

STORAGE NAME: h0311s1.in

DATE: December 8, 1999

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
INSURANCE
ANALYSIS**

BILL #: CS/HB 311

RELATING TO: Industrial insured captive insurers

SPONSOR(S): Committee on Insurance; Representative Waters

TIED BILL(S):

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:

(1) INSURANCE YEAS 14 NAYS 0

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I. SUMMARY:

CS/HB 311 addresses the subject of industrial insureds and industrial insured captive insurers.

“Industrial insured captive insurers” are captive insurers which have as their members or stockholders only those industrial insureds which they insure. An “industrial insured” is an insured which has gross assets in excess of \$50 million, procures insurance through a full-time employee of the insured who acts as insurance manager, has at least 100 full-time employees, and pays annual insurance premiums of at least \$200,000 for each line of insurance or at least \$75,000 for any line of coverage in excess of \$25 million.

According to the Department of Insurance, three insurers are classified as industrial insured captive insurers. Two of these insurers insure utilities companies, and the third insures a chain of medical clinics.

CS/HB 311 would lower the thresholds required to qualify as an industrial insured of an industrial insured captive insurer that is licensed in the state prior to December 31, 1999, or a subsidiary formed by that industrial insured captive insurer after December 31, 1999. The industrial insureds of industrial insured captive insurers that are licensed after December 31, 1999 would be required to meet the higher thresholds that are set forth in current law.

Regardless of the date of licensure, an industrial insured captive insurer would be required to maintain unimpaired capital and surplus of at least \$20 million.

This bill would not have a fiscal impact on state or local government.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- | | | | |
|-----------------------------------|---|-----------------------------|---|
| 1. <u>Less Government</u> | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/> |
| 2. <u>Lower Taxes</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. <u>Individual Freedom</u> | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/> |
| 4. <u>Personal Responsibility</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. <u>Family Empowerment</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

B. PRESENT SITUATION:

Captive insurers, industrial insureds, and industrial insured captive insurers are regulated under Part V, Chapter 628, Florida Statutes.

A "captive insurer" is defined in s. 628.901, F.S., as a domestic insurer formed as a mutual or stock company to insure the risks of a specific group owned by the corporations from which the captive insurer accepts its risks. A captive insurer must possess and maintain unimpaired paid-in capital of at least \$500,000 and unimpaired surplus of at least \$250,000.

According to s. 628.903, F.S., an "industrial insured" is an insured which has gross assets in excess of \$50 million, procures insurance through a full-time employee of the insured who acts as insurance manager, has at least 100 full-time employees, and pays annual insurance premiums of at least \$200,000 for each line of insurance or at least \$75,000 for any line of coverage in excess of \$25 million.

Section 628.903, Florida Statutes, also defines "industrial insured captive insurer" as a captive insurer that has as its stockholders or members only industrial insureds insured or reinsured by the industrial insured captive insurer. The industrial insured captive insurer provides insurance or reinsurance to its stockholders or members.

According to the Department of Insurance (DOI), three insurers are classified as industrial insured captive insurers. Two of these insurers insure utilities companies, and the third insures a chain of medical clinics. The DOI is unable to calculate the number of industrial insureds in the state. That information is not required to be reported to the DOI.

The relationship between the insurer and the insured can take several forms. The insurer may be organized as a mutual insurance company owned by several unaffiliated or unrelated companies. Or, the insurer may be owned by a parent company to insure the parent and affiliated companies.

An industrial insured captive insurer may offer all types of commercial insurance coverage, such as commercial property, casualty, and marine insurance. However, it may only offer workers' compensation or employers' liability coverage in excess of \$25 million in the annual aggregate.

Only certain parts of the insurance code apply to industrial insured captive insurers. This type of insurer is not required to have the minimum surplus-as-to-policyholders required in s. 624.408, F.S., but is required to report its investments to the DOI, as required in Part II of Chapter 625, Florida Statutes.

An industrial insured captive insurer is not required to file rates or forms for approval by the DOI.

C. EFFECT OF PROPOSED CHANGES:

The definition of industrial insured would be amended for those insured by an industrial insured captive insurer licensed in the state prior to December 31, 1999 or any subsidiary of that licensed insurer formed after December 31, 1999. Capital and surplus requirements also would be added for an industrial insured captive insurer.

The criteria for qualifying as an industrial insured of an industrial insured captive insurer licensed prior to December 31, 1999, would be changed as follows: gross assets would be lowered from \$50 million to \$10 million; the required number of employees for the industrial insured also would be lowered from 100 to 25 full-time employees; and the amount of premiums paid by an industrial insured would be lowered from \$200,000 to \$100,000 aggregate annual premiums paid for all insurance risks.

The industrial insureds of an industrial insured captive insurer licensed by the state after December 31, 1999 would be required to meet the criteria set forth in current law.

Corporate entities, such as utility companies, that have fewer employees, fewer assets, and smaller insurance premiums could qualify as industrial insureds. Corporate restructuring and the anticipated deregulation of the utility industry could lead to the formation of smaller utility companies with fewer assets.

Regardless of the date of licensure, an industrial insured captive insurer would be required to maintain unimpaired capital and surplus of at least \$20 million.

D. SECTION-BY-SECTION ANALYSIS:

N/A

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None

2. Expenditures:

None

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B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Some smaller corporate entities could qualify as industrial insureds, and therefor be insured by an industrial insured captive insurer licensed prior to December 31,1999.

D. FISCAL COMMENTS:

None

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

The bill does not require a city or county to spend funds or to take any action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

The bill does not reduce the revenue raising authority of any city or county.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

The bill does not reduce the amount of state tax shared with counties and municipalities.

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

None.

C. OTHER COMMENTS:

N/A

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VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

On December 7, 1999, the Committee on Insurance adopted an amendment and an amendment to that amendment and voted to adopt the bill as a committee substitute. The committee substitute differs from the original bill in two ways:

- ◆ The qualifying criteria would be lowered for an industrial insured that is insured by an industrial insured captive insurer licensed prior to December 31, 1999 or a subsidiary of that licensed industrial insured captive insurer that is formed after December 31, 1999. The qualifying criteria for an industrial insured of an industrial insured captive insurer licensed after December 31, 1999, would remain as in current law.
- ◆ An industrial insured captive insurer would be required to maintain a combined capital and surplus of \$20 million, rather than capital of \$5 million and surplus of \$15 million.

VII. SIGNATURES:

COMMITTEE ON INSURANCE:

Prepared by:

Staff Director:

Meredith Woodrum Snowden

Stephen Hogge