Bill 41 introduces major updates for Alberta captives

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On Nov. 17, 2026, Alberta's finance minister tabled Bill 41, also referred to as the *Financial Statutes Amendment Act, 2026* (No. 2).[1] The proposed bill introduces amendments to the *Captive Insurance Companies Act* (CICA) that, if passed, will have significant practical implications for all types of Alberta captive insurance companies (Alberta captives). As of publication, Bill 41 has not yet been proclaimed into force and its proposed amendments are not yet in effect.

Currently, below are the three types of Alberta captives and who they can insure today:

- **Pure captive**: Insures the risks of its parent, its parent's affiliated entities, and the officers, directors, employees, agents and independent contractors of the captive, its parent and the parent's affiliates;
- **Association captive**: Insures the risks of an association, the association's member organizations and their affiliated entities, as well as specified risks relating to officers, directors, employees, agents and independent contractors; and
- **Sophisticated insured captive**: Established for a group of commercial insureds that are sufficiently knowledgeable about risk management, insurance and risk-financing practices that they do not require the same protections as an ordinary insurance consumer. It may insure the sophisticated insureds, their affiliates and specified related persons.

Based on our team's experience in structuring, licensing, and providing ongoing support to Alberta captives from the start of Alberta's captives legislation, we consider the following proposed changes to be the three most significant for current and future Alberta captive owners and their service providers:

1. Expanding an Alberta captive's ability to insure risks of certain contracted unaffiliated persons;
2. Codifying the requirement of commonality of risks among association members for Alberta association captive insurance companies; and
3. Strengthening the Alberta regulator's powers to grant initial and renewal licences.

We will address each of these three areas in turn, followed by a summary of other proposed changes to the CICA.

Insuring contracted unaffiliated persons, and their contractors and subcontractors

Bill 41 defines a "**contracted unaffiliated person**" as a person that is not an affiliate of:

- A pure captive or its parent;
- An association captive, its association or the association's member organizations; or
- A sophisticated captive or any member of its sophisticated insured group;

and that has an existing contractual relationship with

- A pure captive, its parent or its parent's affiliates;
- An association captive, its association, a member of its association, or any affiliate of such member; or
- A sophisticated captive or any member of its sophisticated insured group.[2]

Bill 41 would expand the risks Alberta captives are permitted to assume as follows:[3]

- **Pure captives** would be permitted to insure:
  - The risks of the contracted unaffiliated persons of itself, its parent, and its parent's affiliates; and
  - The risks of the officers, directors, employees, and agents of the contracted unaffiliated persons of itself, its parent, and its parent's affiliates, but only against losses incurred while acting on behalf of itself, its parent, its parent's affiliates, or the contracted unaffiliated persons of any of them.

- **Association captives** would be permitted to insure:
  - The risks of the contracted unaffiliated persons of the captive, its association, the member organizations of the association, and their affiliates; and
  - The risks of the officers, directors, employees, and agents of the contracted unaffiliated persons of itself, its association, a member organization of the association, and their affiliates, but only against losses incurred while acting on behalf of itself, the association, the member organizations of the association, their affiliates, or the contracted unaffiliated persons of any of them.

- **Sophisticated captives** would be permitted to insure:
  - The risks of the contracted unaffiliated persons of the captive, the sophisticated insured group and their affiliated entities; and
  - The risks of the officers, directors, employees, and agents of the contracted unaffiliated persons of itself, a sophisticated insured in its sophisticated insured group, and the sophisticated insured's affiliates, but only against losses incurred while acting on behalf of itself, the

sophisticated insured, the sophisticated insured's affiliates, or the contracted unaffiliated persons of any of them.

Furthermore, an Alberta captive would be permitted to insure:

1. **A contractor of a contracted unaffiliated person** — but only where the contracted unaffiliated person's risks are already insured by the Alberta captive;
2. **A subcontractor of a contracted unaffiliated person** — but only where the contracted unaffiliated person's risks are already insured by the Alberta captive; and
3. **A subcontractor of a contractor** (being the contractor referred to in item 1 above) — but only where that contractor's risks are already insured by the Alberta captive.[4]

The proposed expanded scope of Alberta captives would be subject to certain limitations. A new Section 27.1 would establish that Alberta captives may insure risks of the contracted unaffiliated persons, contractors, and subcontractors when one of the following coordinates the management of such risks:

- If a pure captive, the captive, its parent or its parent's affiliates;
- If an association captive, the captive, its association, an association member, or an affiliate of any association member; or
- If a sophisticated captive, the captive, a sophisticated insured in its group, or an affiliate of any such sophisticated insured.[5]

Alberta's Ministry of Finance would maintain authority to regulate these expanded opportunities in the captive insurance ecosystem. Bill 41 would empower the minister to make rules governing how risks of contracted unaffiliated persons, their contractors, or subcontractors are managed.[6] In making such rules, the minister is not bound by the provisions of Alberta's *Regulations Act*.[7] This particular provision only comes into force once the ministry begins to implement such rules.[8] In the meantime, the minister may approve the insurance of risks under these sections on an individual basis.[9]

Codifying commonality of risks for association captives

Bill 41 proposes to codify what our BLG team has seen develop over the past year: the Alberta regulator's position that members of an association formed for an Alberta association captive must share a certain level of common risk profile.

To do this, Bill 41 proposes to amend the definition of "association" by adding a clarification that "*an association of persons [are those] who are exposed to related or similar risks because of related, similar or common business, trade, occupation, goods, services, premises or operations […]*"[10]

In practical terms, this means that groups seeking to form an association captive in Alberta will need to demonstrate that their members share a sufficient nexus of risk, whether arising from a common industry, overlapping operations, or similar business activities. While this standard has already been applied informally by the regulator, its

codification provides a clear legislative benchmark and greater predictability for prospective association captive applicants and their advisors.

From a commercial perspective, this narrowing of who can form an association for the purposes of an Alberta association captive may likely result in Alberta losing out to foreign jurisdictions on sound and profitable group captives that would otherwise choose Alberta as a domicile.

Regulator's discretion at initial licensing and renewal

Bill 41 would impose more stringent and detailed licensing requirements for Alberta captives, applying the same standard to initial applications and annual renewals.[11] Existing provisions entitling Alberta captives to effectively simply retain their licences where they meet obligations under the CICA and its regulations would be removed.[12]

If Bill 41 is proclaimed into law, before granting a new licence or renewing an existing licence for an Alberta captive, the regulator would have to be satisfied with two things:

- First, the Alberta Captive's business plan must be sound and support safe and prudent operations. In assessing this, the regulator will consider the type of captive involved (pure, association, or sophisticated insured), the nature of the risks the captive insures or proposes to insure, and the persons for whose benefit those risks are or will be insured; and
- Second, the regulator must be satisfied that the Alberta captive complies with the CICA and its regulations. While this requirement is currently outlined in Alberta's *Captive Insurance Company Licensing Guide*, Bill 41 would codify it. It remains to be seen what exactly would satisfy the regulator in this regard, whether it is in the form of a declaration, evidence of a lack of regulatory scrutiny over the previous licensing year (for renewals), or a legal opinion provided by reputable and experienced legal counsel.

In practical terms, the minister's review may no longer be a simple test of whether the business plan is sound. The amended provision suggests the regulator may take a more detailed, entity-specific assessment by evaluating the soundness of the business plan through the lens of captive type, covered risks and beneficiaries, while confirming ongoing regulatory compliance at both initial licensing and every renewal.

Miscellaneous Implications

Failure to comply with Ministerial Orders

Regulated entities that fail to comply with ministerial orders may face sanctions. Bill 41 would make it an offence under the CICA to contravene a ministerial order.[13] Furthermore, Bill 41 would empower the minister of finance to seek court orders against Alberta captives that contravene their orders.[14] Finally, the minister may cancel, suspend, refuse to renew, or even impose terms and conditions on licenses where an Alberta captive contravenes an approval, direction, or order of the minister.[15]

Amendments to reporting obligations

Bill 41 would also impact reporting obligations under the CICA. The proposed amendments would reduce the deadline to provide audited financial statements to 120 days after the end of the financial year, rather than the current 180 days.[16] Additionally, Alberta captives would file their annual returns within 120 days after the end of the financial year, rather than the current 60 days.[17]

Concluding thoughts

Bill 41 introduces significant changes to the captive insurance landscape in Alberta. From a practical standpoint, three implications stand out based on our experience:

First, the expansion of risks that Alberta captives would be permitted to insure in connection with contracted unaffiliated persons represents a real opportunity for Alberta captives to underwrite new risks without having to rely on the existing third-party risks exemption and the related criteria thereof. This broadened scope may open the door to more flexible and commercially attractive captive structures.

Second, the amended definition of "association" codifies what a few of us in the industry have known for some time — the regulator's position that groups forming an association must demonstrate a sufficient commonality of risk profile among them. While this may not change day-to-day practice for those already familiar with the regulator's expectations, it does provide legislative certainty and a clear benchmark for prospective association captive applicants.

Candidly, this narrowing of who can form an association will likely lead to Alberta losing out to foreign jurisdictions on many sound and profitable group captive opportunities that would otherwise choose Alberta as a domicile.

Third, the proposed changes will strengthen and make more transparent the regulator's discretion over approving business plans at initial licensing and at subsequent renewals. Alberta captives and their service providers should expect a more detailed and entity-specific review process, with greater scrutiny of the type of captive, the nature of the risks insured, and the persons for whose benefit those risks are underwritten.

BLG remains committed to monitoring Bill 41 as Alberta's Legislature opens the floor to continued debate.

For more information on these proposed changes or for guidance on navigating Alberta’s captive insurance ecosystem, connect with us.

Footnotes

[1] Bill 41, *Financial Statutes Amendment Act*, 2026 (No. 2), 2nd Sess, 31st Leg, Alberta, 2026 cl 5 (first reading 17 November 2026) [Bill 41].

[2] Bill 41, cl 2(c).

[3] Bill 41, cl 7.

[4] Bill 41, cl 2(d).

[5] Bill 41, cl 8.

[6] Bill 41, cl 8.

[7] Bill 41, cl 8.

[8] Bill 41, cl 8.

[9] Bill 41, cl 8.

[10] Bill 41, cl 4(2)(b).

[11] Bill 41, cl 5(a).

[12] Bill 41, cl 6.

[13] Bill 41, cl 14.

[14] Bill 41, cl 13.

[15] Bill 41, cl 12.

[16] Bill 41, cl 9.

[17] Bill 41, cl 10.

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