

TRANSMITTAL SHEET FOR
NOTICE OF INTENDED ACTION

Control 482 Department or Agency Department of Insurance*

Rule No. 482-1-038-.04

Rule Title: Annual Audit.

New Amend Repeal Adopt by Reference

Would the absence of the proposed rule significantly harm or endanger the public health, welfare, or safety? N/A*

Is there a reasonable relationship between the state's police power and the protection of the public health, safety, or welfare? N/A*

Is there another, less restrictive method of regulation available that could adequately protect the public? N/A*

Does the proposed rule have the effect of directly or indirectly increasing the costs of any goods or services involved and, if so, to what degree? N/A*

Is the increase in costs, if any, more harmful to the public than the harm that might result from the absence of the proposed rule? N/A*

Are all facets of the rulemaking process designed solely for the purpose of, and so they have, as their primary effect, the protection of the public? N/A*

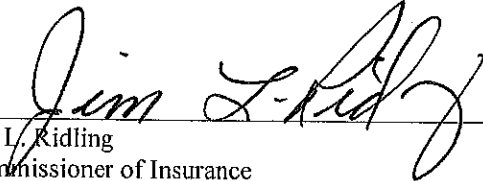
Does the proposed rule have an economic impact? N/A*

If the proposed rule has an economic impact, the proposed rule is required to be accompanied by a fiscal note prepared in accordance with subsection (f) of Section 41-22-23, Code of Alabama 1975.

Certification of Authorized Official

I certify that the attached proposed rule has been proposed in full compliance with the requirements of Sections 27-2-17 and 27-7-43, Code of Alabama 1975, and that it complies with all applicable filing requirements of the Alabama Insurance Code.*

Signature of certifying officer



Jim L. Kidling
Commissioner of Insurance

Date: April 20, 2017

*Note: The Alabama Department of Insurance is exempt from the Alabama Administrative Procedures Act pursuant to Section 41-22-2(e), Code of Alabama 1975.

Alabama Department of Insurance

NOTICE OF INTENDED ACTION

AGENCY NAME: Alabama Department of Insurance

RULE NO. & TITLE: Rule 482-1-138-.04: Annual Audit.

INTENDED ACTION: Amend rule.

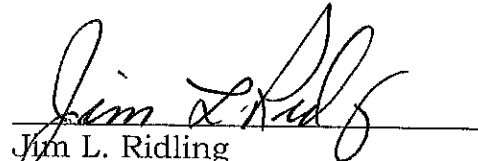
SUBSTANCE OF PROPOSED ACTION: The Commissioner of Insurance is proposing to amend the rule which sets forth the requirements for captive insurance companies to file an annual audit conducted by an independent certified public accountant. One amendment increases the annual premium limit within which certain captive insurers can request to be exempt from this requirement from \$1,200,000 to \$2,200,000. Another amendment permits captive risk retention groups to apply for an exemption upon certain circumstances. The amendments will become effective June 24, 2017.

TIME, PLACE, MANNER OF PRESENTING VIEWS: Interested persons may submit data, views, or arguments in writing at any time prior to June 7, 2017, to the Alabama Department of Insurance, Attention: Legal Division, Post Office Box 303351, Montgomery, Alabama 36130-3351, or orally by appearing at the public hearing, Suite 502, RSA Tower, 201 Monroe Street, Montgomery, Alabama, beginning at 2:00 PM, on June 14, 2017.

FINAL DATE FOR COMMENT AND COMPLETION OF NOTICE:

June 7, 2017

CONTACT PERSON AT AGENCY: Reyn Norman
General Counsel



Jim L. Ridling
Commissioner of Insurance

1 **482-1-138-.04 Annual Audit.**

2 (1) All companies shall have an annual audit by an
3 independent certified public accountant, authorized by the
4 commissioner and shall file such audited financial report with
5 the commissioner on or before June 30 for the year ending
6 December 31 immediately preceding. The annual audit report
7 shall be considered part of the company's annual report of
8 financial condition except with respect to the date by which
9 it must be filed with the commissioner.

10 (2) The annual audit shall consist of the following:

11 (a) Opinion of Independent Certified Public Accountant.
12 Financial statements furnished pursuant to this section shall
13 be examined by independent certified public accountants in
14 accordance with generally accepted auditing standards as
15 determined by the American Institute of Certified Public
16 Accountants. The opinion of the independent certified public
17 accountant shall cover all years presented. The opinion shall
18 be addressed to the company on stationery of the accountant
19 showing the address of issuance, shall bear original manual
20 signatures and shall be dated.

1 (b) Report of Evaluation of Internal Controls. This
2 report shall include an evaluation of the internal controls of
3 the company relating to the methods and procedures used in the
4 securing of assets and the reliability of the financial
5 records, including but not limited to such controls as the
6 system of authorization and approval and the separation of
7 duties. The review shall be conducted in accordance with
8 generally accepted auditing standards and the report filed
9 with the commissioner.

10 (c) Accountant's Letter. The accountant shall furnish the
11 company, for inclusion in the filing of the audited annual
12 report, a letter stating:

13 1. That he or she is independent with respect to the
14 company and conforms to the standards of his profession as
15 contained in the Code of Professional Ethics and
16 pronouncements of the American Institute of Certified Public
17 Accountants and pronouncements of the Financial Accounting
18 Standards Board.

19 2. The general background and experience of the staff
20 engaged in audit including the experience in auditing captives
21 or other insurance companies.

1 3. That the accountant understands that the audited
2 annual report and his or her opinions thereon will be filed in
3 compliance with this chapter with the Department of Insurance.

4 4. That the accountant consents to the requirements of
5 Rule 482-1-138-.07 and that the accountant consents and agrees
6 to make available for review by the commissioner, his or her
7 designee or appointed agent, the work papers as defined in
8 Rule 482-1-138-.07.

9 5. That the accountant is properly licensed by an
10 appropriate state licensing authority and that he or she is a
11 member in good standing in the American Institute of Certified
12 Public Accountants.

13 (d) Financial Statements. Statements required shall be
14 as follows:

15 1. Balance sheet.

16 2. Statement of gain or loss from operations.

17 3. Statement of changes in financial position.

18 4. Statement of changes in capital paid up, gross paid
19 in and contributed surplus and unassigned funds (surplus).

1 5. Notes to financial statements. The notes to
2 financial statements shall be those required by generally
3 accepted accounting principles, and shall include:

4 (i) A reconciliation of differences, if any, between the
5 audited financial report and the statement or form filed with
6 the commissioner.

7 (ii) A summary of ownership and relationship of the
8 company and all affiliated corporations or companies insured
9 by the captive.

10 (iii) A narrative explanation of all material
11 transactions and balances with the company.

12 (e) Certification of Loss Reserves and Loss Expense
13 Reserves. The annual audit shall include an opinion as to the
14 adequacy of the company's loss reserves and loss expense
15 reserves. The individual who certifies as to the adequacy of
16 reserves shall be approved by the commissioner and shall be a
17 Fellow of the Casualty Actuarial Society, a member in good
18 standing of the American Academy of Actuaries, or an
19 individual who has demonstrated his or her competence in loss
20 reserve evaluation to the commissioner. Certification shall
21 be in such form as the commissioner deems appropriate.

1 (3) A consolidated financial statement is not acceptable
2 for captive insurance companies.

3 (4) Captives, with the exception of captive risk
4 retention groups, having direct premiums written of less than
5 ~~\$1,200,000~~ \$2,200,000 in any calendar year and less than 1,000
6 policyholders or certificate holders at the end of the
7 calendar year or assumed premiums pursuant to contracts and/or
8 treaties of reinsurance of ~~\$1,200,000~~ \$2,200,000 or less may
9 make written application to the Commissioner to be exempt from
10 having an annual audit by a certified public accountant.
11 Exemptions granted pursuant to this chapter must be renewed
12 annually and in no way prohibit, preclude, or in any way limit
13 the Commissioner from ordering or conducting or performing
14 examinations of captives pursuant to the authority granted in
15 Section 27-31B-10 Code of Alabama 1975.

16 (5) Upon written application of any captive risk
17 retention group, the Commissioner may grant an exemption from
18 the requirement to file an annual audit by certified public
19 accountant if the Commissioner finds, upon review of the
20 application, that compliance with this requirement would
21 constitute a financial or organizational hardship on the
22 captive risk retention group. The approval of the request for

1 exemption from filing an annual audit will not negate the
2 requirement to obtain a certification of loss reserves and
3 loss expense reserves. The exemption may be granted at any
4 time and from time to time for a specified period or periods.
5 Within ten (10) days from a denial of an application for
6 exemption, the captive risk retention group may file a written
7 request for a hearing on the denial. The hearing will be held
8 in accordance with Chapter 482-1-065.

9 Author: Commissioner of Insurance
10 Statutory Authority: Code of Alabama 1975, §§ 27-2-17, 27-7-
11 43 & 27-31B-17
12 History: New August 1, 2006, Effective August 11, 2006;
13 Revised August 11, 2009, Effective August 24, 2009; Revised
14 July 21, 2016, Effective July 31, 2016; Revised June 14, 2017,
15 Effective June 24, 2017