with the commissioner all
272 of the following:

273 a. A business plan demonstrating how the applicant will
274 account for the loss and expense experience of each protected
275 cell at a level of detail found to be sufficient by the
276 commissioner and how it will report the experience to the
277 commissioner.

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



281 available for inspection or examination by the commissioner or
282 the commissioner's designated agent.

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

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

287 (4) Information submitted pursuant to this subsection
288 shall be and remain confidential, and may not be made public
289 by the commissioner or by an employee or agent of the
290 commissioner without the written consent of the company,
291 except as provided in the following:

292 a. The information may be discoverable by a party in a
293 civil action or contested case to which the captive insurance
294 company that submitted the information is a party, upon a
295 showing by the party seeking to discover the information that:
296 (i) the information sought is relevant to and necessary for
297 the furtherance of the action or case~~ri~~; (ii) the information
298 sought is unavailable from other nonconfidential sources~~ri~~; and
299 (iii) a subpoena issued by a judicial or administrative
300 officer of competent jurisdiction has been submitted to the
301 commissioner. Notwithstanding the foregoing, this subdivision
302 shall not apply to any industrial insured captive insurance
303 company insuring the risks of an industrial insured group as
304 defined in ~~paragraph b. of subdivision (19) of~~ Section
305 27-31B-2 (19)b. or to a captive risk retention group.

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



309 official ~~shall agree~~ agrees in writing to maintain the
310 confidentiality of the information ~~to~~ and (ii) the laws of the
311 state in which the public official serves require the
312 information to be and to remain confidential.

313 ~~(d)~~ (e) Each captive insurance company shall pay to the
314 commissioner a nonrefundable fee as set forth in Section
315 27-31B-4 for examining, investigating, and processing its
316 application for license, and the commissioner ~~is authorized to~~
317 may retain legal, financial, and examination services from
318 outside the department, the reasonable cost of which may be
319 charged against the applicant in accordance with Section
320 27-2-25. In addition, each captive insurance company shall pay
321 a license fee for the year of registration and a renewal fee
322 for each year thereafter as set forth in Section 27-31B-4.

323 ~~(e)~~ (f) If the commissioner is satisfied that the
324 documents and statements filed by a captive insurance company
325 comply with this chapter, the commissioner may grant a license
326 authorizing the company to ~~do~~ conduct insurance business in
327 this state until April 1 thereafter, which license may be
328 renewed.

329 ~~(f)~~ (g) (1) Notwithstanding any other provision of this
330 chapter, the commissioner may issue a provisional license to
331 any applicant captive insurance company for a period not to
332 exceed 60 days if the commissioner deems that the public
333 interest will be served by the issuance of the provisional
334 license.

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



337 have filed a complete application containing all information
338 required by this section, paid all fees required for
339 licensure, and the commissioner shall have made a preliminary
340 finding that the expertise, experience, and character of the
341 person or persons who will control and manage the captive
342 insurer are acceptable.

343 (3) The commissioner, by order, may limit the authority
344 of any provisional licensee in any way deemed necessary to
345 protect insureds and the public. The commissioner, by order,
346 may revoke a provisional license if the interests of insureds
347 or the public are endangered. If the applicant fails to
348 complete the regular licensure application process within the
349 60-day provisional period, the provisional license shall
350 terminate automatically at the end of the 60-day period, and
351 any policy issued during the provisional period shall be
352 cancelled as of the termination date and any premium unearned
353 shall be refunded to the policyholder within 10 days."

354 "§27-31B-6

355 (a) No captive insurance company shall be issued a
356 license unless ~~it shall possess~~ the captive insurance company
357 possesses and thereafter ~~maintain~~ maintains unimpaired paid-in
358 capital and surplus as follows:

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

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



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

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

373 (4) In the case of an industrial insured captive
374 insurance company, not less than five hundred thousand dollars
375 (\$500,000).

376 (5) In the case of a reinsurance captive insurance
377 company, not less than ~~ten thousand dollars (\$10,000) or~~
378 ~~another amount determined by the commissioner and actuarially~~
379 ~~supported by a feasibility study~~ two hundred fifty thousand
380 dollars (\$250,000).

381 (6) In the case of a protected cell captive insurance
382 company, not less than one hundred thousand dollars (\$100,000)
383 or another amount determined by the commissioner and
384 actuarially supported by a feasibility study.

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

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

391 (b) Notwithstanding the requirements of subsection (a),
392 no captive insurance company organized as a reciprocal insurer



393 under this chapter shall be issued a license unless ~~it has the~~
394 captive insurance company organized as a reciprocal insurer
395 possesses and thereafter maintains free surplus of one million
396 dollars (\$1,000,000).

397 (c) The commissioner may prescribe additional capital
398 and surplus based upon the type, volume, and nature of
399 insurance business transacted.

400 (d) Capital and surplus may be in the form of cash,
401 cash equivalents, surplus note, securities meeting the
402 eligibility requirements of Section 27-6-3, or, if approved by
403 the commissioner, a clean, irrevocable, and unconditional
404 letter of credit issued by a bank chartered by the State of
405 Alabama or a member bank of the Federal Reserve System and
406 approved by the commissioner. No assets of the captive insurer
407 shall be pledged or encumbered for the payment of the letter
408 of credit.

409 (e) In the case of a branch captive insurance company,
410 as security for the payment of liabilities attributable to the
411 branch operations, the commissioner may require collateral
412 equal to the amount of net loss reserves on branch business
413 plus other insurance liabilities as determined by the
414 commissioner to be maintained by the branch captive insurance
415 company in a manner acceptable to the commissioner.

416 (f) Any captive insurance company formed under this
417 chapter may be capitalized with a surplus note. Any captive
418 insurance company issuing a surplus note pursuant to this
419 section must execute a written agreement with the creditor
420 providing the following:



421 a. The creditor may only be paid out of the portion of
422 the captive insurance company's surplus-~~that~~ which exceeds the
423 minimum stated in the agreement.

424 b. The minimum surplus or floor shall exceed the sum
425 of: (i) 10 percent of the face amount of the surplus note; and
426 (ii) the greater of the statutory minimum capital or surplus
427 required by statute or the approved feasibility study or such
428 other amount approved by the commissioner.

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

431 d. Any payment of principal or interest requires the
432 prior approval of the commissioner."

433 "§27-31B-8

434 (a) A pure captive insurance company, an agency captive
435 insurance company, a reinsurance captive insurance company, a
436 special purpose financial captive insurance company, or a
437 protected cell captive insurance company shall be formed as a
438 stock or mutual insurer, or as a nonprofit or limited
439 liability company with its capital divided into units and held
440 by the stockholders, members, or other equivalent as allowed
441 by law.

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

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

448 (2) Organized as a mutual insurer without capital



449 stock, the governing body of which is elected by the member
450 organizations of its association.

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

453 (4) Organized as a manager-managed limited liability
454 company.

455 (c) A captive insurance company incorporated or
456 organized in this state shall have one or more incorporators
457 or one or more organizers, at least one of which shall be a
458 resident of this state.

459 (d) (1) In the case of a captive insurance company
460 formed as a corporation, before the articles of incorporation
461 are transmitted to the Secretary of State, the incorporators
462 shall petition the commissioner to issue a certificate setting
463 forth the commissioner's finding that the establishment and
464 maintenance of the proposed corporation will promote the
465 general good of the state. In arriving at this finding the
466 commissioner shall consider all of the following:

467 ~~a. The character, reputation, financial standing, and
468 purposes of the incorporators.~~

469 ~~b.a.~~ The character, reputation, financial
470 responsibility, insurance experience, and business
471 qualifications of the officers and directors.

472 b. The competence of any person who, pursuant to a
473 contract with the captive insurance company, will manage the
474 affairs of the company.

475 c. The competence, reputation, and experience of the
476 company's legal counsel relating to the regulation of



477 insurance.

478 d. The company's business plan.

479 e.e. Any other aspects as the commissioner shall deem
480 advisable.

481 (2) The articles of incorporation, the certificate, and
482 the organization fee shall be transmitted to the Secretary of
483 State, who shall ~~thereupon~~ record both the articles of
484 incorporation and the certificate.

485 (e) In the case of a captive insurance company formed
486 as a reciprocal insurer, the organizers shall petition the
487 commissioner to issue a certificate setting forth the
488 commissioner's finding that the establishment and maintenance
489 of the proposed association will promote the general good of
490 the state. In arriving at this finding the commissioner shall
491 consider all of the following:

492 ~~(1) The character, reputation, financial standing, and
493 purposes of the organizers.~~

494 ~~(2)~~ (1) The character, reputation, financial
495 responsibility, insurance experience, and business
496 qualifications of the attorney-in-fact.

497 ~~(2)~~ (1) The competence of any person who, pursuant to a
498 contract with the captive insurance company, will manage the
499 affairs of the company.

500 ~~(3)~~ (1) The competence, reputation, and experience of the
501 company's legal counsel relating to the regulation of
502 insurance.

503 ~~(4)~~ (1) The company's business plan.

504 ~~(3)~~ (2) Any other aspects as the commissioner shall deem



505 advisable.

506 (f) In the case of a captive insurance company licensed
507 as a branch captive insurance company, the alien captive
508 insurance company shall petition the commissioner to issue a
509 certificate setting forth the commissioner's finding that,
510 after considering the character, reputation, financial
511 responsibility, insurance experience, and business
512 qualifications of the officers and directors of the alien
513 captive insurance company, the competence of any person who,
514 pursuant to a contract with the captive insurance company,
515 will manage the affairs of the company, the competence,
516 reputation, and experience of the company's legal counsel
517 relating to the regulation of insurance, and the company's
518 business plan, the licensing and maintenance of the branch
519 operations will promote the general good of the state. The
520 alien captive insurance company may register to do business in
521 this state after the commissioner's certificate is issued.

522 (g) The capital stock of a captive insurance company
523 incorporated as a stock insurer may be authorized with no par
524 value.

525 (h) In the case of a captive insurance company, at
526 least one of the members of the board of directors, managing
527 members, or equivalents as allowed by law, shall be a resident
528 of this state.

529 (i) In the case of a captive insurance company formed
530 as a reciprocal insurer, at least one of the members of the
531 subscribers' advisory committee shall be a resident of this
532 state.



533 (j) Captive insurance companies formed as corporations
534 under this chapter shall have the privileges and be subject to
535 the general corporation law as well as the applicable
536 provisions of this chapter. In the event of conflict between
537 the general corporation law and this chapter, the latter shall
538 control. The provisions of this title pertaining to mergers,
539 consolidations, and conversions shall apply in determining the
540 procedures to be followed by captive insurance companies in
541 carrying out any of the transactions described therein, except
542 that the commissioner may waive or modify the requirements for
543 public notice and hearing in accordance with rules which the
544 commissioner may adopt addressing categories of transactions.
545 If a notice of public hearing is required, but no one requests
546 a hearing, then the commissioner may cancel the hearing.

547 (k) (1) Captive insurance companies formed as reciprocal
548 insurers under this chapter shall have the privileges and be
549 subject to Chapter 31 in addition to the applicable provisions
550 of this chapter. In the event of a conflict between Chapter 31
551 and this chapter, the latter shall control. To the extent a
552 reciprocal insurer is made subject to other provisions of this
553 title pursuant to Chapter 31, the provisions shall not be
554 applicable to a reciprocal insurer formed under this chapter
555 unless the provisions are expressly made applicable to captive
556 insurance companies under this chapter.

557 (2) In addition to subdivision (1), captive insurance
558 companies organized as reciprocal insurers that are industrial
559 insured groups as defined in ~~paragraph b. of subdivision (19)~~
560 ~~ef~~ Section 27-31B-2 (19)b. shall have the privileges and be



561 subject to ~~the provisions of~~ Chapter 31A in addition to the
562 applicable provisions of this chapter.

563 (1) The articles of incorporation, organization, or
564 equivalent allowed by law, or bylaws of a captive insurance
565 company may authorize a quorum of a board of directors to
566 consist of no fewer than one-third of the fixed or prescribed
567 number of directors determined under Title ~~10~~ 10A.

568 (m) The subscribers' agreement or other organizing
569 document of a captive insurance company formed as a reciprocal
570 insurer may authorize a quorum of a subscribers' advisory
571 committee to consist of no fewer than one-third of its
572 members."

573 "§27-31B-9

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

576 (b) Prior to March 1 of each year, each captive
577 insurance company shall submit to the commissioner a report of
578 its financial condition, verified by oath of two of its
579 executive officers. Except as provided in Section 27-31B-6,
580 each captive insurance company shall report using statutory
581 accounting principles, unless the commissioner approves the
582 use of generally accepted accounting principles, with any
583 useful or necessary modifications or adaptations thereof
584 required or approved or accepted by the commissioner for the
585 type of insurance and kinds of insurers to be reported upon,
586 and as supplemented by additional information required by the
587 commissioner. Except as otherwise provided, each association
588 captive insurance company and each industrial insured captive



589 insurance company insuring the risks of an industrial insured
590 group defined in ~~paragraph b. of subdivision (18) of~~ Section
591 27-31B-2 (19)b. shall file its report in the form required by
592 Section 27-3-26. Each risk retention group shall file its
593 report in the form required by Section 27-3-26 and shall
594 comply with all filing requirements set forth in this title as
595 well as rules and bulletins of the Alabama Department of
596 Insurance applicable to casualty insurers domiciled in the
597 state. The commissioner shall by rule propose the forms in
598 which pure captive insurance companies and industrial insured
599 captive insurance companies insuring the risks of an
600 industrial insured group defined in ~~paragraph a. of~~
601 ~~subdivision (18) of~~ Section 27-31B-2 (19)a. shall report.
602 ~~Subdivision (4) of subsection (c) of~~ Section 27-31B-3 (d) (4)
603 shall apply to each report filed pursuant to this section,
604 except the subdivision shall not apply to reports filed by
605 industrial insured captive insurance companies insuring the
606 risks of industrial insured groups as defined in ~~paragraph b.~~
607 ~~of subdivision (18) of~~ Section 27-31B-2 (19)b..

608 (c) Any pure captive insurance company or an industrial
609 insured captive insurance company insuring the risks of
610 industrial insured groups as defined in ~~paragraph a. of~~
611 ~~subdivision (18) of~~ Section 27-31B-2 (19)a. may make written
612 application for filing the required report on a fiscal
613 year-end. If an alternative reporting date is granted, the
614 annual report shall be due 60 days after the end of the fiscal
615 year and, in order to provide sufficient detail to support the
616 premium tax return, the pure captive insurance company or



617 industrial insured captive insurance company insuring the
618 risks of industrial insureds as defined in ~~paragraph b. of~~
619 ~~subdivision (18) of~~ Section 27-31B-2 (17) shall file prior to
620 March 1 of each year for each calendar year-end, pages 1, 2,
621 3, and 5 of the "Captive Annual Statement; Pure or Industrial
622 Insured," verified by oath of two of its executive officers.

623 (d) Sixty days after the fiscal year-end, a branch
624 captive insurance company shall file with the commissioner a
625 copy of all reports and statements required to be filed under
626 the laws of the jurisdiction in which the alien captive
627 insurance company is formed, verified by oath of two of its
628 executive officers. If the commissioner is satisfied that the
629 annual report filed by the alien captive insurance company in
630 its domiciliary jurisdiction provides adequate information
631 concerning the financial condition of the alien captive
632 insurance company, the commissioner may waive the requirement
633 for completion of the captive annual statement for business
634 written in the alien jurisdiction.

635 (e) (1) Annually on or before June 1, an audited
636 statement of the captive insurer's financial condition
637 prepared in accordance with generally accepted accounting
638 principles in the United States for the preceding calendar
639 year ending December 31, which shall include all of the
640 following:

641 a. The report of an independent certified public
642 accountant.

643 b. A balance sheet.

644 c. An income statement.



645 d. A statement of cash flows.
646 e. A statement of changes in capital and surplus.
647 f. Notes to financial statements.
648 g. The report of an evaluation of internal controls.
649 h. An accountant's letter.
650 (2) The commissioner may adopt rules providing
651 exceptions or exemptions from this requirement.

652 (f) An annual actuarial certification of loss reserves
653 and loss expense reserves which includes an opinion of the
654 adequacy of the loss reserves and loss expense reserves of the
655 captive insurer, in a format acceptable to the commissioner,
656 shall be filed with the report required in subsection (b). The
657 person that certifies the reserves shall be approved by the
658 commissioner and shall be a qualified actuary as defined in
659 the National Association of Insurance Commissioners Quarterly
660 and Annual Statement Instructions-Property/Casualty."

661 Section 2. Section 27-31B-16 of the Code of Alabama
662 1975, is amended to read as follows:

663 "§27-31B-16

664 (a) Each captive insurance company shall pay to the
665 commissioner, by March 1 of each year, a tax at the rate of
666 four-tenths of one percent on the first ~~20~~ twenty million
667 dollars (\$20,000,000), three-tenths of one percent on the next
668 ~~20~~ twenty million dollars (\$20,000,000), two-tenths of one
669 percent on the next ~~20~~ twenty million dollars (\$20,000,000),
670 seventy-five thousandths of one percent on each dollar (\$1)
671 thereafter on the direct premiums collected or contracted for
672 on policies or contracts of insurance written by the captive



673 insurance company during the year ending December 31 next
674 preceding, after deducting from the direct premiums subject to
675 the tax the amounts paid to policyholders as return premiums
676 which shall include dividends on unabsorbed premiums or
677 premium deposits returned or credited to policyholders.
678 Notwithstanding the foregoing, no tax shall be due or payable
679 as to considerations received for annuity contracts.

680 (b) Each captive insurance company shall pay to the
681 commissioner by March 1 of each year a tax at the rate of two
682 hundred and twenty-five thousandths of one percent on the
683 first-~~20~~ twenty million dollars (\$20,000,000) of assumed
684 reinsurance premium, one hundred fifty thousandths of one
685 percent on the next-~~20~~ twenty million dollars (\$20,000,000),
686 fifty thousandths of one percent on the next-~~20~~ twenty million
687 dollars (\$20,000,000), twenty-five thousandths of one percent
688 of each dollar (\$1) thereafter. However, no reinsurance tax
689 applies to premiums for risks or portions of risks which are
690 subject to taxation on a direct basis pursuant to subsection
691 (a). No reinsurance premium tax shall be payable in connection
692 with the receipt of assets in exchange for the assumption of
693 loss reserves and other liabilities of another insurer under
694 common ownership and control if the transaction is part of a
695 plan to discontinue the operations of the other insurer, and
696 if the intent of the parties to the transaction is to renew or
697 maintain business with the captive insurance company.

698 (c) If the aggregate taxes to be paid by a captive
699 insurance company calculated under subsections (a) and (b)
700 amount to less than five thousand dollars (\$5,000) in any



701 year, the captive insurance company shall pay a tax of five
702 thousand dollars (\$5,000) for that year. The aggregate taxes
703 paid by a captive insurance company may not exceed one hundred
704 thousand dollars (\$100,000) in any year.

705 (d) The minimum tax for a protected cell captive
706 insurance company may not be less than five thousand dollars
707 (\$5,000) and shall apply to the protected cell captive
708 insurance company as a whole and not to each protected cell.
709 The maximum tax to be paid by a protected cell captive
710 insurance company shall be the aggregate of the tax
711 liabilities of each protected cell. The maximum tax liability
712 attributed to any one protected cell captive insurance company
713 shall be one hundred thousand dollars (\$100,000).

714 (e) Examination expenses paid in accordance with
715 Section 27-31B-10 and business privilege taxes paid in
716 accordance with Section 40-14A-22 by a captive insurance
717 company shall be allowed as credits to the tax provided for in
718 this section for the calendar year in which they were paid. In
719 the event application of the credit results in a negative tax
720 due, the tax due shall be zero and any unused portion of the
721 credit may not be carried forward for use in subsequent years.

722 (f) A captive insurance company failing to make returns
723 as required by Chapter 14A of Title 40 or failing to pay
724 within the time required all taxes assessed by this section,
725 shall be subject to Section 27-4A-4.

726 (g) Two or more captive insurance companies under
727 common ownership and control shall be taxed as though they
728 were a single captive insurance company.



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(h) For the purposes of this section, "common ownership and control" shall have the following meaning, as applicable:

(1) In the case of stock corporations, the direct or indirect ownership of 80 percent or more of the outstanding voting stock of two or more corporations by the same shareholder or shareholders.

(2) In the case of mutual corporations, the direct or indirect ownership of 80 percent or more of the surplus and the voting power of two or more corporations by the same member or members.

(i) In the case of a branch captive insurance company, the tax provided for in this section shall apply only to the branch business of the company.

(j) If a captive insurance company has been licensed for less than a full calendar year and has written premiums the tax for which is less than the minimum set forth in this section, the tax due shall be prorated as follows:

(1) If licensed on or before March 31, 100 percent.

(2) If licensed April 1 to June 30, 75 percent.

(3) If licensed July 1 to September 30, 50 percent.

(4) If licensed October 1 to December 31, 25 percent.

(k) If a captive insurance company surrenders its

license and the calculated tax on premiums written during the calendar year is less than the minimum set forth in this section, the tax due shall be prorated as follows:

(1) If surrendered on or before March 31, 25 percent.

(2) If surrendered April 1 to June 30, 50 percent.

(3) If surrendered July 1 to September 30, 75 percent.



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757 (4) If surrendered October 1 to December 31, 100
758 percent.

759 (1) The tax provided for in this section shall
760 constitute all taxes collectible under the laws of this state
761 from any captive insurance company, and no other occupation
762 tax or other taxes shall be levied or collected from any
763 captive insurance company by the state or any county, city, or
764 municipality within this state, except business privilege
765 taxes and ad valorem taxes on real and personal property used
766 in the production of income.

767 (m) The tax provided for in this section shall not be
768 applicable if the captive insurance company writes no premiums
769 during the calendar year."

770 Section 3. Section 1 of this act shall become effective
771 June 1, 2026, and Section 2 of this act shall become effective
772 on January 1, 2027.

773