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LEGISLATIVE ACTION

Senate

House

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05/02/2011 03:30 PM

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Senator Diaz de la Portilla moved the following:

**Senate Amendment (with title amendment)**

Between lines 968 and 969

insert:

Section 19. Section 628.901, Florida Statutes, is amended to read:

628.901 Definitions ~~"Captive insurer" defined. -As used in~~  
~~For the purposes of this part, the term: except as provided in~~  
~~s. 628.903, a "captive insurer" is a domestic insurer~~  
~~established under part I to insure the risks of a specific~~  
~~corporation or group of corporations under common ownership~~  
~~owned by the corporation or corporations from which it accepts~~  
~~risk under a contract of insurance.~~



137808

14           (1) "Association" means a legal association of nursing  
15 homes, hospitals, skilled nursing facilities, assisted living  
16 facilities, or continuing care retirement communities.

17           (2) "Association captive insurer" means a company that  
18 insures risks of the member organizations of the association and  
19 their affiliated companies.

20           (3) "Captive insurer" means a pure captive insurer, an  
21 industrial insured captive insurer, or an association captive  
22 insurer domiciled in this state and formed or licensed under  
23 this part.

24           (4) "Industrial insured" means an insured that:

25           (a) Has gross assets in excess of \$50 million;

26           (b) Procures insurance through the use of a full-time  
27 employee of the insured who acts as an insurance manager or  
28 buyer or through the services of a person licensed as a property  
29 and casualty insurance agent, broker, or consultant in such  
30 person's state of domicile;

31           (c) Has at least 100 full-time employees; and

32           (d) Pays annual premiums of at least \$200,000 for each line  
33 of insurance purchased from the industrial insured captive  
34 insurer, or at least \$75,000 for any line of coverage in excess  
35 of at least \$25 million in the annual aggregate. The purchase of  
36 umbrella or general liability coverage in excess of \$25 million  
37 in the annual aggregate is deemed to be the purchase of a single  
38 line of insurance.

39           (5) "Industrial insured captive insurer" means a captive  
40 insurer that:

41           (a) Has as its stockholders or members only industrial  
42 insureds that the captive insurer insures, or has as its sole



137808

43 stockholder a corporation whose sole stockholders are industrial  
44 insureds that the captive insurer insures; and

45 1. Provides insurance only to the industrial insureds that  
46 are its stockholders or members, and affiliates thereof, or to  
47 the stockholders, and affiliates thereof, of its parent  
48 corporation; or

49 2. Provides reinsurance only on risks written by insurers  
50 of industrial insureds who are the stockholders or members, and  
51 affiliates thereof, of the captive insurer, or the stockholders,  
52 and affiliates thereof, of the parent corporation of the captive  
53 insurer;

54 (b) Maintains unimpaired capital and surplus of at least  
55 \$20 million; and

56 (c) If licensed in this state before December 31, 1999, or  
57 if any subsidiary formed by the licensed insurer on or after  
58 December 31, 1999, has:

59 1. Gross assets in excess of \$10 million and procures  
60 insurance through the use of a full-time employee of the insured  
61 who acts as an insurance manager or buyer or through the  
62 services of a person licensed as a property and casualty  
63 insurance agent, broker, or consultant in such person's state of  
64 domicile;

65 2. At least 25 full-time employees; and

66 3. Annual aggregate premiums for all insurance risks which  
67 total at least \$100,000.

68  
69 As used in this subsection, the term "affiliate" means a person  
70 that directly or indirectly, through one or more intermediaries,  
71 controls, is controlled by, or is under common control with one



137808

72 or more of the stockholders or members of an industrial insured  
73 captive insurer or one or more of the stockholders of the parent  
74 corporation of an industrial insured captive insurer.

75 (6) "Pure captive insurer" means a company that insures the  
76 risks of its parent, affiliated companies, controlled  
77 unaffiliated businesses, or a combination thereof.

78 Section 20. Section 628.903, Florida Statutes, is repealed.

79 Section 21. Section 628.905, Florida Statutes, is amended  
80 to read:

81 628.905 Licensing; authority.—In order to conduct insurance  
82 business in this state, a captive insurer must obtain a license  
83 from the office.

84 (1) A ~~Any~~ captive insurer, if ~~when~~ permitted by its charter  
85 or articles of incorporation, may apply to the office for a  
86 license to provide commercial property, commercial casualty, and  
87 commercial marine insurance. ~~coverage other than workers'~~  
88 ~~compensation and employer's liability insurance coverage, except~~  
89 ~~that~~ An industrial insured captive insurer may also apply for a  
90 license to provide workers' compensation and employer's  
91 liability insurance as set forth in subsection (5) ~~(6)~~.

92 (2) A ~~No~~ captive insurer, other than an industrial insured  
93 captive insurer, may not ~~shall~~ insure or accept reinsurance on  
94 any risks other than those of its parent and affiliated  
95 companies.

96 (3) In addition to information otherwise required by this  
97 code, each applicant captive insurer shall file with the office  
98 evidence:

99 (a) Of the adequacy of the loss prevention program of its  
100 insureds.



137808

101           (b) That it intends to employ or contract with a reputable  
102 person or firm that possesses the appropriate expertise,  
103 experience, and character to manage the association captive  
104 insurer.

105           (4) If an association captive insurer operates with  
106 separate cells or segregated accounts, a certificate of  
107 insurance used to satisfy financial responsibility laws shall be  
108 issued in an amount not exceeding the total funds in the  
109 segregated accounts or separate cells of each member  
110 organization of the association.

111           (5)(4) An industrial insured captive insurer:

112           (a) Need not be incorporated in this state if it has been  
113 validly incorporated under the laws of another jurisdiction;

114           (b)(5) An industrial insured captive insurer Is subject to  
115 all provisions of this part except as otherwise indicated; and

116           (c)(6) An industrial insured captive insurer May not  
117 provide workers' compensation and employer's liability insurance  
118 except in excess of at least \$25 million in the annual  
119 aggregate.

120           Section 22. Section 628.908, Florida Statutes, is created  
121 to read:

122           628.908 Principal place of business; annual meeting.-In  
123 order to conduct insurance business in this state, a licensed  
124 captive insurer must:

125           (1) Maintain its principal place of business in this state;  
126 and

127           (2) Annually hold in this state at least one board of  
128 directors' meeting; or, in the case of a reciprocal insurer, one  
129 subscriber's advisory committee meeting; or, in the case of a



137808

130 limited liability company, one managing board's meeting.

131 Section 23. Paragraph (a) of subsection (2) and paragraph  
132 (a) of subsection (3) of section 628.909, Florida Statutes, are  
133 amended to read:

134 628.909 Applicability of other laws.—

135 (2) The following provisions of the Florida Insurance Code  
136 shall apply to captive insurers who are not industrial insured  
137 captive insurers to the extent that such provisions are not  
138 inconsistent with this part:

139 (a) Chapter 624, except for ss. 624.407, 624.408, 624.4085,  
140 624.40851, 624.4095, 624.425, and 624.426.

141 (3) The following provisions of the Florida Insurance Code  
142 shall apply to industrial insured captive insurers to the extent  
143 that such provisions are not inconsistent with this part:

144 (a) Chapter 624, except for ss. 624.407, 624.408, 624.4085,  
145 624.40851, 624.4095, 624.425, 624.426, and 624.609(1).

146

147 ===== T I T L E A M E N D M E N T =====

148 And the title is amended as follows:

149 Delete line 95

150 and insert:

151 Surplus Lines Law; providing applicability; amending  
152 s. 628.901, F.S.; providing definitions; repealing s.  
153 628.903, F.S., relating to the definition of the term  
154 "industrial insured captive insurer"; amending s.  
155 628.905, F.S.; requiring a captive insurer to obtain a  
156 license and to file evidence that a person or firm  
157 with whom it intends to conduct business is reputable;  
158 providing that a certificate of insurance for an



137808

159 association captive insurer does not exceed the total  
160 funds of the association members; creating s. 628.908,  
161 F.S.; requiring a licensed captive insurer to maintain  
162 its principal place of business in this state and hold  
163 an annual meeting in this state; amending s. 628.909,  
164 F.S.; applying additional provisions of the insurance  
165 code to captive insurers; amending s.