

ALBERTA'S CAPTIVE INSURERS GAIN REINSURANCE FLEXIBILITY FOR THIRD-PARTY RISKS

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On December 12, 2024, Alberta's Superintendent of Insurance ("**Superintendent**") released a [Bulletin](#) providing a new interpretation of sections 27 and 28 of the *Captive Insurance Companies Act* ("**Act**"), which came into force on July 1, 2022. For more information on captive insurers generally and the emergence of the Act, please consult our [previous publication](#).

Background Information

Sections 27 and 28 fall under Division 2 "Permitted Business of a Captive Insurance Company" of the Act.

- Section 27 outlines the scope of eligible insured risks, limiting a captive insurer to covering the risks of "persons prescribed".

For (a) a pure captive insurance company, these persons include its parent and their affiliates; for (b) an association captive insurance company, these include its association, the members of its association and their affiliates and for (c) a sophisticated insured captive insurance company, these include the sophisticated insureds that comprise its sophisticated insured group and their affiliates.

Captive insurers may also insure risks of certain persons affiliated with it or the groups prescribed above, including the officers, directors, employees, agents and independent contractors, where these persons are acting in such capacities.

- Section 28 allows a captive insurer to (a) reinsure risks ceded by any other insurer or (b) to enter into a contract to cede its own risks (or any portion of its risk), to a reinsurer.

Superintendent's Interpretation

The Bulletin provides that, through sections 27 and 28 of the Act, an Alberta captive insurer can reinsure third-party risks, so long as all of the below three criteria are met. For clarity, a third party is any entity outside of a captive insurer's permitted group of insureds or in other words, is not a "persons prescribed" as defined in section 27.

1. There is an existing business relationship between the captive insurer's owner(s) and the third party or parties.
2. All third-party insurance contracts must be fronted by an insurer that is licensed in the jurisdiction of risk.
3. The captive insurer maintains at least one contract that insures a person or other entity that is eligible under section 27 of the Act.

This new interpretation is a significant development, as it provides greater flexibility and opportunities for captive insurers in Alberta to meet various business needs, while ensuring compliance with provincial legislation. The Superintendent's revision achieves this by enabling captive insurers to take on third-party risks that may not initially meet the "prescribed persons" criteria in section 27. As a result, Alberta will likely continue to grow as a preferred market for captive licensing and activities.

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A Cautionary Note

The foregoing provides only an overview and does not constitute legal advice. Readers are cautioned against making any decisions based on this material alone. Rather, specific legal advice should be obtained.

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