

1 HB270
2 173476-1
3 By Representatives Faulkner, Davis, Hill (M), McCutcheon,
4 Hill (J), Daniels, Williams (JD) and Johnson (K)
5 RFD: Insurance
6 First Read: 18-FEB-16

2
3
4
5
6
7
8 SYNOPSIS: Under existing law, captive insurance
9 companies are licensed and regulated by the Alabama
10 Department of Insurance.

11 This bill would: revise the licensure
12 requirements of captive insurance companies; allow
13 risk retention groups to operate as captive
14 insurance companies; allow captive insurance
15 companies to be formed as a series limited
16 liability corporation; allow for a 60-day
17 provisional license of a captive insurance company
18 in certain circumstances; alter the initial capital
19 requirements needed to form a captive insurance
20 company; and cap the premium tax at \$100,000 and
21 would no longer require a premium tax until a
22 captive insurance company is licensed for 12
23 months.

24 This bill would also provide for the
25 governance and taxation of protected cell captive
26 insurance companies.
27

1 A BILL
2 TO BE ENTITLED
3 AN ACT
4

5 Relating to captive insurance companies; to amend
6 Sections 27-31B-2, 27-31B-3, 27-31B-6, 27-31B-8, 27-31B-9,
7 27-31B-12, 27-31B-16, 27-31B-19, 27-31B-20, 27-31B-22, and
8 27-31B-24; to add Section 27-31B-25 to, and to repeal Section
9 27-31B-23 of the Code of Alabama 1975; to revise the licensure
10 requirements of captive insurance companies; to allow risk
11 retention groups to operate as captive insurance companies; to
12 allow captive insurance companies to be formed as a series
13 limited liability corporation; to allow for a 60-day
14 provisional license of a captive insurance company in certain
15 circumstances; to alter the initial capital requirements
16 needed to form a captive insurance company; to cap the premium
17 tax of captive insurance companies and no longer require a
18 premium tax until a captive insurance company is licensed for
19 12 months; and to provide for the governance and taxation of
20 protected cell captive insurance companies.

21 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

22 Section 1. Sections 27-31B-2, 27-31B-3, 27-31B-6,
23 27-31B-8, 27-31B-9, 27-31B-12, 27-31B-16, 27-31B-19,
24 27-31B-20, 27-31B-22, and 27-31B-24, Code of Alabama 1975, are
25 amended to read as follows:

26 "§27-31B-2.

1 "As used in this chapter, the following terms shall
2 have the following meanings, unless the context clearly
3 indicates otherwise:

4 "(1) AFFILIATED COMPANY. Any company in the same
5 corporate system as a parent, an industrial insured, or a
6 member organization by virtue of common ownership, control,
7 operation, or management.

8 "(2) ALIEN CAPTIVE INSURANCE COMPANY. Any insurance
9 company formed to write insurance business for its parents and
10 affiliates and licensed pursuant to the laws of an alien
11 jurisdiction which imposes statutory or regulatory standards
12 in a form acceptable to the commissioner on companies
13 transacting the business of insurance in that jurisdiction.

14 "(3) ASSOCIATION. Any legal association of
15 individuals, corporations, limited liability companies,
16 partnerships, or associations, or other entities whereby that
17 ~~has been in continuous existence for at least one year and~~
18 ~~meets~~ either of the following exists:

19 "a. The member organizations of ~~which collectively,~~
20 ~~or which does itself,~~ which, or the association itself,
21 whether or not in conjunction with some or all of the member
22 organizations, meet either one of the following:

23 "1. Own, control, or hold with power to vote all of
24 the outstanding voting securities of an association captive
25 insurance company incorporated as a stock insurer.

26 "2. Have complete voting control over an association
27 captive insurance company incorporated as a mutual insurer.

1 "3. Have complete voting control over an association
2 captive insurance company formed as a limited liability
3 company.

4 "b. The member organizations of which collectively
5 constitute all of the subscribers of an association captive
6 insurance company formed as a reciprocal insurer.

7 "(4) ASSOCIATION CAPTIVE INSURANCE COMPANY. Any
8 company that insures risks of the member organizations of the
9 association, and that also may insure the risks of affiliated
10 companies of the member organizations and the risks of the
11 association itself and their affiliated companies.

12 "(5) BRANCH BUSINESS. Any insurance business
13 transacted by a branch captive insurance company in this
14 state.

15 "(6) BRANCH CAPTIVE INSURANCE COMPANY. Any alien
16 captive insurance company licensed by the commissioner to
17 transact the business of insurance in this state through a
18 business unit with a principal place of business in this
19 state. A branch captive insurance company is a pure captive
20 insurance company with respect to operations in this state,
21 unless otherwise permitted by the commissioner.

22 "(7) BRANCH OPERATIONS. Any business operations of a
23 branch captive insurance company in this state.

24 "(8) CAPTIVE INSURANCE COMPANY. Any pure captive
25 insurance company, association captive insurance company,
26 ~~sponsored captive insurance company~~ risk retention group,
27 protected cell captive insurance company, incorporated cell

1 captive insurance company, or industrial insured captive
2 insurance company formed or licensed under this chapter. For
3 purposes of this chapter, a branch captive insurance company
4 shall be a pure captive insurance company with respect to
5 operations in this state, unless otherwise permitted by the
6 commissioner.

7 "(9) CAPTIVE RISK RETENTION GROUP. A captive
8 insurance company organized and licensed as a captive insurer
9 under the laws of this state and operating pursuant to the
10 Liability Risk Retention Act of 1986, as amended, 15 U.S.C.
11 §3901 et seq., as a stock or mutual corporation, a reciprocal,
12 or other limited liability entity. Risk retention groups
13 formed under this chapter are subject to all the same
14 provisions of this title applicable to a casualty insurer
15 organized and licensed under the laws of this state.

16 "(9)(10) COMMISSIONER. The Alabama Commissioner of
17 Insurance or the commissioner's designee.

18 "(10)(11) CONTROLLED UNAFFILIATED BUSINESS. Any
19 company that meets all of the following criteria:

20 "a. Is not in the corporate system of a parent and
21 affiliated companies in the case of a pure captive insurance
22 company, or is not in the corporate system of an industrial
23 insured and its affiliated companies in the case of an
24 industrial insured captive insurance company.

25 "b. Has an existing contractual relationship with a
26 parent or one of its affiliated companies in the case of a
27 pure captive insurance company or with an industrial insured

1 or one of its affiliated companies in the case of an
2 industrial insured captive insurance company.

3 "c. Whose risks are managed by a ~~pure~~ captive
4 insurance company or an industrial insured captive insurance
5 company, as applicable, in accordance with Section 27-31B-20.

6 "~~(11)~~ (12) EXCESS WORKERS' COMPENSATION INSURANCE. In
7 the case of an employer or group of employers that has insured
8 or self-insured its workers' compensation risks in accordance
9 with applicable state or federal law, insurance in excess of a
10 specified per-incident or aggregate limit established by the
11 commissioner.

12 "(13) GENERAL ACCOUNT. All assets and liabilities of
13 a protected cell captive insurance company not attributable to
14 a protected cell.

15 "(14) INCORPORATED CELL. A protected cell of an
16 incorporated cell captive insurance company that is organized
17 as a corporation or other legal entity separate from the
18 incorporated cell captive insurance company.

19 "(15) INCORPORATED CELL CAPTIVE INSURANCE COMPANY. A
20 protected cell captive insurance company that is established
21 as a corporation or other legal entity separate from its
22 incorporated cells that are also organized as separate legal
23 entities.

24 "~~(12)~~ (16) INDUSTRIAL INSURED. As defined in
25 subdivision (2) of Section 27-10-20.

26 "~~(13)~~ (17) INDUSTRIAL INSURED CAPTIVE INSURANCE
27 COMPANY. Any company that insures risks of the industrial

1 insureds that comprise the industrial insured group, and ~~their~~
2 that may insure the risks of the affiliated companies of the
3 industrial insureds and the risks of the controlled
4 unaffiliated business of an industrial insured or its
5 affiliated companies.

6 "~~(14)~~ (18) INDUSTRIAL INSURED GROUP. Any group that
7 meets either of the following criteria:

8 "a. Any group of industrial insureds that
9 collectively meet any of the following criteria:

10 "1. Own, control, or hold with power to vote all of
11 the outstanding voting securities of an industrial insured
12 captive insurance company incorporated as a stock insurer.

13 "2. Have complete voting control over an industrial
14 insured captive insurance company incorporated as a mutual
15 insurer.

16 "3. Constitute all of the subscribers of an
17 industrial insured captive insurance company formed as a
18 reciprocal insurer.

19 "4. Have complete voting control over an industrial
20 insured captive insurance company formed as a limited
21 liability company.

22 "b. Any group which is created under the Product
23 Liability Risk Retention Act of 1981, 15 U.S. Code § 3901 et
24 seq., as amended, as a corporation or other limited liability
25 association taxable as a stock insurance company or a mutual
26 insurer under the law of the State of Alabama.

1 "~~(15)~~(19) MEMBER ORGANIZATION. Any individual,
2 corporation, limited liability company, partnership, ~~or~~
3 association, or other entity that belongs to an association.

4 "(20) MUNICIPAL CORPORATION. A corporation or other
5 legal entity organized without stockholders. The term includes
6 a nonprofit corporation with members.

7 "(21) MUTUAL INSURER. An incorporated captive
8 insurer without capital stock and the governing body of which
9 is elected from policyholders at the mutual members' annual
10 meeting.

11 "(22) ORGANIZATIONAL DOCUMENTS. The documents that
12 must be submitted pursuant to state law in order to legally
13 form a business in this state, or to obtain a certificate of
14 authority to transact business in the state.

15 "~~(16)~~(23) PARENT. A An individual, corporation,
16 limited liability company, partnership, ~~or individual~~
17 association, or other entity that directly or indirectly owns,
18 controls, or holds with power to vote more than 50 percent of
19 the outstanding ~~voting securities of a pure captive insurance~~
20 ~~company~~ of any of the following:

21 "(1) Voting securities of a pure captive insurance
22 company organized as a stock corporation.

23 "(2) Membership interests of a pure captive
24 insurance company organized as a nonprofit corporation.

25 "(3) Membership interests of a pure captive
26 insurance company organized as a limited liability company.

1 "~~(17)~~(24) PARTICIPANT. An entity as defined in
2 Section 27-31B-24, and any affiliates thereof, that are
3 insured by a ~~sponsored~~ protected cell captive insurance
4 company, where the losses of the participant are limited
5 through a ~~participant contract to the participant's pro rata~~
6 ~~share of the assets of one or more protected cells identified~~
7 ~~in the~~ participant contract.

8 "~~(18)~~(25) PARTICIPANT CONTRACT. A contract by which
9 a ~~sponsored~~ protected cell captive insurance company insures
10 the risks of a participant and limits the losses of each
11 participant to its pro rata share of the assets of one or more
12 protected cells identified in the participant contract.

13 "~~(19)~~(26) PROTECTED CELL. A separate account
14 established by a ~~sponsored~~ protected cell captive insurance
15 company formed or licensed under this chapter, in which ~~assets~~
16 ~~are maintained for one or more participants~~ an identified pool
17 of assets and liabilities is segregated and insulated by means
18 of this chapter from the remainder of the protected cell
19 captive insurance company's assets and liabilities in
20 accordance with the terms of one or more participant contracts
21 to fund the liability of the ~~sponsored~~ protected cell captive
22 insurance company, with respect to the participants as set
23 forth in the participant contracts.

24 "(27) PROTECTED CELL ASSETS. All assets, contract
25 rights, and general intangibles identified with and
26 attributable to a specific protected cell of a protected cell
27 captive insurance company.

1 "(28) PROTECTED CELL CAPTIVE INSURANCE COMPANY. Any
2 captive insurance company meeting all of the following:

3 "a. The minimum capital and surplus required by this
4 chapter are provided by one or more sponsors.

5 "b. The company is formed and licensed under this
6 chapter.

7 "c. The company insures the risks of separate
8 participants through participant contracts.

9 "d. The company funds its liability to each
10 participant through one or more protected cells and segregates
11 the assets of each protected cell from the assets of other
12 protected cells and from the assets of the protected cell
13 captive insurance company's general account.

14 "(29) PROTECTED CELL LIABILITIES. All liabilities
15 and other obligations identified with and attributed to a
16 specific protected cell of a protected cell captive insurance
17 company.

18 ~~"(20)~~ (30) PURE CAPTIVE INSURANCE COMPANY. Any
19 company that insures risks of its parent and affiliated
20 companies or controlled unaffiliated business or businesses.

21 ~~"(21)~~ (31) SPONSOR. Any person or entity that ~~meets~~
22 the requirements of Section 27-31B-23 and is approved by the
23 commissioner to ~~provide all or part of the capital and surplus~~
24 ~~required by applicable law and to~~ organize and operate a
25 ~~sponsored~~ protected cell captive insurance company.

1 ~~"(22) SPONSORED CAPTIVE INSURANCE COMPANY. Any~~
2 ~~captive insurance company meeting all of the following~~
3 ~~criteria:~~

4 ~~"a. The minimum capital and surplus required by~~
5 ~~applicable law is provided by one or more sponsors.~~

6 ~~"b. Is formed or licensed under this chapter.~~

7 ~~"c. Insures the risks of separate participants~~
8 ~~through participant contracts.~~

9 ~~"d. Funds its liability to each participant through~~
10 ~~one or more protected cells and segregates the assets of each~~
11 ~~protected cell from the assets of other protected cells and~~
12 ~~from the assets of the sponsored captive insurance company's~~
13 ~~general account.~~

14 ~~"(32) SURPLUS NOTE. An unsecured subordinated debt~~
15 ~~obligation deemed to be a surplus certificate under terms~~
16 ~~acceptable to the commissioner.~~

17 ~~"§27-31B-3.~~

18 ~~"(a) Any captive insurance company, when permitted~~
19 ~~by its articles of association, charter, or other~~
20 ~~organizational document, may apply to the commissioner for a~~
21 ~~license to do any and all insurance defined in Sections~~
22 ~~27-5-2, 27-5-4, and 27-5-5, in subdivisions (1), (2), (4),~~
23 ~~(5), (6), (7), (8), (9), (10), (11), (12), (13), and (14) of~~
24 ~~subsection (a) of Section 27-5-6, in Sections 27-5-7, 27-5-8,~~
25 ~~27-5-9, and 27-5-10, and to grant annuity contracts as defined~~
26 ~~in Section 27-5-3, subject, however, to all of the following:~~

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

4 "(2) No association captive insurance company may
5 insure any risks other than those of the member organizations
6 of its association, and their affiliated companies.

7 "(3) No industrial insured captive insurance company
8 may insure any risks other than those of the industrial
9 insureds that comprise the industrial insured group, and their
10 affiliated companies.

11 "(4) No risk retention group may insure any risks
12 other than those of its members and owners.

13 "(5) No captive insurance company may provide
14 personal motor vehicle coverage or any component thereof.
15 Homeowner's insurance coverage may be written by an Alabama
16 Coastal Captive Insurance Company as defined in Chapter 31C,
17 but only in the gulf front, beach, and seacoast areas as
18 designated by the Insurance Services Office, Inc.

19 "~~(5)~~ (6) No captive insurance company may accept or
20 cede reinsurance except as provided in Section 27-31B-13.

21 "~~(6)~~ (7) Any captive insurance company may provide
22 excess workers' compensation insurance to its parent and
23 affiliated companies, and member organizations unless
24 prohibited by the laws of the state having jurisdiction over
25 the transaction. Any captive insurance company may reinsure
26 workers' compensation of a qualified self-insured plan of its
27 parent and affiliated companies.

1 "~~(7)~~(8) Any captive insurance company which insures
2 risks described in Sections 27-5-2 and 27-5-4 shall comply
3 with all applicable state and federal laws.

4 "~~(8)~~(9) No branch captive insurance company may
5 write any business in this state except insurance or
6 reinsurance of the employee benefit business of its parent and
7 affiliated companies which is subject to the Employee
8 Retirement Income Security Act of 1974, as amended.

9 "~~(9) No sponsored~~ (10) No protected cell captive
10 insurance company may insure any risks other than those of its
11 participants.

12 "(b) To conduct insurance business in this state, a
13 captive insurance company shall comply with all of the
14 following:

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

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

21 "(3) It must maintain its principal place of
22 business in this state, or in the case of a branch captive
23 insurance company, maintain the principal place of business
24 for its branch operations in this state.

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

1 "a. If formed as a corporation or other legal
2 entity, whenever the registered agent cannot with reasonable
3 diligence be found at the registered office of the captive
4 insurance company, the Secretary of State shall be an agent of
5 the captive insurance company upon whom any process, notice,
6 or demand may be served.

7 "b. If formed as a reciprocal insurer, whenever the
8 registered agent cannot with reasonable diligence be found at
9 the registered office of the captive insurance company, the
10 commissioner shall be an agent of the captive insurance
11 company upon whom any process, notice, or demand may be
12 served.

13 "(c) (1) Before receiving a license, a captive
14 insurance company shall comply with one of the following:

15 "a. If formed as a corporation or other legal
16 entity, it shall file with the commissioner a certified copy
17 of its ~~charter~~ organizational documents and bylaws, a
18 statement under oath of its president and secretary or other
19 authorized official showing its financial condition, and any
20 other statements or documents required by the commissioner.

21 "b. If formed as a reciprocal insurer, it shall
22 comply with both of the following:

23 "1. File with the commissioner a certified copy of
24 the power of attorney of its attorney-in-fact, a certified
25 copy of its subscribers' agreement, a statement under oath of
26 its attorney-in-fact showing its financial condition, and any
27 other statements or documents required by the commissioner.

1 "2. Submit to the commissioner for approval a
2 description of the coverages, deductibles, coverage limits,
3 and rates, together with any additional information as the
4 commissioner may reasonably require. In the event of any
5 subsequent material change in any item in the description, the
6 reciprocal captive insurance company shall submit to the
7 commissioner for approval an appropriate revision and shall
8 not offer any additional kinds of insurance until a revision
9 of the description is approved by the commissioner. The
10 reciprocal captive insurance company shall inform the
11 commissioner of any material change in rates within 30 days of
12 the adoption of the change.

13 "(2) In addition to the information required by
14 subdivision (1), each applicant captive insurance company
15 shall file with the commissioner evidence of all of the
16 following:

17 "a. The amount and liquidity of its assets relative
18 to the risks to be assumed.

19 "b. The adequacy of the expertise, experience, and
20 character of the person or persons who will manage it.

21 "c. The overall soundness of its plan of operation.

22 "d. The adequacy of the loss prevention programs of
23 its parent, member organizations, ~~or~~ industrial insureds, or
24 other insureds as applicable.

25 "e. Any other factors deemed relevant by the
26 commissioner in ascertaining whether the proposed captive
27 insurance company will be able to meet its policy obligations.

1 "(3) In addition to the information required by
2 subdivisions (1) and (2), each applicant ~~sponsored~~ protected
3 cell captive insurance company shall file with the
4 commissioner all of the following:

5 "a. A business plan demonstrating how the applicant
6 will account for the loss and expense experience of each
7 protected cell at a level of detail found to be sufficient by
8 the commissioner and how it will report the experience to the
9 commissioner.

10 "b. A statement acknowledging that all financial
11 records of the ~~sponsored~~ protected cell captive insurance
12 company, including records pertaining to any protected cells,
13 shall be made available for inspection or examination by the
14 commissioner or the commissioner's designated agent.

15 "c. All contracts or sample contracts between the
16 ~~sponsored~~ protected cell captive insurance company and any
17 participants.

18 "d. Evidence that expenses shall be allocated to
19 each protected cell in a fair and equitable manner.

20 "(4) Information submitted pursuant to this
21 subsection shall be and remain confidential, and may not be
22 made public by the commissioner or by an employee or agent of
23 the commissioner without the written consent of the company,
24 except as provided in the following:

25 "a. The information may be discoverable by a party
26 in a civil action or contested case to which the captive
27 insurance company that submitted the information is a party,

1 upon a showing by the party seeking to discover the
2 information that (i) the information sought is relevant to and
3 necessary for the furtherance of the action or case, (ii) the
4 information sought is unavailable from other nonconfidential
5 sources, and (iii) a subpoena issued by a judicial or
6 administrative officer of competent jurisdiction has been
7 submitted to the commissioner. Notwithstanding the foregoing,
8 this subdivision shall not apply to any industrial insured
9 captive insurance company insuring the risks of an industrial
10 insured group as defined in paragraph b. of subdivision ~~(14)~~
11 (18) of Section 27-31B-2 or to a captive risk retention group.

12 "b. The commissioner may disclose the information to
13 a public officer having jurisdiction over the regulation of
14 insurance in another state, provided that (i) the public
15 official shall agree in writing to maintain the
16 confidentiality of the information, and (ii) the laws of the
17 state in which the public official serves require the
18 information to be and to remain confidential.

19 "(d) Each captive insurance company shall pay to the
20 commissioner a nonrefundable fee as set forth in Section
21 27-31B-4 for examining, investigating, and processing its
22 application for license, and the commissioner is authorized to
23 retain legal, financial, and examination services from outside
24 the department, the reasonable cost of which may be charged
25 against the applicant in accordance with Section 27-2-25. In
26 addition, each captive insurance company shall pay a license

1 fee for the year of registration and a renewal fee for each
2 year thereafter as set forth in Section 27-31B-4.

3 "(e) If the commissioner is satisfied that the
4 documents and statements filed by a captive insurance company
5 comply with this chapter, the commissioner may grant a license
6 authorizing the company to do insurance business in this state
7 until April 1 thereafter, which license may be renewed.

8 "(f) (1) Notwithstanding any other provision of this
9 chapter, the commissioner may issue a provisional license to
10 any applicant captive insurance company for a period not to
11 exceed 60 days if the commissioner deems that the public
12 interest will be served by the issuance of the provisional
13 license.

14 "(2) As a condition precedent to the issuance of a
15 provisional license under this subsection, the applicant shall
16 have filed a complete application containing all information
17 required by this section, paid all fees required for
18 licensure, and the commissioner shall have made a preliminary
19 finding that the expertise, experience, and character of the
20 person or persons who will control and manage the captive
21 insurer are acceptable.

22 "(3) The commissioner, by order, may limit the
23 authority of any provisional licensee in any way deemed
24 necessary to protect insureds and the public. The
25 commissioner, by order, may revoke a provisional license if
26 the interests of insureds or the public are endangered. If the
27 applicant fails to complete the regular licensure application

1 process within the 60-day provisional period, the provisional
2 license shall terminate automatically at the end of the 60-day
3 period, and any policy issued during the provisional period
4 shall be cancelled as of the termination date and any premium
5 unearned shall be refunded to the policyholder within 10 days.

6 "§27-31B-6.

7 "(a) No ~~pure captive insurance company, association~~
8 ~~captive insurance company, sponsored captive insurance~~
9 ~~company, or industrial insured captive insurance company~~ shall
10 be issued a license unless it shall possess and thereafter
11 maintain unimpaired paid-in capital and surplus as follows:

12 "(1) In the case of a pure captive insurance
13 company, not less than two hundred fifty thousand dollars
14 (\$250,000) or such other amount determined by the commissioner
15 and actuarially supported by a feasibility study.

16 "(2) In the case of an association captive insurance
17 company or risk retention group, not less than ~~seven hundred~~
18 ~~fifty thousand dollars (\$750,000)~~ five hundred thousand
19 dollars (\$500,000) or such other amount determined by the
20 commissioner and actuarially supported by a feasibility study.

21 "(3) In the case of an industrial insured captive
22 insurance company, not less than five hundred thousand dollars
23 (\$500,000).

24 "(4) In the case of a ~~sponsored~~ protected cell
25 captive insurance company, not less than ~~one million dollars~~
26 ~~(\$1,000,000)~~ two hundred fifty thousand dollars (\$250,000) or

1 such other amount determined by the commissioner and
2 actuarially supported by a feasibility study.

3 "(b) Notwithstanding the requirements of subsection
4 (a), no captive insurance company organized as a reciprocal
5 insurer under this chapter shall be issued a license unless it
6 has and thereafter maintains free surplus of one million
7 dollars (\$1,000,000).

8 "(c) The commissioner may prescribe additional
9 capital and surplus based upon the type, volume, and nature of
10 insurance business transacted.

11 "(d) Capital and surplus may be in the form of cash,
12 cash equivalents, securities meeting the eligibility
13 requirements of Section 27-6-3, or, if approved by the
14 commissioner, a clean, irrevocable, and unconditional letter
15 of credit issued by a bank chartered by the State of Alabama
16 or a member bank of the Federal Reserve System and approved by
17 the commissioner. No assets of the captive insurer shall be
18 pledged or encumbered for the payment of the letter of credit.

19 "(e) In the case of a branch captive insurance
20 company, as security for the payment of liabilities
21 attributable to the branch operations, the commissioner shall
22 require that a trust fund, funded by an irrevocable letter of
23 credit or other acceptable asset, be established and
24 maintained in the United States for the benefit of United
25 States policyholders and United States ceding insurers under
26 insurance policies issued or reinsurance contracts issued or
27 assumed, by the branch captive insurance company through its

1 branch operations. The amount of the security may be no less
2 than the capital and surplus required hereunder and the
3 reserves on these insurance policies or reinsurance contracts,
4 including reserves for losses, allocated loss adjustment
5 expenses, incurred but not reported losses, and unearned
6 premiums with regard to business written through the branch
7 operations. Notwithstanding the foregoing, the commissioner
8 may permit a branch captive insurance company that is required
9 to post security for loss reserves on branch business by its
10 reinsurer to reduce the funds in the trust account required by
11 this section by the same amount so long as the security
12 remains posted with the reinsurer. If the form of security
13 selected is a letter of credit, the letter of credit must be
14 established by, or issued or confirmed by, a bank chartered in
15 this state or a member bank of the Federal Reserve System.

16 "§27-31B-8.

17 "(a) A pure captive insurance company or a ~~sponsored~~
18 protected cell captive insurance company shall be ~~incorporated~~
19 formed as a stock or mutual insurer, or as a nonprofit or
20 limited liability company with its capital divided into ~~shares~~
21 units and held by the stockholders, members, or other
22 equivalent as allowed by law.

23 "(b) An association captive insurance company, ~~or~~ an
24 industrial insured captive insurance company, or a risk
25 retention group may be formed in any of the following ways:

1 "(1) ~~Incorporated~~ Organized as a stock insurer with
2 its capital divided into ~~shares~~ share units and held by the
3 stockholders, members, or other equivalent as allowed by law.

4 "(2) ~~Incorporated~~ Organized as a mutual insurer
5 without capital stock, the governing body of which is elected
6 by the member organizations of its association.

7 "(3) Organized as a reciprocal insurer in accordance
8 with Chapter 31 of this title.

9 "(4) Organized as a manager-managed limited
10 liability company.

11 "(c) A captive insurance company incorporated or
12 organized in this state shall have ~~not less than three~~
13 ~~incorporators or two organizers of whom not less than two~~ one
14 or more incorporators or one or more organizers, at least one
15 of which shall be a resident of this state.

16 "(d) (1) In the case of a captive insurance company
17 formed as a corporation, before the articles of incorporation
18 are transmitted to the Secretary of State, the incorporators
19 shall petition the commissioner to issue a certificate setting
20 forth the commissioner's finding that the establishment and
21 maintenance of the proposed corporation will promote the
22 general good of the state. In arriving at this finding the
23 commissioner shall consider all of the following:

24 "a. The character, reputation, financial standing,
25 and purposes of the incorporators.

1 "b. The character, reputation, financial
2 responsibility, insurance experience, and business
3 qualifications of the officers and directors.

4 "c. Any other aspects as the commissioner shall deem
5 advisable.

6 "(2) The articles of incorporation, the certificate,
7 and the organization fee shall be transmitted to the Secretary
8 of State, who shall thereupon record both the articles of
9 incorporation and the certificate.

10 " (e) In the case of a captive insurance company
11 formed as a reciprocal insurer, the organizers shall petition
12 the commissioner to issue a certificate setting forth the
13 commissioner's finding that the establishment and maintenance
14 of the proposed association will promote the general good of
15 the state. In arriving at this finding the commissioner shall
16 consider all of the following:

17 "(1) The character, reputation, financial standing,
18 and purposes of the organizers.

19 "(2) The character, reputation, financial
20 responsibility, insurance experience, and business
21 qualifications of the attorney-in-fact.

22 "(3) Any other aspects as the commissioner shall
23 deem advisable.

24 "(f) In the case of a captive insurance company
25 licensed as a branch captive insurance company, the alien
26 captive insurance company shall petition the commissioner to
27 issue a certificate setting forth the commissioner's finding

1 that, after considering the character, reputation, financial
2 responsibility, insurance experience, and business
3 qualifications of the officers and directors of the alien
4 captive insurance company, the licensing and maintenance of
5 the branch operations will promote the general good of the
6 state. The alien captive insurance company may register to do
7 business in this state after the commissioner's certificate is
8 issued.

9 "(g) The capital stock of a captive insurance
10 company incorporated as a stock insurer may be authorized with
11 no par value.

12 "(h) In the case of a captive insurance company
13 ~~formed as a corporation,~~ at least one of the members of the
14 board of directors, managing members, or equivalents as
15 allowed by law, shall be a resident of this state.

16 "(i) In the case of a captive insurance company
17 formed as a reciprocal insurer, at least one of the members of
18 the subscribers' advisory committee shall be a resident of
19 this state.

20 "(j) Captive insurance companies formed as
21 corporations under this chapter shall have the privileges and
22 be subject to the general corporation law as well as the
23 applicable provisions of this chapter. In the event of
24 conflict between the general corporation law and this chapter,
25 the latter shall control. The provisions of this title
26 pertaining to mergers, consolidations, conversions,
27 mutualizations, and redomestications shall apply in

1 determining the procedures to be followed by captive insurance
2 companies in carrying out any of the transactions described
3 therein, except that the commissioner may waive or modify the
4 requirements for public notice and hearing in accordance with
5 rules which the commissioner may adopt addressing categories
6 of transactions. If a notice of public hearing is required,
7 but no one requests a hearing, then the commissioner may
8 cancel the hearing.

9 "(k) (1) Captive insurance companies formed as
10 reciprocal insurers under this chapter shall have the
11 privileges and be subject to Chapter 31 in addition to the
12 applicable provisions of this chapter. In the event of a
13 conflict between Chapter 31 and this chapter, the latter shall
14 control. To the extent a reciprocal insurer is made subject to
15 other provisions of this title pursuant to Chapter 31, the
16 provisions shall not be applicable to a reciprocal insurer
17 formed under this chapter unless the provisions are expressly
18 made applicable to captive insurance companies under this
19 chapter.

20 "(2) In addition to subdivision (1), captive
21 insurance companies organized as reciprocal insurers that are
22 industrial insured groups as defined in paragraph b. of
23 subdivision ~~(14)~~ (18) of Section 27-31B-2 shall have the
24 privileges and be subject to the provisions of Chapter 31A in
25 addition to the applicable provisions of this chapter.

26 "(l) The articles of incorporation, organization, or
27 equivalent allowed by law, or bylaws of a captive insurance

1 company ~~formed as a corporation~~ may authorize a quorum of a
2 board of directors to consist of no fewer than one-third of
3 the fixed or prescribed number of directors determined under
4 Title 10.

5 "(m) The subscribers' agreement or other organizing
6 document of a captive insurance company formed as a reciprocal
7 insurer may authorize a quorum of a subscribers' advisory
8 committee to consist of no fewer than one-third of its
9 members.

10 "§27-31B-9.

11 "(a) Captive insurance companies shall not be
12 required to make any annual report except as provided in this
13 chapter.

14 "(b) Prior to March 1 of each year, each captive
15 insurance company shall submit to the commissioner a report of
16 its financial condition, verified by oath of two of its
17 executive officers. Except as provided in Section 27-31B-6,
18 each captive insurance company shall report using statutory
19 accounting principles, unless the commissioner approves the
20 use of generally accepted accounting principles, with any
21 useful or necessary modifications or adaptations thereof
22 required or approved or accepted by the commissioner for the
23 type of insurance and kinds of insurers to be reported upon,
24 and as supplemented by additional information required by the
25 commissioner. Except as otherwise provided, each association
26 captive insurance company and each industrial insured captive
27 insurance company insuring the risks of an industrial insured

1 group defined in paragraph b. of subdivision ~~(14)~~ (18) of
2 Section 27-31B-2 shall file its report in the form required by
3 Section 27-3-26. Each risk retention group shall file its
4 report in the form required by Section 27-3-26 and shall
5 comply with all filing requirements set forth in this title as
6 well as rules and bulletins of the Alabama Department of
7 Insurance applicable to casualty insurers domiciled in the
8 state. The commissioner shall by rule propose the forms in
9 which pure captive insurance companies and industrial insured
10 captive insurance companies insuring the risks of an
11 industrial insured group defined in paragraph a. of
12 subdivision ~~(14)~~ (18) of Section 27-31B-2 shall report.
13 Subdivision (4) of subsection (c) of Section 27-31B-3 shall
14 apply to each report filed pursuant to this section, except
15 the subdivision shall not apply to reports filed by industrial
16 insured captive insurance companies insuring the risks of
17 industrial insured groups as defined in paragraph b. of
18 subdivision ~~(14)~~ (18) of Section 27-31B-2.

19 "(c) Any pure captive insurance company or an
20 industrial insured captive insurance company insuring the
21 risks of industrial insured groups as defined in paragraph a.
22 of subdivision ~~(14)~~ (18) of Section 27-31B-2 may make written
23 application for filing the required report on a fiscal
24 year-end. If an alternative reporting date is granted, the
25 annual report shall be due 60 days after the end of the fiscal
26 year and, in order to provide sufficient detail to support the
27 premium tax return, the pure captive insurance company or

1 industrial insured captive insurance company insuring the
2 risks of industrial insureds as defined in paragraph b. of
3 subdivision ~~(14)~~ (18) of Section 27-31B-2 shall file prior to
4 March 1 of each year for each calendar year-end, pages 1, 2,
5 3, and 5 of the "Captive Annual Statement; Pure or Industrial
6 Insured," verified by oath of two of its executive officers.

7 "(d) Sixty days after the fiscal year-end, a branch
8 captive insurance company shall file with the commissioner a
9 copy of all reports and statements required to be filed under
10 the laws of the jurisdiction in which the alien captive
11 insurance company is formed, verified by oath of two of its
12 executive officers. If the commissioner is satisfied that the
13 annual report filed by the alien captive insurance company in
14 its domiciliary jurisdiction provides adequate information
15 concerning the financial condition of the alien captive
16 insurance company, the commissioner may waive the requirement
17 for completion of the captive annual statement for business
18 written in the alien jurisdiction.

19 "§27-31B-12.

20 "(a) An association captive insurance
21 company, ~~sponsored captive insurance company~~ risk retention
22 group, and an industrial insured captive insurance company
23 insuring the risks of an industrial insured group defined in
24 paragraph b. of subdivision ~~(14)~~ (18) of Section 27-31B-2
25 shall comply with the investment requirements contained in
26 this title, as applicable; provided, however, that compliance
27 with these investment requirements shall be waived for

1 ~~sponsored captive insurance companies~~ risk retention groups to
2 the extent that credit for risks ceded to reinsurers is
3 allowed pursuant to Section 27-31B-13 or to the extent
4 otherwise deemed reasonable and appropriate by the
5 commissioner. Chapter 37 of this title shall apply to
6 association captives, ~~sponsored captive insurance companies~~
7 risk retention groups, and industrial insured captive
8 insurance companies insuring the risks of industrial insured
9 groups defined in paragraph b. of subdivision ~~(14)~~ (18) of
10 Section 27-31B-2 except to the extent it is inconsistent with
11 approved accounting standards in use by the association
12 captive insurance company, ~~sponsored captive insurance company~~
13 risk retention group, or industrial insured captive insurance
14 company insuring the risks of an industrial insured group as
15 defined in paragraph b. of subdivision ~~(14)~~ (18) of Section
16 27-31B-2. Notwithstanding any other provision of this title,
17 the commissioner may approve the use of alternative reliable
18 methods of valuation and rating.

19 " (b) No pure captive insurance company, ~~or~~
20 industrial insured captive insurance company insuring the
21 risks of an industrial insured group as defined in paragraph
22 b. of subdivision ~~(14)~~ (18) of Section 27-31B-2, or protected
23 cell captive insurance company shall be subject to any
24 restrictions on allowable investments whatever, including
25 those limitations contained in Chapters 37 and 41.
26 Notwithstanding the foregoing, the commissioner may prohibit

1 or limit any investment that threatens the solvency or
2 liquidity of the company.

3 "(c) Only a pure captive insurance company or a
4 protected cell captive insurance company may make loans to its
5 parent company or affiliates. No loans to a parent company or
6 any affiliate shall be permitted without prior written
7 approval of the commissioner and must be evidenced by a note
8 in a form approved by the commissioner. Loans of minimum
9 capital and surplus funds required by Section 27-31B-6 are
10 prohibited. Any loan made by a protected cell captive
11 insurance company must be made from funds in the company's
12 general account.

13 "§27-31B-16.

14 "(a) Each captive insurance company shall pay to the
15 commissioner, by March 1 of each year, a tax at the rate of
16 four-tenths of one percent on the first 20 million dollars,
17 three-tenths of one percent on the next 20 million dollars,
18 two-tenths of one percent on the next 20 million dollars,
19 seventy-five thousandths of one percent on each dollar
20 thereafter on the direct premiums collected or contracted for
21 on policies or contracts of insurance written by the captive
22 insurance company during the year ending December 31 next
23 preceding, after deducting from the direct premiums subject to
24 the tax the amounts paid to policyholders as return premiums
25 which shall include dividends on unabsorbed premiums or
26 premium deposits returned or credited to policyholders.

1 Notwithstanding the foregoing, no tax shall be due or payable
2 as to considerations received for annuity contracts.

3 "(b) Each captive insurance company shall pay to the
4 commissioner by March 1 of each year a tax at the rate of two
5 hundred and twenty-five thousandths of one percent on the
6 first 20 million dollars of assumed reinsurance premium, one
7 hundred fifty thousandths of one percent on the next 20
8 million dollars, fifty thousandths of one percent on the next
9 20 million dollars, twenty-five thousandths of one percent of
10 each dollar thereafter. However, no reinsurance tax applies to
11 premiums for risks or portions of risks which are subject to
12 taxation on a direct basis pursuant to subsection (a). No
13 reinsurance premium tax shall be payable in connection with
14 the receipt of assets in exchange for the assumption of loss
15 reserves and other liabilities of another insurer under common
16 ownership and control if the transaction is part of a plan to
17 discontinue the operations of the other insurer, and if the
18 intent of the parties to the transaction is to renew or
19 maintain business with the captive insurance company.

20 "(c) If the aggregate taxes to be paid by a captive
21 insurance company calculated under subsections (a) and (b)
22 amount to less than five thousand dollars (\$5,000) in any
23 year, the captive insurance company shall pay a tax of five
24 thousand dollars (\$5,000) for that year. The aggregate taxes
25 paid by a captive insurance company may not exceed one hundred
26 thousand dollars (\$100,000) in any year.

1 "(d) The minimum tax for a protected cell captive
2 insurance company may not be less than five thousand dollars
3 (\$5,000) and shall apply to the protected cell captive
4 insurance company as a whole and not to each protected cell.
5 The maximum tax to be paid by a protected cell captive
6 insurance company shall be the aggregate of the tax
7 liabilities of each protected cell. The maximum tax liability
8 attributed to any one protected cell captive insurance company
9 shall be one hundred thousand dollars (\$100,000).

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

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

22 "~~(e)~~ (g) Two or more captive insurance companies
23 under common ownership and control shall be taxed as though
24 they were a single captive insurance company.

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

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

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

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

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

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

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

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

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

21 "(k) If a captive insurance company surrenders its
22 license and the calculated tax on premiums written during the
23 calendar year is less than the minimum set forth in this
24 section, the tax due shall be prorated as follows:

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

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

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

3 "(4) If surrendered October 1 to December 31, 100
4 percent.

5 "~~(h)~~ (l) The tax provided for in this section shall
6 constitute all taxes collectible under the laws of this state
7 from any captive insurance company, and no other occupation
8 tax or other taxes shall be levied or collected from any
9 captive insurance company by the state or any county, city, or
10 municipality within this state, except business privilege
11 taxes and ad valorem taxes on real and personal property used
12 in the production of income.

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

16 "§27-31B-19.

17 "(a) Except as otherwise provided in this section,
18 the terms and conditions set forth in Chapter 32 and Article
19 2, commencing with Section 27-2-50, of Chapter 2, pertaining
20 to rehabilitation, reorganization, conservation, and
21 liquidation of insurers, shall apply in full to captive
22 insurance companies formed or licensed under this chapter.

23 "(b) In the event of an action described in
24 subsection (a) against a ~~sponsored~~ protected cell captive
25 insurance company, both of the following shall apply:

1 "(1) The assets of a protected cell may not be used
2 to pay any expenses or claims other than those attributable to
3 the protected cell.

4 "(2) Its capital and surplus shall at all times be
5 available to pay any expenses of or claims against the
6 ~~sponsored~~ protected cell captive insurance company.

7 "(c) Notwithstanding the provisions of this title,
8 in the event of an insolvency of a protected cell captive
9 insurance company where the commissioner determines that one
10 or more protected cells remain solvent, the commissioner may
11 separate those cells from the protected cell captive insurance
12 company, and may allow, on application from the sponsor, for
13 the conversion of the protected cells into one or more new or
14 existing captive insurance companies, pursuant to a plan of
15 operation as the commissioner deems acceptable.

16 "§27-31B-20.

17 "The commissioner shall adopt rules establishing
18 standards to ensure that a parent or affiliated company is
19 able to exercise control of the risk management function of
20 any controlled unaffiliated business to be insured by the ~~pure~~
21 captive insurance company. Until the rules under this section
22 are adopted, the commissioner may by temporary order grant
23 authority to a ~~pure~~ captive insurance company to insure risks.

24 "§27-31B-22.

25 "(a) One or more sponsors may form a ~~sponsored~~
26 protected cell captive insurance company under this chapter.

1 "(b) A ~~sponsored~~ protected cell captive insurance
2 company formed or licensed under this chapter may establish
3 and maintain one or more protected cells to insure risks of
4 one or more participants, subject to all of the following
5 conditions:

6 "~~(1)~~ The shareholders of a ~~sponsored captive~~
7 ~~insurance company shall be limited to its participants and~~
8 ~~sponsors.~~

9 "~~(2)~~ (1) Each protected cell shall be accounted for
10 separately on the books and records of the ~~sponsored~~ protected
11 cell captive insurance company to reflect the financial
12 condition and results of operations of the protected cell, net
13 income or loss, dividends or other distributions to
14 participants, and other factors as may be provided in the
15 participant contract or required by the commissioner.

16 "~~(3)~~ (2) The assets of a protected cell shall not be
17 chargeable with liabilities arising out of any other insurance
18 business the ~~sponsored~~ protected cell captive insurance
19 company may conduct.

20 "~~(4)~~ (3) No sale, exchange, or other transfer of
21 assets may be made by the ~~sponsored~~ protected cell captive
22 insurance company between or among any of its protected cells
23 without the consent of the protected cells.

24 "~~(5)~~ (4) No sale, exchange, transfer of assets,
25 dividend, or distribution may be made from a protected cell to
26 a sponsor or participant without the commissioner's approval
27 and in no event shall the approval be given if the sale,

1 exchange, transfer, dividend, or distribution would result in
2 insolvency or impairment with respect to a protected cell.

3 ~~"(6)~~ (5) Each ~~sponsored~~ protected cell captive
4 insurance company shall annually file with the commissioner
5 all financial reports as the commissioner shall require, which
6 shall include, without limitation, accounting statements
7 detailing the financial experience of each protected cell.

8 ~~"(7)~~ (6) Each ~~sponsored~~ protected cell captive
9 insurance company shall notify the commissioner in writing
10 within 10 business days of any protected cell that is
11 insolvent or otherwise unable to meet its claim or expense
12 obligations.

13 ~~"(8)~~ (7) No participant contract shall take effect
14 without the commissioner's prior written approval, and the
15 addition of each new protected cell and withdrawal of any
16 participant of any existing protected cell shall constitute a
17 change in the business plan requiring the commissioner's prior
18 written approval.

19 ~~"(9)~~ (8) The commissioner, based on the type, nature,
20 and volume of insurance business transacted, may require that
21 the business written by a ~~sponsored~~ protected cell captive
22 insurance company, with respect to each cell, shall be one of
23 the following:

24 "a. Fronted by an insurance company licensed under
25 the laws of any state.

26 "b. Reinsured by a reinsurer authorized or approved
27 by the ~~State of Alabama~~ state.

1 "c. Secured by a trust fund in the United States for
2 the benefit of policyholders and claimants funded by an
3 irrevocable letter of credit or other asset that is acceptable
4 to the commissioner. The amount of security provided by a
5 trust fund shall be no less than the reserves associated with
6 those liabilities, including reserves for losses, allocated
7 loss adjustment expenses, incurred but not reported losses,
8 and unearned premiums for business written through the
9 participant's protected cell. The commissioner may require the
10 ~~sponsored~~ protected cell captive insurance company to increase
11 the funding of any trust as established under this
12 subdivision. If the form of security in the trust is a letter
13 of credit, the letter of credit must be clean, irrevocable,
14 and unconditional and must be issued or confirmed by a bank
15 chartered in this state, a member of the federal reserve
16 system, or a bank chartered by another state if the state
17 chartered bank is acceptable to the commissioner. A trust and
18 trust instrument maintained pursuant to this subdivision shall
19 be established in a form and upon terms approved by the
20 commissioner.

21 "§27-31B-24.

22 "(a) An association, corporation, limited liability
23 company, partnership, trust, or other business entity may be a
24 participant in a ~~sponsored~~ protected cell captive insurance
25 company formed or licensed under this chapter.

26 "(b) A sponsor may be a participant in a ~~sponsored~~
27 protected cell captive insurance company.

1 "(c) A participant need not be a shareholder of the
2 ~~sponsored~~ protected cell captive insurance company or an
3 affiliate of the company.

4 "(d) A participant shall insure only ~~its own~~
5 approved risks through a ~~sponsored~~ protected cell captive
6 insurance company."

7 Section 2. Section 27-31B-25 is added to the Code of
8 Alabama 1975, to read as follows:

9 §27-31B-25.

10 (a) A protected cell of a protected cell captive
11 insurance company may be formed as an incorporated protected
12 cell.

13 (b) Subject to the prior written approval of the
14 protected cell captive insurance company and of the
15 commissioner, an incorporated protected cell shall be entitled
16 to enter into contracts and undertake obligations in its own
17 name and for its own account. In the case of a contract or
18 obligation to which the protected cell captive insurance
19 company is not a party, either in its own name and for its own
20 account or on behalf of a protected cell, the counterparty to
21 the contract or obligation shall have no right or recourse
22 against the protected cell captive insurance company and its
23 assets other than against assets properly attributable to the
24 incorporated protected cell that is a party to the contract or
25 obligation.

26 (c) The certificate of formation of an incorporated
27 protected cell shall refer to the protected cell captive

1 insurance company for which it is a protected cell and shall
2 state that the protected cell is incorporated or organized for
3 the limited purposes authorized by the protected cell captive
4 insurance company's license. A copy of the prior written
5 approval of the commissioner to add the incorporated protected
6 cell, required by subdivision (7) of subsection (b) of Section
7 27-31B-22, shall be attached to and filed with the certificate
8 of formation.

9 (d) It is the intent of the Legislature under this
10 section to provide protected cell captive insurance companies
11 with the option to establish one or more protected cells as a
12 separate corporation, mutual corporation, nonprofit, limited
13 liability company, or other entity as allowed by law. This
14 section shall not be construed to limit any rights or
15 protections applicable to protected cells not established as
16 corporations, mutual corporations, nonprofit corporations,
17 limited liability companies, or other entities as allowed by
18 law.

19 Section 3. Section 27-31B-23, Code of Alabama 1975,
20 relating to qualifications of sponsors of a sponsored captive
21 insurance company, is repealed.

22 Section 4. This act shall become effective on the
23 first day of the third month following its passage and
24 approval by the Governor, or its otherwise becoming law.