

House Bill 939

By: Representatives Taylor of the 173<sup>rd</sup>, Smith of the 134<sup>th</sup>, Lumsden of the 12<sup>th</sup>, and Shaw of the 176<sup>th</sup>

A BILL TO BE ENTITLED  
AN ACT

1 To amend Title 33 of the Official Code of Georgia Annotated, relating to insurance, so as to  
2 extensively revise Chapter 41, relating to captive insurance companies; to provide for  
3 definitions; to provide for sponsored captive insurance companies; to provide for an  
4 incorporated protected cell; to provide for appointment of a registered agent; to provide for  
5 minimum capital or surplus; to provide for a dormant captive insurance company, certificate  
6 of dormancy, capital and surplus, certificate renewal, and exemptions; to provide for  
7 formation of sponsored captive insurance companies; to provide for conversion of protected  
8 cells; to provide for Commissioner duties and responsibilities; to provide for related matters;  
9 to repeal conflicting laws; and for other purposes.

10 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

11 **SECTION 1.**

12 Title 33 of the Official Code of Georgia Annotated, relating to insurance, is amended by  
13 designating the existing provisions of Chapter 41, relating to captive insurance companies,  
14 as Article 1.

15 **SECTION 2.**

16 Said title is further amended by revising Code Section 33-41-2, relating to definitions, as  
17 follows:

18 "33-41-2.

19 Terms not defined in this chapter shall have the same meaning ascribed to them in this title.

20 As used in this chapter, unless the context otherwise requires, the term:

21 (1) 'Affiliate' means any person in the same corporate system as a parent, an industrial  
22 insured, or a member organization by virtue of common ownership, control, operation,  
23 or management.

24 (2) 'Agency captive insurance company' means:

25 (A) Any domestic insurance company granted a certificate of authority pursuant to this  
 26 chapter that is owned or controlled by an insurance agency, brokerage, managing  
 27 general agent, or reinsurance intermediary, or an affiliate thereof, or under common  
 28 ownership or control with such agency, brokerage, managing general agent, or  
 29 reinsurance intermediary, and that only reinsures the risk of insurance or annuity  
 30 contracts placed by or through such agency, brokerage, managing general agent, or  
 31 reinsurance intermediary; or

32 (B) Any domestic insurance company granted a certificate of authority pursuant to this  
 33 chapter that is owned or controlled by a marketer, producer, administrator, issuer, or  
 34 provider of service contracts or warranties and that only reinsures the contractual  
 35 liability arising out of such service contracts or warranties sold through such marketer,  
 36 producer, administrator, issuer, or provider.

37 (3) 'Association' means any membership organization whose members consist of a group  
 38 of individuals, corporations, partnerships, or other entities or associations who engage in  
 39 similar or related professional, trade, or business activities and who collectively own,  
 40 control, or hold with power to vote all of the outstanding voting interests of an association  
 41 captive insurance company or of a person that is the sole shareholder of an association  
 42 captive insurance company.

43 (4) 'Association captive insurance company' means any domestic insurance company  
 44 granted a certificate of authority pursuant to this chapter to insure or reinsure the similar  
 45 or related risks of members and affiliates of members of its association.

46 (5) 'Captive insurance company' means any pure captive insurance company, association  
 47 captive insurance company, agency captive insurance company, industrial insured captive  
 48 insurance company, sponsored captive insurance company, or risk retention group captive  
 49 insurance company.

50 (6) 'Controlled unaffiliated business' means:

51 (A) Any person:

52 (i) That is not in the corporate system of a parent and its affiliated companies;

53 (ii) That has an existing contractual relationship with a parent or one of its affiliated  
 54 companies; and

55 (iii) Whose risks are managed by a pure captive insurance company in accordance  
 56 with this chapter and approved by the Commissioner; or

57 (B) A reinsurance pooling arrangement with other captive insurance companies that  
 58 is approved by the Commissioner.

59 (7) 'Dormant captive insurance company' means a captive insurance company that:

60 (A) Has ceased transacting the business of insurance, including the issuance of  
 61 insurance policies; and

62 (B) Has no remaining liabilities associated with insurance business transactions, or  
 63 insurance policies issued prior to the filing of its application for a certificate of  
 64 dormancy pursuant to this chapter.

65 ~~(7)~~(8) 'Formation documents' means articles of incorporation, if the captive insurance  
 66 company or the prospective captive insurance company is a stock insurer, stock  
 67 corporation, or a mutual insurer, or articles of organization, if the captive insurance  
 68 company or the prospective captive insurance company is a limited liability company,  
 69 and any amendments or restatements of the same. For purposes of this term, an  
 70 incorporated protected cell of a sponsored captive insurance company shall be included  
 71 in the definition of 'captive insurance company.'

72 (9) 'General account' means all assets and liabilities of the sponsored captive insurance  
 73 company not attributable to a protected cell.

74 (10) 'Incorporated protected cell' means a protected cell that is established as a  
 75 corporation, or limited liability company, separate from the sponsored captive insurance  
 76 company of which it is a part.

77 ~~(8)~~(11) 'Industrial insured' means an insured:

78 (A) Who procures the insurance of any risk or risks through the use of the services of  
 79 a full-time employee who acts as an insurance manager, risk manager, or insurance  
 80 buyer or through the services of a person licensed as a property and casualty agent,  
 81 broker, or counselor in such person's state of domicile;

82 (B) Whose aggregate annual premiums for insurance on all risks total at least  
 83 \$25,000.00; and

84 (C) Who either:

85 (i) Has at least 25 full-time employees;

86 (ii) Has gross assets in excess of \$3 million; or

87 (iii) Has annual gross revenues in excess of \$5 million.

88 ~~(9)~~(12) 'Industrial insured captive insurance company' means any domestic insurance  
 89 company granted a certificate of authority pursuant to this chapter to insure or reinsure  
 90 the risks of industrial insureds and their affiliates and which has as its shareholders or  
 91 members only industrial insureds that are insured or reinsured by the industrial insured  
 92 captive insurance company or which has as its sole shareholder or sole member an entity  
 93 whose only owners are industrial insureds that are insured or reinsured by the industrial  
 94 insured captive insurance company.

95 ~~(10)~~(13) 'Mutual insurer' means an incorporated insurer without capital stock or shares  
 96 that is owned and governed by its policyholders.

97 ~~(11)~~(14) 'Parent' means an entity which directly or indirectly owns, controls, or holds  
 98 with power to vote more than 50 percent of the total outstanding voting:

99 (A) Securities of a pure captive insurance company organized as a stock corporation;  
100 or

101 (B) Membership interests of a pure captive insurance company organized as a limited  
102 liability company.

103 (15) 'Participant' means a person, and any affiliates thereof, that is insured or reinsured  
104 by a sponsored captive insurance company, where the losses of the participant are limited  
105 through a participant contract to such participant's pro rata share of the assets of one or  
106 more protected cells identified in such participant contract.

107 (16) 'Participant contract' means a contract by which a sponsored captive insurance  
108 company insures or reinsures the risks of a participant and limits the losses of each such  
109 participant to the protected cell assets or the pro rata share of the assets of one or more  
110 protected cells identified in such participant contract.

111 (17) 'Protected cell' means a separate and distinct account established by a sponsored  
112 captive insurance company formed or licensed under the provisions of this chapter, in  
113 which an identified pool of assets are maintained for one or more participants in  
114 accordance with the terms of one or more participant contracts to fund the liability of the  
115 sponsored captive insurance company assumed on behalf of such participants as set forth  
116 in such participant contracts, and shall include an 'incorporated protected cell,' as defined  
117 in this chapter.

118 (18) 'Protected cell assets' means all assets, contract rights, and general intangibles  
119 identified with and attributable to a specific protected cell of a sponsored captive  
120 insurance company.

121 (19) 'Protected cell liabilities' means all liabilities and other obligations identified with  
122 and attributable to a specific protected cell of a sponsored captive insurance company.

123 ~~(12)~~(20) 'Pure captive insurance company' means any domestic insurance company  
124 granted a certificate of authority under this chapter to insure or reinsure the risks of its  
125 parent and affiliates of its parent, and controlled unaffiliated business.

126 ~~(13)~~(21) 'Risk retention group captive insurance company' is any domestic insurance  
127 company which has been granted a certificate of authority pursuant to this chapter and  
128 determined by the Commissioner to be established and maintained as a 'risk retention  
129 group' as defined under the federal Liability Risk Retention Act of 1986, as amended.  
130 ~~A risk retention group may be chartered and licensed pursuant to this chapter or pursuant~~  
131 ~~to Chapter 40 of this title.~~

132 (22) 'Sponsor' means any person that meets the requirements of Code Section 33-41-101  
133 and is approved by the Commissioner to provide all or part of the capital and surplus  
134 required by this chapter and to organize and operate a sponsored captive insurance  
135 company.

136 (23) 'Sponsored captive insurance company' means any domestic insurance company  
 137 which has been granted a certificate of authority pursuant to this chapter:

138 (A) In which the minimum capital and surplus required by this chapter are provided  
 139 by one or more sponsors;

140 (B) That only insures or reinsures the risks of its participants through separate  
 141 participant contracts; and

142 (C) That funds its liability to each participant through one or more protected cells and  
 143 segregates the assets of each protected cell from the assets of other protected cells and  
 144 from the assets of the sponsored captive insurance company's general account.

145 ~~(14)~~(24) 'Stock insurer' means an incorporated insurer with capital divided into shares  
 146 and owned by its shareholders.

147 ~~(15)~~(25) 'Transact,' as used in this chapter, shall not include the organizational activities  
 148 associated with the preliminary formation, incorporation, petitioning for a certificate of  
 149 authority, and initial capitalization of a captive insurance company."

### 150 **SECTION 3.**

151 Said title is further amended in subsection (c) of Code Section 33-41-3, relating to  
 152 permissible business and limitations, by revising paragraphs (6) and (7) and adding a new  
 153 paragraph to read as follows:

154 "(6) A risk retention group captive insurance company may only insure or reinsure the  
 155 risks of its group members; and

156 (7) An agency captive insurance company may only reinsure:

157 (A) The risk of insurance or annuity contracts placed by or through the agency,  
 158 brokerage, managing general agent, or reinsurance intermediary by which it is owned  
 159 or controlled; or

160 (B) The contractual liability arising out of service contracts or warranties sold through  
 161 a marketer, producer, administrator, issuer, or provider of service contracts or  
 162 warranties by which it is owned or controlled; and

163 (8) A sponsored captive insurance company may only insure or reinsure the risks of its  
 164 participants in accordance with separate participant contracts."

### 165 **SECTION 4.**

166 Said title is further amended in Code Section 33-41-4, relating to prerequisites to transacting  
 167 insurance, by revising paragraphs (3) and (4) and adding a new paragraph to read as follows:

168 "(3) Any organization providing the principal administrative or management services to  
 169 such captive insurance company shall be approved by the Commissioner; and

170 (4) Its board of directors or board of managers holds at least one meeting each year in  
 171 this state; and  
 172 (5) It appoints a registered agent to accept service of process in this state, provided that,  
 173 whenever such registered agent cannot with reasonable diligence be found at the  
 174 registered office of the captive insurance company, the Commissioner shall be an agent  
 175 of such captive insurance company upon whom any process, notice, or demand may be  
 176 served."

177 **SECTION 5.**

178 Said title is further amended by revising Code Section 33-41-5, relating to incorporation, as  
 179 follows:

180 "33-41-5.

181 (a)(1) A pure captive insurance company or an agency captive insurance company may  
 182 be incorporated as a stock insurer or organized as a manager-managed limited liability  
 183 company.

184 (2) An association captive insurance company, an industrial insured captive insurance  
 185 company, a sponsored captive insurance company, or a risk retention group captive  
 186 insurance company may be: incorporated as a stock insurer, incorporated as a mutual  
 187 insurer, or organized as a manager-managed limited liability company.

188 ~~(A) Incorporated as a stock insurer;~~

189 ~~(B) Incorporated as a mutual insurer; or~~

190 ~~(C) Organized as a manager-managed limited liability company.~~

191 (3) An incorporated protected cell of a sponsored captive insurance company may form  
 192 as a stock corporation, or as a manager-managed limited liability company separate from  
 193 the sponsored captive insurance company of which it is a part.

194 (b)(1) For purposes of this Code section only, an incorporated protected cell of a  
 195 sponsored captive insurance company shall be included in the definition of 'captive  
 196 insurance companies.'

197 (2) Captive insurance companies formed as corporations pursuant to this chapter shall  
 198 be subject to the provisions of Chapter 2 of Title 14, other applicable statutes, and the  
 199 applicable provisions of this chapter. Such captive insurance companies are also subject  
 200 to regulations promulgated hereunder, which the Commissioner has the authority to  
 201 establish regarding the formation, organization, operations, merger, and dissolution of  
 202 captive insurance companies formed as corporations. In the event of any conflict  
 203 between statutes or regulations of this state that are applicable to such captive insurance  
 204 companies, the provisions of this chapter or regulations promulgated hereunder shall  
 205 control.

206 ~~(2)~~(3) Captive insurance companies formed as limited liability companies pursuant to  
 207 this chapter shall be subject to the provisions of Chapter 11 of Title 14, other applicable  
 208 statutes, and the applicable provisions of this chapter. Such captive insurance companies  
 209 are also subject to regulations promulgated hereunder, which the Commissioner has the  
 210 authority to establish regarding the formation, organization, operations, merger, and  
 211 dissolution of captive insurance companies formed as limited liability companies. In the  
 212 event of any conflict between statutes or regulations of this state that are applicable to  
 213 such captive insurance companies, the provisions of this chapter or regulations  
 214 promulgated hereunder shall control.

215 ~~(3)~~(4) Captive insurance companies shall be exempt from all applicable publishing and  
 216 probate court certification requirements set forth in Title 14 or this title.

217 ~~(4)~~(5) The provisions of Chapter 14 of this title shall not apply to captive insurance  
 218 companies except as specifically set forth herein or by the Commissioner through  
 219 regulation.

220 (c)(1)(A) To form a captive insurance company in this state, formation documents and  
 221 a fee of \$100.00 shall be submitted to the Commissioner, who shall pay such fee into  
 222 the state treasury. The Commissioner shall examine the formation documents to  
 223 determine whether such documents will enable the captive insurance company to  
 224 comply with the applicable insurance laws of this state; and, if the Commissioner finds  
 225 that the formation documents, if approved, will enable the captive insurance company  
 226 to do so, the Commissioner shall issue under his or her hand and official seal a  
 227 certificate approving the formation documents and shall transmit a copy of such  
 228 documents and the certificate of approval to the Secretary of State for recording.

229 (B) The articles of incorporation of a captive insurance company must be signed by the  
 230 incorporator and shall contain the following:

- 231 (i) The name of the captive insurance company;
- 232 (ii) The number of shares the captive insurance company is authorized to issue,  
 233 which must be greater than zero;
- 234 (iii) The street address and county of the initial registered office and the name of the  
 235 initial registered agent at that office;
- 236 (iv) The name and address of each incorporator, of which there must be at least one;
- 237 (v) The street address of the captive insurance company's principal office;
- 238 (vi) The number of directors, which number shall not be less than three, who shall  
 239 conduct the affairs of the captive insurance company; ~~and~~
- 240 (vii) If the company is a protected cell, a reference to the sponsored captive insurance  
 241 company for which it is, or will be, a protected cell;

242 (viii) If the company is a protected cell, a statement that the company is a protected  
 243 cell incorporated for the limited purposes authorized by the sponsored captive  
 244 insurance company's certificate of authority; and

245 ~~(vii)~~(ix) Such other provisions not inconsistent with law deemed appropriate by the  
 246 incorporator.

247 (C) The articles of organization of a captive insurance company must be signed by the  
 248 organizer and must contain the following:

249 (i) The name of the captive insurance company;

250 (ii) The street address and county of the initial registered office and the name of the  
 251 initial registered agent at that office;

252 (iii) The name and address of each organizer, of which there must be at least one;

253 (iv) The street address of the captive insurance company's principal office;

254 (v) The number of managers, which number shall not be less than three, who shall  
 255 conduct the affairs of the captive insurance company; ~~and~~

256 (vi) If the company is a protected cell, a reference to the sponsored captive insurance  
 257 company for which it is, or will be, a protected cell;

258 (vii) If the company is a protected cell, a statement that the company is a protected  
 259 cell organized for the limited purposes authorized by the sponsored captive insurance  
 260 company's certificate of authority; and

261 ~~(vi)~~(viii) Such other provisions not inconsistent with law deemed appropriate by the  
 262 organizer.

263 (2) All corporate powers and privileges to captive insurance companies shall be issued  
 264 and granted by the Secretary of State upon the terms, liabilities, and restrictions of and  
 265 subject to this title and the laws and Constitution of this state. If for any reason the  
 266 Secretary of State is disqualified or unable to issue or grant said powers, the duties  
 267 required by this chapter, or regulations promulgated hereunder, to be performed by the  
 268 Secretary of State shall be performed by the Commissioner.

269 (3) When the certificate of the Commissioner as to his or her approval of the formation  
 270 documents have been received in the office of the Secretary of State, the Secretary of  
 271 State shall issue to the captive insurance company under the seal of this state a certificate  
 272 of incorporation or organization. The captive insurance company shall not transact  
 273 business as an insurer until it has applied for and received from the Commissioner a  
 274 certificate of authority as provided by this chapter.

275 (d)(1) A captive insurance company may amend its formation documents for any lawful  
 276 purpose in accordance with the provisions of Chapter 2 of Title 14 if it is a corporation  
 277 or Chapter 11 of Title 14 if it is a limited liability company.

278 (2) The captive insurance company shall submit to the Commissioner any proposed  
279 amendment to its formation documents and a fee of \$50.00, which the Commissioner  
280 shall transmit into the state treasury.

281 (3) The Commissioner shall examine the proposed amendment to its formation  
282 documents to determine whether such documents will enable the captive insurance  
283 company to comply with the applicable insurance laws of this state; and, if the  
284 Commissioner finds that such documents, if approved, will enable the captive insurance  
285 company to do so, the Commissioner shall issue under his or her hand and official seal  
286 a certificate approving amended formation documents and shall transmit a copy of such  
287 documents and the certificate of approval to the Secretary of State for recording.

288 (e)(1) A captive insurance company may merge with or into one or more business  
289 entities in accordance with the provisions of Chapter 2 of Title 14 if it is a corporation or  
290 Chapter 11 of Title 14 if it is a limited liability company, but shall submit to the  
291 Commissioner all required merger documents set forth therein.

292 (2) The Commissioner shall examine all required merger documents to determine  
293 whether such documents will enable the captive insurance company to comply with the  
294 applicable insurance laws of this state; and, if the Commissioner finds that such  
295 documents, if approved, will enable the captive insurance company to do so, the  
296 Commissioner shall issue under his or her hand and official seal a certificate approving  
297 the merger documents and shall transmit a copy of such documents and the certificate of  
298 approval to the Secretary of State for recording.

299 (f)(1) A captive insurance company that was formed as a stock corporation may elect to  
300 convert to a manager-managed limited liability company pursuant to Title 14, but shall  
301 submit to the Commissioner all required conversion documents set forth therein and a fee  
302 of \$100.00, which the Commissioner shall transmit to the state treasury.

303 (2) The Commissioner shall examine the required conversion documents to determine  
304 whether such documents will enable the captive insurance company to comply with the  
305 applicable laws of this state; and, if the Commissioner finds that such documents, if  
306 approved, will enable the captive insurance company to do so, the Commissioner shall  
307 issue under his or her hand and official seal a certificate approving the conversion  
308 documents and shall transmit a copy of such documents and the certificate of approval  
309 to the Secretary of State for recording.

310 (g)(1) A captive insurance company may dissolve in accordance with the provisions of  
311 Chapter 2 of Title 14 if it is a corporation, or Chapter 11 of Title 14 if it is a limited  
312 liability company, but shall submit to the Commissioner all required dissolution  
313 documents set forth therein.

314 (2) The Commissioner shall examine the required dissolution documents to determine  
 315 whether such documents will enable the captive insurance company to dissolve in  
 316 compliance with the applicable insurance laws of this state; and, if the Commissioner  
 317 finds that such documents, if approved, will enable the captive insurance company to do  
 318 so, the Commissioner shall issue under his or her hand and official seal a certificate  
 319 approving the dissolution and shall transmit a copy of such documents and the certificate  
 320 of approval to the Secretary of State for recording.

321 (h) The effective date of each document set forth in this Code section, including but not  
 322 limited to formation documents, amendments to formation documents, merger documents,  
 323 conversion documents, and dissolution documents shall be:

324 (1) The date on which the document is filed with the Commissioner; or

325 (2) A date specified by the Commissioner, which shall not precede the date on which the  
 326 document was filed with the Commissioner."

327 **SECTION 6.**

328 Said title is further amended by revising subsections (a) through (c) of Code Section 33-41-8,  
 329 relating to amount of capital or surplus, as follows:

330 "(a) The amount of minimum capital or surplus required for each captive insurance  
 331 company shall be determined on an individual basis, however:

332 (1) A pure captive insurance company shall maintain at least \$250,000.00 in surplus;

333 (2) An association captive insurance company shall maintain at least \$500,000.00 in  
 334 surplus;

335 (3) An agency captive insurance company shall maintain at least \$250,000.00 in surplus;

336 (4) An industrial insured captive insurance company shall maintain at least \$500,000.00  
 337 in surplus; ~~and~~

338 (5) A risk retention group shall maintain at least \$500,000.00 in surplus; and

339 (6) A sponsored captive insurance company shall maintain at least \$250,000.00 in  
 340 surplus.

341 The Commissioner may require additional capital or surplus of any captive insurance  
 342 company in an amount he or she deems appropriate under the circumstances based on the  
 343 captive insurance company's business plan as described in ~~paragraph (2) of subsection (a)~~  
 344 ~~of~~ Code Section 33-41-10. Additional capital or surplus may be required if the captive  
 345 insurance company's business plan indicates that an increase is required in order for the  
 346 captive insurance company to meet its contractual obligations to its policyholders or to  
 347 maintain its solvency.

348 (b) Minimum capital or surplus of up to \$500,000.00 shall be maintained in any of the  
 349 following:

- 350 (1) Cash;
- 351 (2) Certificates of deposit or similar certificates or evidences of deposits in banks or trust  
352 companies but only to the extent that the certificates or deposits are insured by the  
353 Federal Deposit Insurance Corporation;
- 354 (3) Savings accounts, certificates of deposit, or similar certificates or evidences of  
355 deposit in savings and loan associations and building and loan associations but only to  
356 the extent that the same are insured by the Federal Savings and Loan Insurance  
357 Corporation; or
- 358 (4) One or more letters of credit, so long as they are in conformance with Promissory  
359 ~~notes or other obligations of shareholders secured by one or more letters of credit, as~~  
360 ~~described in~~ Code Section 33-41-9.
- 361 (c) One hundred thousand dollars of the minimum capital or surplus of an association  
362 captive insurance company, an industrial insured captive insurance company, or a risk  
363 retention group captive insurance company must be deposited with the state prior to the  
364 issuance of a certificate of authority."

365 **SECTION 7.**

366 Said title is further amended by revising subsection (a) of Code Section 33-41-9, relating to  
367 letters of credit, as follows:

368 "(a) Any letter of credit used to meet the requirements set forth in ~~Code Sections 33-41-8,~~  
369 ~~33-41-12, and 33-41-14~~ this chapter shall be:

- 370 (1) Clean, irrevocable, and unconditional;
- 371 (2) Issued by a bank approved by the Commissioner, which is either a bank chartered by  
372 the State of Georgia or a national bank which is a member of the Federal Reserve System;
- 373 (3) Presentable and payable within the State of Georgia; and
- 374 (4) Provided in conformity with any other requirements established by the  
375 Commissioner."

376 **SECTION 8.**

377 Said title is further amended by revising subsections (b) and (d) of Code Section 33-41-10,  
378 relating to application for and issuance of certificate of authority, as follows:

379 "(b) In determining whether to approve an application for an original or renewal certificate  
380 of authority to a captive insurance company, the Commissioner shall examine the  
381 applicable items submitted to him or her pursuant to ~~subsections (a), (e), and (f) of this~~  
382 Code section. The Commissioner may rely upon and accept the reports of independent  
383 agents who may include licensed insurance counselors, brokers, agents, or adjusters  
384 discussed under Chapter 23 of this title, certified actuarial consultants, certified public

385 accountants, risk managers, and examiners of insurance companies in order to facilitate his  
 386 or her examination of the application for a certificate of authority by a captive insurance  
 387 company. The expenses and charges of such independent agents shall be paid directly by  
 388 the captive insurance company."

389 "(d) Pursuant to Code Section 33-3-15, if the Commissioner is satisfied that the documents  
 390 and statements filed by the captive insurance company in its application for a certificate of  
 391 authority comply with the provisions of this chapter, the Commissioner shall promptly  
 392 issue a certificate of authority authorizing the captive insurance company to transact  
 393 insurance in this state until the thirtieth day of June thereafter. The effective date of such  
 394 certificate of authority shall be:

395 (1) The date on which the Commissioner is satisfied that the documents and statements  
 396 filed by the captive insurance company in its application for a certificate of authority  
 397 comply with the provisions of this chapter; or

398 (2) A date specified by the Commissioner, which shall not precede the date on which the  
 399 application for a certificate of authority was first filed with the Commissioner."

#### 400 SECTION 9.

401 Said title is further amended by revising subsection (c) of Code Section 33-41-16, relating  
 402 to examination by Commissioner or agent and confidentiality, as follows:

403 "(c) All portions of license applications reasonably designated confidential by or on behalf  
 404 of an applicant pure ~~or agency~~ captive insurance company, agency captive insurance  
 405 company, or sponsored captive insurance company, all information and documents, and  
 406 any copies of the foregoing, produced or obtained by or submitted or disclosed to the  
 407 Commissioner pursuant to this chapter that are reasonably designated confidential by a  
 408 pure ~~or captive insurance company~~, agency captive insurance company, or sponsored  
 409 captive insurance company and all examination reports, preliminary examination reports,  
 410 working papers, recorded information, other documents, and any copies of any of the  
 411 foregoing, produced or obtained by or submitted or disclosed to the Commissioner pursuant  
 412 to this chapter shall be given confidential treatment, except as to disclosures consented to  
 413 by the pure ~~or captive insurance company~~, agency captive insurance company, or  
 414 sponsored captive insurance company, and shall not be subject to subpoena, shall not be  
 415 made public by the Commissioner, and shall not be provided or disclosed to any other  
 416 person at any time except to:

417 (1) Insurance commissioners of any state or of any foreign country or jurisdiction,  
 418 provided that:

419 (A) Such receiving party shall agree in writing to maintain the confidentiality of such  
 420 information; and

421 (B) The laws of the receiving party require such information to be and to remain  
 422 confidential; or  
 423 (2) A law enforcement official or agency of this state, any other state, or the United  
 424 States of America so long as such official or agency agrees in writing to hold it  
 425 confidential and in a manner consistent with this Code section."

426 **SECTION 10.**

427 Said title is further amended by revising paragraph (2) of Code Section 33-41-18, relating  
 428 to investments, as follows:

429 "(2) Pure captive insurance companies, ~~and agency captive insurance companies, and~~  
 430 sponsored captive insurance companies shall not be subject to any restrictions on eligible  
 431 investments whatever, including those limitations contained in Chapter 11 of this title;  
 432 provided, however, that the Commissioner may prohibit or limit any investment that  
 433 threatens the solvency or liquidity of any such captive insurance company."

434 **SECTION 11.**

435 Said title is further amended by revising subsection (c) of Code Section 33-41-19, relating  
 436 to rates, underwriting rules, and policy forms and notice on policies, as follows:

437 ~~"(c) Each captive insurance company shall provide the following notice in ten-point type~~  
 438 ~~on the front page and declaration page on all policies and on the front page of all~~  
 439 ~~applications for policies:~~

440 ~~"This captive insurance company is not subject to all of the insurance laws and regulations~~  
 441 ~~of the State of Georgia. State insurers insolvency guaranty funds are not available to the~~  
 442 ~~policyholders of this captive insurance company."~~

443 **SECTION 12.**

444 Said title is further amended by revising Code Sections 33-41-22, 33-41-23, and 33-41-24,  
 445 relating to taxation, rules and regulations, and inapplicability of inconsistent provisions,  
 446 respectively, as follows:

447 "33-41-22.

448 In lieu of any other taxes imposed by this title, all captive insurance companies ~~licensed~~  
 449 ~~under this chapter shall pay, other than a sponsored captive insurance company, and each~~  
 450 protected cell of a sponsored captive insurance company shall be assessed the following  
 451 taxes:

452 (1) A tax at the rate of 0.4 percent on the first \$20 million and 0.3 percent on each dollar  
 453 thereafter on its direct premiums collected, after deducting from the direct premiums  
 454 subject to the tax the amounts paid to policyholders as return premiums which must

455 include dividends on unabsorbed premiums or premium deposits returned or credited to  
 456 policyholders. However, risk retention group captive insurance companies shall only be  
 457 subject to such taxes on direct premiums collected for coverages within the State of  
 458 Georgia;

459 (2) A tax at the rate of 0.225 percent on the first \$20 million of assumed reinsurance  
 460 premium, and 0.150 percent on the next \$20 million and 0.050 percent on the next \$20  
 461 million, and 0.025 percent of each dollar thereafter. However, no reinsurance tax applies  
 462 to premiums for risks or portions of risks that are subject to taxation on a direct basis  
 463 pursuant to this title. No reinsurance premium tax shall be payable in connection with  
 464 the receipt of assets in exchange for the assumption of loss reserves and other liabilities  
 465 of another insurer under common ownership and control, provided that the Commissioner  
 466 verifies that such transaction is part of a plan to discontinue the operations of such other  
 467 insurer, and if the intent of the parties to such transaction is to renew or maintain such  
 468 business with the captive insurance company;

469 (3) The annual maximum aggregate tax calculated pursuant to this Code section to be  
 470 paid by or on behalf of a captive insurance company, other than a sponsored captive  
 471 insurance company, or an individual protected cell of a sponsored captive insurance  
 472 company shall be \$100,000.00. The annual maximum tax to be remitted by a sponsored  
 473 captive insurance company shall be the aggregate of the tax liabilities of each protected  
 474 cell calculated pursuant to this Code section ~~If the aggregate taxes to be paid by a captive~~  
 475 ~~insurance company calculated under paragraphs (1) and (2) of this Code section amount~~  
 476 ~~to more than \$100,000.00 in any year, the captive insurance company shall pay a~~  
 477 ~~maximum tax of \$100,000.00 for that year;~~

478 (4)(A) Two or more captive insurance companies under common ownership and  
 479 control, other than sponsored captive insurance companies, shall be taxed as though  
 480 they were a single captive insurance company; and

481 (B) Notwithstanding the provisions set forth subparagraph (A) of this paragraph and  
 482 for purposes of this Code section, in the case of a sponsored captive insurance  
 483 company, each protected cell of such sponsored captive insurance company shall be  
 484 treated as a separate captive insurance company owned and controlled by such  
 485 protected cell's participant, but only if:

486 (i) The participant is the only participant with respect to such protected cell; and  
 487 (ii) The participant is the sponsor or is affiliated with the sponsor of the sponsored  
 488 captive insurance company through common ownership and control; and

489 (5) The tax provided for in paragraphs (1) and (2) of this Code section shall be calculated  
 490 on an annual basis, notwithstanding policies or contracts of insurance or contracts of

491 reinsurance issued on a multiyear basis. In the case of multiyear policies or contracts, the  
492 premium shall be prorated for purposes of determining the tax due.

493 33-41-23.

494 (a) A captive insurance company that meets the definition of a dormant captive insurance  
495 company set forth in this chapter may apply to the Commissioner for a certificate of  
496 dormancy on a form or forms as may be prescribed by the Commissioner.

497 (b) A dormant captive insurance company that has been issued a certificate of dormancy  
498 pursuant to this Code section shall:

499 (1) Possess and thereafter maintain unimpaired, paid-in-capital and surplus of at least  
500 \$25,000.00;

501 (2) Submit to the Commissioner a report of its financial condition on or before March  
502 1 of each year on a form or in a manner as prescribed by the Commissioner;

503 (3) Renew such certificate every five years by submitting documentation as prescribed  
504 by the Commissioner and paying a renewal fee of \$500.00; and

505 (4) Be subject to an examination pursuant to Code Section 33-41-16 in the discretion of  
506 the Commissioner.

507 (c) A dormant captive insurance company that has been issued a certificate of dormancy  
508 pursuant to this Code section shall not:

509 (1) Be subject to or liable for the payment of any tax pursuant to Code Section 33-41-22;  
510 or

511 (2) Be required to submit any annual forms, fees, or documents that are otherwise  
512 required by this chapter, other than those required pursuant to this Code section.

513 (d) The Commissioner may, upon written request, declare a captive insurance company  
514 to be dormant for purposes of this Code section even if such captive insurance company  
515 retains liabilities associated with policies written or assumed, provided that such captive  
516 insurance company has otherwise ceased the transaction of insurance business. However,  
517 in this case, the Commissioner may, in his or her discretion, require such captive insurance  
518 company to possess and maintain unimpaired, paid-in-capital and surplus and reserves  
519 greater than that required by this Code section.

520 (e) A certificate of dormancy shall be revoked if a captive insurance company no longer  
521 meets the definition of a dormant captive insurance company or fails to meet the  
522 requirements as set forth in this Code section.

523 (f) A dormant captive insurance company shall apply to the Commissioner for approval  
524 and shall be granted such approval to surrender its certificate of dormancy and resume  
525 conducting the business of insurance prior to issuing any insurance policies and shall pay  
526 an application fee as prescribed by the Commissioner.

527 (g) Any provisions of this title which are inconsistent with the provisions of this Code  
 528 section shall not apply to dormant captive insurance companies.

529 33-41-24.

530 The Commissioner may adopt rules establishing standards to ensure that a pure captive  
 531 insurance company's parent or any of its affiliated companies is able to exercise control of  
 532 the risk management function of any controlled unaffiliated business to be insured by the  
 533 pure captive insurance company; provided, however, that, until such time as rules under  
 534 this Code section are adopted, the Commissioner may approve or deny the coverage of  
 535 such risks by a pure captive insurance company on a case by case basis.

536 ~~33-41-23~~ 33-41-25.

537 The Commissioner may establish such rules and regulations and issue such interpretive  
 538 rulings as may be necessary to carry out the provisions of this chapter.

539 ~~33-41-24~~ 33-41-26.

540 Any provisions of this title which are inconsistent with the provisions of this chapter shall  
 541 not apply to captive insurance companies; provided, however, that pure and agency captive  
 542 insurance companies shall not be subject to the requirements of Chapter 13 of this title."

543 **SECTION 13.**

544 Said title is further amended in Chapter 41 by enacting a new article to read as follows:

545 "ARTICLE 2

546 33-41-100.

547 In addition to the general provisions of Article 1 of this chapter, the provisions of this  
 548 article shall apply to sponsored captive insurance companies.

549 33-41-101.

550 (a) One or more sponsors may form a sponsored captive insurance company pursuant to  
 551 this chapter.

552 (b) A sponsor of a sponsored captive insurance company may be any person approved by  
 553 the Commissioner in the exercise of his or her discretion, based on a determination that the  
 554 approval of such person as a sponsor is consistent with the purposes of this chapter. In  
 555 evaluating the qualifications of a proposed sponsor, the Commissioner shall consider the  
 556 type and structure of the proposed sponsor entity, its experience in financial operations,

557 financial stability and strength, business reputation, and such other facts deemed relevant  
558 by the Commissioner. A risk retention group shall not be a sponsor of a sponsored captive  
559 insurance company.

560 33-41-102.

561 (a) Associations, corporations, limited liability companies, partnerships, trusts, risk  
562 retention groups, and other business entities may be participants in any sponsored captive  
563 insurance company formed or licensed under this chapter.

564 (b) A sponsor may be a participant in a sponsored captive insurance company.

565 (c) A participant need not be an owner or shareholder of the sponsored captive insurance  
566 company or any affiliate thereof.

567 (d) A participant shall not insure any risks other than its own and the risks of its affiliates  
568 or of its controlled unaffiliated entities.

569 33-41-103.

570 (a) A sponsored captive insurance company may establish one or more protected cells if  
571 the Commissioner has approved in writing a business plan submitted by the sponsored  
572 captive insurance company with respect to each protected cell.

573 (b) In addition to the information required by Code Section 33-41-10, each applicant  
574 sponsored captive insurance company shall file with the Commissioner the following:

575 (1) Materials demonstrating to the satisfaction of the Commissioner how the applicant  
576 will account for the loss and expense experience of each protected cell and how it will  
577 report such experience to the Commissioner;

578 (2) A statement acknowledging that all financial records of the sponsored captive  
579 insurance company, including records pertaining to any protected cells, shall be made  
580 available for inspection or examination by the Commissioner or the Commissioner's  
581 designated representative;

582 (3) All contracts or sample contracts between the sponsored captive insurance company  
583 and any participants;

584 (4) Evidence that expenses shall be allocated to each protected cell in a fair and equitable  
585 manner;

586 (5) A discussion of the specific business objectives of each protected cell; and

587 (6) The investment guidelines of each protected cell.

588 33-41-104.

589 (a) A sponsored captive insurance company formed or licensed under this chapter may  
590 establish and maintain one or more protected cells to insure risks of one or more  
591 participants subject to the provisions, terms, and conditions set forth in this chapter.

592 (b) A protected cell of a sponsored captive insurance company may be formed as an  
593 incorporated protected cell, as defined in Code Section 33-41-2, or as an unincorporated  
594 protected cell.

595 (c) The creation of a protected cell pursuant to this chapter does not create, with respect  
596 to such protected cell, a legal person separate from the sponsored captive insurance  
597 company unless such protected cell is an incorporated protected cell.

598 (d) An incorporated protected cell shall have its own distinct name or designation, which  
599 shall include the words 'Incorporated Cell' or the abbreviation 'IC.' Incorporated protected  
600 cells shall not use any name which is either similar, misleading, or confusing with respect  
601 to any other name already in use by any other entity doing business in this state. The  
602 Commissioner shall not approve the formation documents of an incorporated protected cell  
603 attempting to use such a name, nor shall the Commissioner approve an application for a  
604 certificate of authority from the sponsored captive insurance company of which it is a  
605 protected cell.

606 (e) Unless otherwise permitted by the organizational documents of a sponsored captive  
607 insurance company, each incorporated protected cell of the sponsored captive insurance  
608 company shall have the same directors or managers, secretary, and registered office as the  
609 sponsored captive insurance company.

610 (f) Subject to the prior written approval of the sponsored captive insurance company and  
611 of the Commissioner, an incorporated protected cell shall be entitled to enter into contracts  
612 and undertake obligations in its own name and for its own account. In the case of a  
613 contract or obligation to which the sponsored captive insurance company is not a party,  
614 either in its own name and for its own account or on behalf of a protected cell, the  
615 counterparty to the contract or obligation shall have no right or recourse against the  
616 sponsored captive insurance company and its assets other than against assets properly  
617 attributable to the incorporated protected cell that is a party to the contract or obligation.

618 (g) It is the intent of the General Assembly pursuant to this Code section to provide  
619 sponsored captive insurance companies with the option to establish one or more protected  
620 cells as a separate corporation, or limited liability company. This Code section shall not  
621 be construed to limit any rights or protections applicable to protected cells not established  
622 as corporations, or limited liability companies.

623 33-41-105.

624 (a) The owners or shareholders of a sponsored captive insurance company shall be limited  
625 to its participants and sponsors, provided that a sponsored captive insurance company may  
626 issue nonvoting securities to other persons on terms approved by the commissioner.

627 (b) Upon receiving a certificate of authority to transact the business of insurance in this  
628 state, a sponsored captive insurance company shall transfer all assets attributable to a  
629 protected cell to one or more separately established and identified protected cell accounts  
630 bearing the name or designation of such protected cell. Protected cell assets shall be held  
631 in the protected cell accounts for the purpose of satisfying the obligations of such protected  
632 cell.

633 (c) When establishing a protected cell, the sponsored captive insurance company shall  
634 attribute to the protected cell assets with a value at least equal to the reserves and other  
635 insurance liabilities attributed to such protected cell.

636 (d) Amounts attributed to a protected cell under this chapter, including assets transferred  
637 to a protected cell account, are owned by the protected cell. No sponsored captive  
638 insurance company shall be, or hold itself out to be, a trustee with respect to those  
639 protected cell assets of such protected cell account. Notwithstanding this subsection, the  
640 sponsored captive insurance company may allow for a security interest to attach to  
641 protected cell assets or a protected cell account when in favor of a creditor of the protected  
642 cell and otherwise allowed under applicable law.

643 (e) Each protected cell shall be accounted for separately on the books and records of the  
644 sponsored captive insurance company to reflect each protected cell's financial condition  
645 and results of operations, net income or loss, dividends or other distributions to  
646 participants, and such other factors regarding each protected cell as may be provided in the  
647 applicable participant contract or required by the Commissioner.

648 (f) The assets of a protected cell shall not be chargeable with liabilities of any other  
649 protected cell or, unless otherwise agreed in the applicable participant contract, of the  
650 sponsored captive insurance company generally.

651 (g) No sale, exchange, transfer of assets, dividend, or distribution may be made with  
652 respect to a protected cell by such sponsored captive insurance company without the  
653 consent of the participants of each affected protected cell.

654 (h) No sale, exchange, transfer of assets, dividend, or distribution (other than a transaction  
655 in accordance with the applicable participant contract) shall be made from a protected cell  
656 to a sponsored captive insurance company or participant without the Commissioner's  
657 approval. In no event shall such approval be given if the sale, exchange, transfer, dividend,  
658 or distribution would result in the insolvency or impairment of a protected cell.

659 (i) All attributions of assets and liabilities to the protected cells and the general account  
660 shall be in accordance with the plan of operation and applicable participant contracts  
661 approved by the Commissioner. No other attribution of assets or liabilities shall be made  
662 by a sponsored captive insurance company between its general account and any protected  
663 cells or between any protected cells. Any attribution of assets and liabilities between a  
664 sponsored captive insurance company's general account and its protected cells shall be in  
665 cash or in readily marketable securities with established market value.

666 (j)(1) A sponsored captive insurance company shall establish administrative and  
667 accounting procedures necessary to properly identify the one or more protected cells of  
668 the sponsored captive insurance company and the protected cell assets and protected cell  
669 liabilities attributable to the protected cells. The directors of a sponsored captive  
670 insurance company shall keep protected cell assets and protected cell liabilities:

671 (A) Separate and separately identifiable from the assets and liabilities of the sponsored  
672 captive insurance company's general account; and

673 (B) Attributable to one protected cell separate and separately identifiable from  
674 protected cell assets and protected cell liabilities attributable to other protected cells.

675 (2) If paragraph (1) of this subsection is violated, then the remedy of tracing is applicable  
676 to protected cell assets when commingled with protected cell assets of other protected  
677 cells or the assets of the sponsored captive insurance company's general account. The  
678 remedy of tracing shall not be construed as an exclusive remedy.

679 (k) The sponsored captive insurance company shall attribute all insurance obligations,  
680 assets, and liabilities relating to a reinsurance contract entered into with respect to a  
681 protected cell to such protected cell. The performance under such reinsurance contract and  
682 any tax benefits, losses, refunds, or credits allocated pursuant to a tax allocation agreement  
683 to which the sponsored captive insurance company is a party, including any payments  
684 made by or due to be made to the sponsored captive insurance company pursuant to the  
685 terms of such agreement, shall reflect the insurance obligations, assets, and liabilities  
686 relating to the reinsurance contract that are attributed to such protected cell.

687 (l) This chapter shall not be construed to prohibit the sponsored captive insurance  
688 company from contracting with or arranging for an investment advisor, commodity trading  
689 advisor, or other third party to manage the protected cell assets of a protected cell, if all  
690 remuneration, expenses, and other compensation of the third party advisor or manager are  
691 payable from the protected cell assets of such protected cell and not from the protected cell  
692 assets of other protected cells or the assets of the sponsored captive insurance company's  
693 general account.

694 (m) Each sponsored captive insurance company shall annually file with the Commissioner  
695 such financial reports as he or she shall require. Any such financial report shall include,

696 without limitation, accounting statements detailing the financial experience of each  
 697 protected cell.

698 (n) Each sponsored captive insurance company shall notify the Commissioner in writing  
 699 within ten business days of any protected cell becoming insolvent or otherwise unable to  
 700 meet its claim or expense obligations.

701 (o) No participant contract shall take effect without the Commissioner's prior written  
 702 approval. The addition of each new protected cell, the withdrawal of any current  
 703 participant, or the termination of any existing protected cell shall constitute a change in the  
 704 business plan of the sponsored captive insurance company and shall require the  
 705 Commissioner's prior written approval.

706 (p) If required by the Commissioner, in his or her discretion, the business written by a  
 707 sponsored captive insurance company, with respect to each protected cell, shall be:

708 (1) Fronted by an insurance company licensed pursuant to the laws of any state;

709 (2) Reinsured by a reinsurer authorized or approved by the Commissioner; or

710 (3) Secured by a trust fund in the United States for the benefit of policyholders and  
 711 claimants or funded by an irrevocable letter of credit or other arrangement that is  
 712 acceptable to the Commissioner. The amount of security provided shall be no less than  
 713 the reserves associated with those liabilities which are neither fronted nor reinsured,  
 714 including reserves for losses, allocated loss adjustment expenses, incurred but not  
 715 reported losses, and unearned premiums for business written through such protected cell.

716 The Commissioner may require the sponsored captive insurance company to increase the  
 717 funding of any security arrangement established under this chapter. If the form of  
 718 security is a letter of credit, the letter of credit must be in conformance with Code Section  
 719 33-41-9 and approved by the Commissioner. A trust maintained pursuant to this  
 720 subsection shall be established in a form and upon such terms as are approved by the  
 721 Commissioner.

722 33-41-106.

723 Notwithstanding any other provision of this chapter, the assets of two or more protected  
 724 cells may be combined for purposes of investment, and such combination shall not be  
 725 construed as defeating the segregation of such assets for accounting or other purposes.

726 33-41-107.

727 (a) Subject to the prior written approval of the Commissioner, upon application of the  
 728 sponsor and with the prior written consent of each participant of the affected protected cells  
 729 or the written consent of each affected incorporated protected cell, a sponsored captive

730 insurance company may convert one or more protected cells or incorporated protected cells  
 731 into a:

732 (1) Single protected cell or incorporated protected cell;  
 733 (2) New sponsored captive insurance company;  
 734 (3) New pure captive insurance company;  
 735 (4) New risk retention group;  
 736 (5) New industrial insured captive insurance company; or  
 737 (6) New association captive insurance company.

738 (b) A sponsored captive insurance company applying for such conversion shall submit all  
 739 forms or documentation as may be prescribed by the Commissioner, including but not  
 740 limited to a business plan or a business plan amendment in accordance with all applicable  
 741 provisions of this chapter and applicable formation documents. Such conversion shall not  
 742 affect any protected cell's or incorporated protected cell's assets, rights, benefits,  
 743 obligations, and liabilities.

744 (c) Any such conversion shall be deemed for all purposes to be a continuation of each such  
 745 protected cell's or incorporated protected cell's existence together with all of its assets,  
 746 rights, benefits, obligations, and liabilities, as a new protected cell or incorporated  
 747 protected cell, a licensed sponsored captive insurance company, a pure captive insurance  
 748 company, a risk retention group, an industrial insured captive insurance company, or an  
 749 association captive insurance company, as applicable. Any such conversion shall be  
 750 deemed to occur without any transfer or assignment of any such assets, rights, benefits,  
 751 obligations, or liabilities and without the creation of any reversionary interest in, or  
 752 impairment of, any such assets, rights, benefits, obligations, and liabilities.

753 (d) Any such conversion shall not be construed to limit any rights or protections applicable  
 754 to any converted protected cell or incorporated protected cell or the sponsored captive  
 755 insurance company of which it was apart, as applicable, that existed immediately prior to  
 756 the date of any such conversion.

757 33-41-108.

758 (a) Subject to the prior written approval of the Commissioner, upon application of the  
 759 sponsor and with the prior written consent of each participant of the affected protected cells  
 760 or the written consent of the affected incorporated protected cell, a sponsored captive  
 761 insurance company may sell, transfer, assign, and otherwise convey a protected cell or  
 762 incorporated protected cell together with all of the protected cell's assets, rights, benefits,  
 763 obligations, and liabilities to a new or existing sponsored captive insurance company,  
 764 pursuant to a plan approved by the Commissioner.

765 (b) Any such sale, transfer, assignment, or conveyance shall be deemed for all purposes  
766 to be a continuation of the protected cell's existence together with all of its assets, rights,  
767 benefits, obligations, and liabilities, as a protected cell of the transferee.

768 (c) Any such sale, transfer, assignment, or conveyance shall not be construed to limit any  
769 rights or protections applicable to the transferred protected cell or incorporated protected  
770 cell and the transferor sponsored captive insurance company that existed immediately prior  
771 to any such sale, transfer, assignment, or conveyance.

772 33-41-109.

773 (a) In connection with the conservation, rehabilitation, or liquidation of captive insurance  
774 companies set forth in Code Section 33-41-21, including sponsored captive insurance  
775 companies, the assets and liabilities of a protected cell shall, to the extent the  
776 Commissioner determines they are separable, at all times be kept separate from, and shall  
777 not be commingled with, those of other protected cells and the sponsored captive insurance  
778 company.

779 (b) The assets of a protected cell may not be used to pay any expenses or claims other than  
780 those attributable to such protected cell.

781 (c) A sponsored captive insurance company's capital and surplus shall at all times be  
782 available to pay any expenses of or claims against the sponsored captive insurance  
783 company.

784 (d) Unless the sponsor consents and the Commissioner has granted prior written approval,  
785 the assets of the sponsored captive insurance company's general account shall not be used  
786 to pay any expenses or claims attributable solely to a protected cell or protected cells of the  
787 sponsored captive insurance company. In the event that the assets of the sponsored captive  
788 insurance company's general account are used to pay expenses or claims attributable solely  
789 to a protected cell or protected cells of the sponsored captive insurance company, the  
790 sponsor is not required to contribute additional capital and surplus to the sponsored captive  
791 insurance company's general account, notwithstanding the provisions this chapter.

792 (e) Notwithstanding the provisions of this title, in the event of an insolvency of a  
793 sponsored captive insurance company where the Commissioner determines that one or  
794 more protected cells remain solvent, the Commissioner may separate such cells from the  
795 sponsored captive insurance company and may allow, on application of the sponsored  
796 captive insurance company pursuant to Code Section 33-41-107, for the conversion of such  
797 protected cells into one or more new or existing sponsored captive insurance companies  
798 or one or more other captive insurance companies."

799

**SECTION 14.**

800 All laws and parts of laws in conflict with this Act are repealed.