

TRANSMITTAL SHEET FOR
NOTICE OF INTENDED ACTION

Control 482 Department or Agency Department of Insurance*

Rule No. Rule 482-1-138-.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*

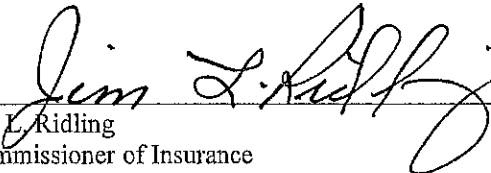
Does the proposed rule have an economic impact? N/A*

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. Ridling
Commissioner of Insurance

Date: May 20, 2016

*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.

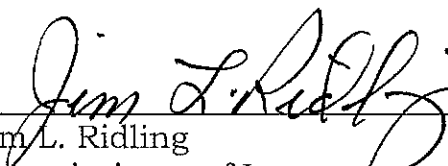
SUBSTANCE OF PROPOSED ACTION: The Commissioner of Insurance is proposing to amend the regulation which requires captive insurers to have an annual audit by an independent CPA, except those captives with annual premium less than \$1,200,000. The amendment provides an exception to the exception for captive risk retention groups. The amendment will become effective July 31, 2016.

TIME, PLACE, MANNER OF PRESENTING VIEWS: Interested persons may submit data, views, or arguments in writing at any time prior to July 14, 2016, 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 10:00 AM, on July 21, 2016.

FINAL DATE FOR COMMENT AND COMPLETION OF NOTICE:

July 14, 2016

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.

21 (b) Report of Evaluation of Internal Controls. This
22 report shall include an evaluation of the internal controls of

1 the company relating to the methods and procedures used in the
2 securing of assets and the reliability of the financial
3 records, including but not limited to such controls as the
4 system of authorization and approval and the separation of
5 duties. The review shall be conducted in accordance with
6 generally accepted auditing standards and the report filed
7 with the commissioner.

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

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

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

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

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

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

10 (d) Financial Statements. Statements required shall be
11 as follows:

12 1. Balance sheet.

13 2. Statement of gain or loss from operations.

14 3. Statement of changes in financial position.

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

17 5. Notes to financial statements. The notes to
18 financial statements shall be those required by generally
19 accepted accounting principles, and shall include:

1 (i) A reconciliation of differences, if any, between the
2 audited financial report and the statement or form filed with
3 the commissioner.

4 (ii) A summary of ownership and relationship of the
5 company and all affiliated corporations or companies insured
6 by the captive.

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

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

19 (3) A consolidated financial statement is not acceptable
20 for captive insurance companies.

21 (4) Captives, with the exception of captive risk
22 retention groups, having direct premiums written of less than

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

12 **Author:** Commissioner of Insurance

13 **Statutory Authority:** Code of Alabama 1975, §§ 27-2-17, 27-7-
14 43 & 27-31B-17

15 **History:** New August 1, 2006, Effective August 11, 2006;
16 Revised August 11, 2009, Effective August 24, 2009; Revised
17 _____, 2016, Effective _____, 2016