



I. Alabama Captive Industry History

- a. 2006 – Alabama Legislature enacted the Alabama Captive Insurers Act
- b. 2008 – Alabama Legislature enacted the Alabama Coastal Captive Insurance Act
- c. 2016 – Alabama Legislature passed an update to the 2006 Act
- d. 2019 – US Captive Awards recognized AL as Domicile of the Year - <\$5Billion of Gross Written Premium
- e. 2020 – The Alabama Captive Insurance Association (ACIA) proposed three (3) updates to the Alabama Captive Insurers Act
 - i. Updates are focused on economic development
 1. Expansion of Branch Captives
 2. Technical corrections to promote consistent language between Chapter 31(B) and Chapter 31(C), Alabama Coastal Captive Insurance Act
 3. Enacting a Dormancy Status for Captives
 - ii. Changes make Alabama an even more attractive captive domicile
 - iii. Changes are noncontroversial – they have been reviewed by all major interested parties in the state without opposition
 - iv. While this legislation passed through the House and the Senate Insurance and Banking Committee, it never received a final Senate vote due to COVID-19.
- f. 2021 - The ACIA carried over the updates from the 2020 Act and expand upon the legislation

II. Expansion of Branch Captives (2020)

- a. Expands the Definition & Promotes Utilization
 - i. Allows branch captives to pool risks written in a foreign or alien jurisdiction into an Alabama captive, subject to the commissioner’s approval
 - ii. Allows Branch Captives to write business other than employee benefits
 - iii. Requires Branch Captives maintain “a place of business”, rather than “the principle place of business” in Alabama
 - iv. Reduces regulatory requirements pertaining to the capitalization of new entities, subject to the commissioner’s approval
- b. The changes allow for much easier creation of branch captives, thereby allowing multi-state and multi-national organizations to better manage their Alabama risks without having to move their entire captive operations to Alabama

III. Legal There, Insure It Here

- a. Clarifies that risks on legal business activities (in the jurisdiction of said activities) may be managed in an Alabama captive

IV. Agency Captives

- a. Authorizes the creation of agency captive insurance companies in Alabama provided that they are owned or controlled (directly or indirectly) by a licensed insurance producer and only insure against risks covered by insurance policies sold, solicited or negotiated through the insurance producers that own or control such captive insurance company.
- b. Minimum capital requirement: \$500,000

V. Reinsurance Captive Insurance Companies (2021)

- a. Authorizes the creation of reinsurance captive insurance companies
- b. Provides that reinsurance captives can only assume risks from a lawfully licensed insurer or reinsurer (can be from a domestic, foreign, or alien jurisdiction) and assumes the risks on a funds withheld basis
- c. Minimum capital requirement: \$10,000
- d. This would incentivize domestic insurers to domicile their captives in Alabama

VI. Special Purpose Financial Captive Companies (2021)

- a. SPFCs may engage in any activity in any form permitted by a captive insurer in any other jurisdiction
- b. allows the Commissioner to consider captive structures, other than those listed in the Act

VII. Lowering the Minimum Capital Requirements for Pure and Protected Cell Captives (2021)

- a. Pure captives lowered from \$250,000 to \$100,000
- b. Protected cell captives lowered from \$250,000 to \$100,000

VIII. Surplus Notes (2021)

- a. Captives may now be capitalized with a surplus note insofar as the creditor and the captive issuing the surplus note have written agreement providing the following:
 - i. The creditor may only be paid out of the portion of the captive's surplus that exceeds the minimum stated in the agreement.
 - ii. The minimum surplus or "floor" shall exceed the sum of (i) 10% of the face amount of the surplus note, (ii) the greater of the statutory minimum capital or surplus required by statute or the approved feasibility study or such other amount approved by the Commissioner.
 - iii. Payments may only be made if the payment does not affect the financial condition of the company; and
 - iv. Any payment of principal or interest requires the prior approval of the Commissioner

IX. Mutualizations (2021)

- a. Adds section to outline the voting process for mutualizations and clarifies that a majority of votes only refers to votes returned/submitted.
- X. Redomestication (2021)**
- a. A formalized process for redomestication has been added.
 - b. In order for an alien captive insurance company to redomesticate to Alabama, they must display compliance with the regulations of their former domicile, be in compliance with the regulations of Alabama, and have an examination substantially similar to the scope of the Alabama examination.
- XI. Risk Retention Group Requirements (2021)**
- a. The Department has agreed to promulgate a regulation that will formally outline all NAIC standards for RRGs.
 - b. Simplifies and organizes the requirements of a captive risk retention group (RRG)

[CLICK HERE](#) for full text of the 2021 update to the Alabama Captive Insurers Act.