Senate Bill 347
By: Senator Bethel of the 54th

AS PASSED

A BILL TO BE ENTITLED
AN ACT

To amend Title 33 of the Official Code of Georgia Annotated, relating to insurance, so as to provide for extensive changes to the captive insurance company provisions of this title; to provide for definitions for types of captive insurance companies; to provide for creation and regulation of different types of captive insurance companies; to provide for certain exemptions; to change certain requirements; to provide for regulation by the Commissioner; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Title 33 of the Official Code of Georgia Annotated, relating to insurance, is amended by revising Chapter 41, relating to captive insurance companies, as follows:

CHAPTER 41

This chapter shall be known and may be cited as the 'Georgia Captive Insurance Company Act.'

Terms not otherwise defined in this chapter shall have the same meaning ascribed to them in this title. As used in this chapter, unless the context otherwise requires, the term:

(1) 'Affiliate' means an individual, partnership, corporation, limited liability company, trust, or estate that directly, or indirectly through one or more intermediaries, controls, is controlled by, or is under common control with one or more of the shareholders or members of a captive insurance company. Affiliates shall also include employees of any shareholder or member, or any affiliate thereof, of a captive insurance company. For the purpose of the foregoing definition of affiliate, 'control' means:

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(A) Ownership of shares of a corporation possessing 50 percent or more of the total voting power of all classes of shares entitled to vote or possessing 50 percent or more of the total value of the outstanding shares of the corporation; and

(B) Ownership of 50 percent or more by value of the beneficial or membership interests in a partnership, trust, limited liability company, or estate.

(2) 'Agency captive insurance' company means:

(A) An insurance company that is owned or controlled by an insurance agency, brokerage, managing general agent, or reinsurance intermediary, or an affiliate thereof, or under common ownership or control with such agency, brokerage, managing general agent, or reinsurance intermediary, and that only reinsures the risk of insurance or annuity contracts placed by or through such agency, brokerage, managing general agent, or reinsurance intermediary; or

(B) An insurance company that is owned or controlled by a marketer, producer, administrator, issuer, or provider of service contracts or warranties and that only reinsures the contractual liability arising out of such service contracts or warranties sold through such marketer, producer, administrator, issuer, or provider.

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

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

(4)(5) 'Captive insurance company' means any pure captive insurance company, association captive insurance company, agency captive insurance company, industrial insured captive insurance company, or risk retention group captive insurance company.

(5)(6) 'Controlled unaffiliated business' means:

(A) A person:

(i) That is not an affiliate of the parent;

(ii) That has an existing contractual relationship with an affiliate of the parent under which the affiliate bears a potential financial loss; and

(iii) The risks of which are managed by a captive insurance company under an arrangement approved by the Commissioner; or

(B) A reinsurance pooling arrangement with other captive insurance companies that is approved by the Commissioner.
(6) (7) 'Industrial insured' means an insured:
(A) Who procures the insurance of any risk or risks through the use of the services of a full-time employee who acts as an insurance manager, risk manager, or insurance broker, or through the services of a person licensed as a property and casualty agent, underwriter, or insurance broker in such person's state of domicile;
(B) Whose aggregate annual premiums for insurance on all risks total at least $25,000.00; and
(C) Who either:
(i) Has at least 25 full-time employees;
(ii) Has gross assets in excess of $3 million; or
(iii) Has annual gross revenues in excess of $5 million.

(7) (8) 'Industrial insured captive insurance company' means any domestic insurance company granted a certificate of authority under this chapter to insure or reinsure the risks of industrial insureds and their affiliates and which has as its shareholders or members only industrial insureds that are insured or reinsured by the industrial insured captive insurance company or which has as its sole shareholder or sole member a corporation an entity whose only shareholders owners are industrial insureds that are insured or reinsured by the industrial insured captive insurance company.

(8) (9) 'Parent' means a corporation an entity which directly owns shares representing more than 50 percent of the total outstanding voting power and value of a pure captive insurance company.

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

(10) (11) 'Risk retention group captive insurance company' is any pure, association, or industrial insured captive insurance company which has been granted a certificate of authority under this chapter and determined by the Commissioner to be established and maintained as a 'risk retention group' as defined under the federal Liability Risk Retention Act of 1986, as amended. A risk retention group may be chartered and licensed either under this chapter or under Chapter 40 of this title.

(11) (12) 'Transact,' as used in this chapter, shall not include the organizational activities associated with the preliminary formation, incorporation, petitioning for a certificate of authority, and initial capitalization of a captive insurance company.
incorporation, may engage in the business of any of the following kinds of insurance or reinsurance:

(1) Casualty, as described in Code Section 33-7-3 but excluding accident and sickness insurance as defined in Code Section 33-7-2, except for a pure captive insurance company, which may engage in the business of accident and sickness insurance as defined in Code Section 33-7-2;

(2) Marine and transportation, as described in Code Section 33-7-5;

(3) Property, as described in Code Section 33-7-6; and

(4) Surety, as described in Code Section 33-7-7.

(b) Insurance policies and bonds issued by a captive insurance company for workers' compensation insurance and motor vehicle accident insurance shall be in conformity with all minimum requirements for coverages and coverage amounts established by the state for such types of insurance. Such insurance policies and bonds issued by a captive insurance company shall constitute satisfactory proof that the motor vehicle owners or employers, as applicable, insured under such policies or bonds have satisfied the requirements for motor vehicle accident insurance prescribed by Code Section 33-34-4 and for workers' compensation insurance prescribed by Code Section 34-9-121.

(c) Except as otherwise provided in subsection (d) of this Code section:

(1) A captive insurance company shall not insure or reinsure any risks resulting from:

   (A) Any personal, familial, or household responsibilities; or

   (B) Activities other than risks resulting from responsibilities arising out of any business, whether profit or nonprofit; trade; product; services, including professional or fiduciary services; or commercial premises or commercial operations;

(2) A captive insurance company may only cede reinsurance as provided in Code Section 33-41-14;

(3) A pure captive insurance company may only insure or reinsure the risks of its parent and affiliates of its parent, and its controlled unaffiliated business;

(4) An association captive insurance company may only insure or reinsure the risks of the members of its association and their affiliates;

(5) An industrial insured captive insurance company may only insure or reinsure the risks of the industrial insureds, and their affiliates, that are its shareholders or shareholders of its sole shareholder; and

(6) A risk retention group captive insurance company may only insure or reinsure the risks of its group members.

(d) A captive insurance company may reinsure the risks insured or reinsured either directly or indirectly by:
(1) Any other captive insurance company; or
(2) Any foreign or alien insurance company which satisfies the ownership or membership requirements of a captive insurance company under this chapter; provided, however, that the risks insured or reinsured from the foreign or alien insurance company are solely those of its owners or members or their affiliates.

33-41-4.
No captive insurance company may transact any insurance in this state unless:
(1) It first obtains from the Commissioner a certificate of authority authorizing it to transact insurance in this state;
(2) It maintains its principal place of business in this state;
(3) Any organization providing the principal administrative or management services to such captive insurance company shall maintain its principal place of business in this state and shall be approved by the Commissioner; and
(4) Its board of directors holds at least one meeting each year in this state.

33-41-5.
(a) A pure captive insurance company or an agency captive insurance company must be incorporated as a stock insurer with its capital divided into shares.
(b) An association captive insurance company, or an industrial insured captive insurance company, or a risk retention group captive insurance company must be incorporated:
   (1) As a stock insurer with its capital divided into shares; or
   (2) As a mutual insurer without capital stock, the governing body of which is elected by its members.
(c) The applicable statutes of this state relating to the powers and procedures of domestic corporations formed for profit shall apply to captive insurance companies, except where in conflict with the express provisions of this chapter or regulations promulgated hereunder; provided, however, that captive insurance companies are exempt from the requirements of subsection (b) of Code Section 33-14-5.
(d) The incorporation procedures of Code Sections 33-14-4 through 33-14-6, inclusive, and the amendment procedures of Code Section 33-14-8 shall apply to captive insurance companies; provided, however, that captive insurance companies are exempt from the publishing and probate court certification requirements of Code Sections 33-14-5 and 33-14-8.
33-41-6.
(a) A captive insurance company shall not use any name which is either similar, misleading, or confusing with respect to any other name already in use by any other captive insurance company, domestic mutual or stock insurance company, corporation, or association organized or doing business in this state. The Secretary of State Commissioner shall not issue a charter to approve the articles of incorporation of an applicant attempting to use such a name nor shall the Commissioner approve an application for a certificate of authority from such applicant.

(b)(1) With the exception of risk retention group captive insurance companies, the name of a captive insurance company shall include the words 'captive insurance company,' and have such word or words, abbreviation, suffix, or prefix included in the name or attached to it in such a manner as to clearly indicate that it is a corporation.

(2) The name of a risk retention group captive insurance company shall include the words 'risk retention group captive insurance company,' and have such word or words, abbreviation, suffix, or prefix included in the name or attached to it in such a manner as to clearly indicate that it is a corporation.

(c) If the captive insurance company is a mutual insurer, the word 'mutual' shall also be a part of the name.

33-41-7.
(a) The affairs of every captive insurance company shall be managed by not less than three directors.

(b) At least one of the directors of every captive insurance company shall be a resident of this state, and a majority of the directors shall be citizens of the United States.

(c) Every captive insurance company shall report to the Commissioner within 30 days after any change in its directors including in its report a statement of the business and professional background and affiliations of any new director.

33-41-8.
(a) The amount of minimum capital or surplus required for each captive insurance company shall be determined on an individual basis, however:

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

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

(3) An agency captive insurance company shall maintain at least $500,000.00 in surplus; and

(4) An industrial insured captive insurance company shall maintain at least $500,000.00 in surplus; and
(4) A risk retention group shall maintain at least $500,000.00 in surplus. The Commissioner may require additional capital or surplus of any captive insurance company in an amount he or she deems appropriate under the circumstances based on the captive insurance company's business plan as described in paragraph (2) of subsection (a) of Code Section 33-41-10. Additional capital or surplus may be required if the captive insurance company's business plan indicates that an increase is required in order for the captive insurance company to meet its contractual obligations to its policyholders or to maintain its solvency.

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

(1) Cash;

(2) Certificates of deposit or similar certificates or evidences of deposits in banks or trust companies but only to the extent that the certificates or deposits are insured by the Federal Deposit Insurance Corporation; or

(3) Savings accounts, certificates of deposit, or similar certificates or evidences of deposit in savings and loan associations and building and loan associations but only to the extent that the same are insured by the Federal Savings and Loan Insurance Corporation; or

(4) Promissory notes or other obligations of shareholders secured by one or more letters of credit, as described in Code Section 33-41-9.

(c) One hundred thousand dollars of the minimum capital or surplus of an association captive insurance company, an industrial insured captive insurance company, or a risk retention group captive insurance company must be deposited with the state prior to the issuance of a certificate of authority.

(d) Any additional capital or surplus in excess of $500,000.00 required by the Commissioner pursuant to subsection (a) of this Code section may be provided and maintained in any of the following:

(1) Any eligible investments of minimum capital or surplus authorized under Code Section 33-11-5;

(2) Promissory notes or other obligations of shareholders secured by one or more letters of credit, as described in Code Section 33-41-9; or

(3) Any other investments approved by the Commissioner that do not impair the financial solvency of the captive insurance company.

33-41-9.

(a) Any letter of credit used to meet the requirements set forth in Code Sections 33-41-8, 33-41-12, and 33-41-14 shall be:
(1) Must be clean, irrevocable, and unconditional;

(2) Must be issued by a bank approved by the Commissioner, which is either a bank chartered by the State of Georgia or a national bank which is a member of the Federal Reserve System;

(3) Must provide that it is presentable and payable within the State of Georgia; and

(4) Must be provided in conformity with any other requirements established by the Commissioner.

(b) The Commissioner may require any captive insurance company to draw upon its letters of credit at any time, in amounts determined by the Commissioner, if the Commissioner determines that such action is necessary for the protection of the interests of the captive insurance company's policyholders.

33-41-10.

(a) The application for an original certificate of authority for a captive insurance company must be filed with the Commissioner and shall contain the following:

(1) A certified copy of the captive insurance company's adopted or proposed articles of incorporation and bylaws;

(2) A business plan which shall contain the following:

(A) A plan of operation or a feasibility study describing the anticipated activities and results of the captive insurance company which shall include:

(i) A description of the coverages, coverage limits and deductibles, and premium rating systems for the lines of insurance or reinsurance that the captive insurance company intends to offer;

(ii) Historical and expected loss experience of the risks to be insured or reinsured by the captive insurance company;

(iii) Pro forma financial statements and projections of the proposed business operations of the captive insurance company;

(iv) An analysis of the adequacy of the captive insurance company's proposed premiums and capital and surplus levels relative to the risks to be insured or reinsured by the captive insurance company;

(v) A statement of the captive insurance company's net retained limit of liability on any contract of insurance or reinsurance it intends to issue and the nature of any reinsurance it intends to cede;

(vi) A statement certifying that the captive insurance company's investment policy is in compliance with this title and specifying the type of investments to be made pursuant to Code Section 33-41-18;
(vii) A statement identifying the geographic areas in which the captive insurance company intends to operate;

(viii) A statement identifying the persons or organizations who will perform the captive insurance company's major operational functions, including management, underwriting, accounting, investment of assets, claims adjusting and loss control, and the adequacy of the expertise, experience, and character of such persons or organizations; and

(ix) Whenever required by the Commissioner, an appropriate opinion by a qualified independent casualty actuary regarding the adequacy of the captive insurance company's proposed capital, surplus, and premium levels; and

(B) Such other items deemed relevant by the Commissioner in ascertaining whether the proposed captive insurance company will be able to meet its contractual obligations.

(b) In determining whether to approve an application for an original or renewal certificate of authority to a captive insurance company, the Commissioner shall examine the items submitted to him pursuant to subsections (a), (e), and (f) of this Code section. The Commissioner may rely upon and accept the reports of independent agents who may include licensed insurance counselors, brokers, agents, or adjusters discussed under Chapter 23 of this title, certified actuarial consultants, certified public accountants, risk managers, and examiners of insurance companies in order to facilitate his examination of the application for a certificate of authority by a captive insurance company. The expenses and charges of such independent agents shall be paid directly by the captive insurance company.

(c) Each captive insurance company shall pay to the Commissioner an amount equal to all costs of examining, investigating, and processing its application for an original or renewal certificate of authority. In addition, it shall pay a fee for the initial year of registration and a renewal fee for each year thereafter in the amount periodically imposed under this title upon other domestic insurance companies.

(d) Pursuant to Code Section 33-3-15, if the Commissioner is satisfied that the documents and statements filed by the captive insurance company comply with the provisions of this chapter, he shall notify the captive insurance company of his intention to issue a certificate of authority.

(e) After the captive insurance company has been notified pursuant to subsection (d) of this Code section, the captive insurance company shall provide the Commissioner with:

(1) Evidence satisfactory to the Commissioner that the minimum capital or surplus required for the particular captive insurance company under Code Section 33-41-8 has been paid in and that the appropriate amount thereof has been deposited with the state; and
(2) A financial statement showing the assets and liabilities of the captive insurance company which is certified by its president and calculated in accordance with the accounting standards set out in Chapter 10 of this title, except as modified by this chapter. Thereafter, the Commissioner shall promptly issue a certificate of authority authorizing the captive insurance company to transact insurance in this state until the thirtieth day of June thereafter.

(f) Any material change in the items required under subsection (a) of this Code section shall require the prior approval of the Commissioner. Any material change which is not disapproved by the Commissioner within 30 days after its submission shall be deemed approved.

33-41-11.

(a) The certificate of authority of a captive insurance company to transact insurance in this state may be refused, or suspended, or not be renewed pursuant to Code Sections 33-3-17 through 33-3-19, inclusive.

(b) A certificate of authority shall expire, be renewed, and be amended by the Commissioner pursuant to Code Section 33-3-16; provided, however, that captive insurance companies shall not be subject to the publishing requirements of such Code section.

33-41-12.

For the purposes of determining the financial condition of a captive insurance company, including, but not limited to, the maintenance of adequate reserves pursuant to Code Section 33-41-13, the reporting of business affairs pursuant to Code Section 33-41-15, and the examinations and investigations pursuant to Code Section 33-41-16, there shall be allowed as assets of a captive insurance company:

(1) Those assets described in Code Section 33-10-1;

(2) Those assets otherwise authorized by Code Sections 33-41-8 and 33-41-14; and

(3) Obligations for premium payments, provided that such obligations are secured by letters of credit, as described in Code Section 33-41-9; and

(4) Assets that are approved by the Commissioner as admitted assets under rules adopted pursuant to this chapter.


(a) Every captive insurance company shall maintain reserves in an amount estimated in the aggregate to provide for the payment of all unpaid losses and claims incurred, whether reported or unreported, for which such captive insurance company may be liable, together
with the expenses of adjustment or settlement of such losses and claims. Every captive
insurance company shall keep a complete and itemized record, in a form satisfactory to the
Commissioner, showing all losses and claims on which it has received notice.
(b) If the loss experience of a captive insurance company shows that its loss reserves,
however estimated, are inadequate, the Commissioner shall require the captive insurance
compartment to maintain increased amounts of loss reserves as are needed to make its loss
reserves adequate.
(c) Every captive insurance company shall maintain an unearned premium reserve on all
policies in force which shall never be less in the aggregate than the captive insurance
company's actual liability to all its insureds for the return of gross unearned premiums
computed pursuant to the method commonly referred to as the monthly pro rata method.
33-41-14.
(a) A captive insurance company may cede any part of its risks to a reinsurer pursuant to
a written reinsurance agreement and may take credit as an asset or a deduction from its
liabilities for the amount of reinsurance premiums recoverable under such reinsurance
agreement:
(1) If the reinsurer is in compliance with Code Section 33-7-14;
(2) To the extent that assets are deposited or withheld from the reinsurer under a written
trust or escrow agreement approved by the Commissioner pursuant to an express
 provision in the reinsurance agreement as security for the payment of the reinsurer's
obligations thereunder, provided that:
(A) The assets deposited or withheld are held subject to withdrawal by, and under the
control of, the ceding captive insurance company; or
(B) The assets deposited or withheld are placed in a trust or escrow account for such
purposes in a bank which is either chartered by the State of Georgia or a national bank
which is a member of the Federal Reserve System and withdrawals cannot be made
without the express written consent of the ceding captive insurance company;
(3) To the extent of the amount of a letter of credit, as described in Code Section
33-41-9, given pursuant to an express provision in the reinsurance agreement as security
for the payment of the reinsurer's obligations thereunder; or
(4) When the Commissioner shall otherwise authorize such credits or deductions.
(b) Any assets deposited or withheld under paragraph (2) of subsection (a) of this Code
section must be in the form of cash, as defined in Code Section 33-11-6, or securities which
must have a market value equal to or greater than the credit taken and are qualified as
allowed assets for a domestic insurer under Chapter 11 of this title.
(c) No credit shall be allowed for reinsurance in any unauthorized assuming reinsurer unless such reinsurer designates the Commissioner as agent for service of process in any action arising out of, or in connection with, such reinsurance.

33-41-15.
Each captive insurance company shall be required to file annual and other reports of its business affairs and operations as prescribed by Code Section 33-3-21.

33-41-16.
(a) The Commissioner or his or her designated agent may visit each captive insurance company at any time and examine its affairs in order to ascertain its financial condition, its ability to fulfill its contractual obligations, and its compliance with this chapter. For these purposes, the Commissioner or his or her designated agent shall have free access to all of the books and records relating to the business of the captive insurance company. The expenses and charges of any examination conducted pursuant to this Code section shall be paid directly by the captive insurance company examined.

(b) When necessary or desirable to assist in any examination under this Code section, the Commissioner may retain such independent agents as described in subsection (b) of Code Section 33-41-10, as the Commissioner deems appropriate, in order to facilitate his or her examination under this Code section. The expenses and charges of such persons so retained or designated shall be paid directly by the captive insurance company. The provision of subsection (g) of Code Section 33-2-14 shall apply to examinations of any captive insurance company.

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

(1) Insurance commissioners of any state or of any foreign country or jurisdiction, provided that:
(A) Such receiving party shall agree in writing to maintain the confidentiality of such information; and

(B) The laws of the receiving party require such information to be and to remain confidential; or

(2) A law enforcement official or agency of this state, any other state, or the United States of America so long as such official or agency agrees in writing to hold it confidential and in a manner consistent with this Code section.

33-41-17.

The Commissioner may impose fines as prescribed by Code Section 33-3-20.

33-41-18.

Except as provided in Code Section 33-41-8:

(1) An risk retention group captive insurance companies, industrial insured captive insurance companies, and association captive insurance companies shall comply with the investment requirements contained in Article 2 of Chapter 11 of this title; and

(2) No pure captive insurance companies or industrial insured companies and agency captive insurance companies shall not be subject to any restrictions on eligible investments whatever, including those limitations contained in Chapter 11 of this title; provided, however, that the Commissioner may prohibit or limit any investment that threatens the solvency or liquidity of any such captive insurance company.

33-41-19.

(a) No captive insurance company shall be required to join or use the rates, rating systems, underwriting rules, or policy or bond forms of a rating or advisory organization as defined in Code Section 33-9-2.

(b) No captive insurance company shall be required to file its premium rates or policy forms with, or seek approval of such rates or forms from, the Commissioner or any other authority of this state. However, the Commissioner shall impose minimum premiums upon association captive insurance companies which write motor vehicle liability insurance coverage required by law and do not participate in the Georgia Insurers Insolvency Pool.

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

'This captive insurance company is not subject to all of the insurance laws and regulations of the State of Georgia. State insurers insolvency guaranty funds are not available to the policyholders of this captive insurance company.'
(a)(1) No captive insurance company other than an association or industrial insured captive insurance company issuing workers' compensation insurance contracts shall be permitted to join or contribute financially to the Georgia Insurers Insolvency Pool under Chapter 36 of this title or any other plan, pool, or association guaranty or insolvency fund in this state. Other than an association or industrial insured captive insurance company issuing workers' compensation insurance contracts, no captive insurance company, or its insureds or claimants against its insureds, nor its parent or any affiliated company shall receive any benefit from the Georgia Insurers Insolvency Pool or any other plan, pool, or association guaranty or insolvency fund for claims arising out of the operations of such captive insurance company.

(2) No captive insurance company shall be required to participate in any FAIR Plan established and maintained in this state under Chapter 33 of this title.

(3) No captive insurance company shall be required to participate in any joint underwriting association established and maintained in this state under Chapter 9 of this title.

(b) Captive insurance companies shall be assessed on the same basis as self-insurers for the purpose of payments to the Subsequent Injury Trust Fund as described in Chapter 9 of Title 34.

33-41-20.1.

(a) On and after January 1, 2008, every association and industrial insured captive insurance company issuing workers' compensation insurance contracts shall become a member of the Georgia Insurers Insolvency Pool under Chapter 36 of this title as to workers' compensation only. Such captive insurance companies shall be liable for assessments pursuant to Code Section 33-36-7 and for all other obligations imposed pursuant to Chapter 36 of this title as to workers' compensation only.

(b) Except as provided for in Code Section 33-36-20, the Georgia Insurers Insolvency Pool shall not be liable for any claims incurred by any captive insurance company before January 1, 2008.

33-41-21.

The provisions of Chapter 37 of this title shall apply to and govern the rehabilitation, reorganization, conservation, and liquidation of captive insurance companies.
In lieu of any other taxes imposed by this title, all captive insurance companies licensed under this chapter shall pay the following taxes:

1. A tax at the rate of 0.4 percent on the first $20 million and 0.3 percent on each dollar thereafter on its direct premiums collected, after deducting from the direct premiums subject to the tax the amounts paid to policyholders as return premiums which must include dividends on unabsorbed premiums or premium deposits returned or credited to policyholders;

2. A tax at the rate of 0.225 percent on the first $20 million of assumed reinsurance premium, and 0.150 percent on the next $20 million and 0.050 percent on the next $20 million, and 0.025 percent of each dollar thereafter. However, no reinsurance tax applies to premiums for risks or portions of risks that are subject to taxation on a direct basis pursuant to paragraph (1) of this Code section. No reinsurance premium tax shall be payable in connection with the receipt of assets in exchange for the assumption of loss reserves and other liabilities of another insurer under common ownership and control, provided that the Commissioner verifies that such transaction is part of a plan to discontinue the operations of such other insurer, and if the intent of the parties to such transaction is to renew or maintain such business with the captive insurance company;

3. If the aggregate taxes to be paid by a captive insurance company calculated under paragraphs (1) and (2) of this Code section amount to more than $100,000.00 in any year, the captive insurance company shall pay a maximum tax of $100,000.00 for that year;

4. Two or more captive insurance companies under common ownership and control shall be taxed as though they were a single captive insurance company; and

5. The tax provided for in paragraphs (1) and (2) of this Code section shall be calculated on an annual basis, notwithstanding policies or contracts of insurance or contracts of reinsurance issued on a multiyear basis. In the case of multiyear policies or contracts, the premium shall be prorated for purposes of determining the tax due.

The Commissioner may establish such rules and regulations and issue such interpretive rulings as may be necessary to carry out the provisions of this chapter.
SECTION 2.

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