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LEGISLATIVE ACTION

Senate

House

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Senator Diaz de la Portilla moved the following:

1           **Senate Amendment to Amendment (694784) (with title**  
2 **amendment)**

3  
4           Between lines 861 and 862  
5 insert:

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

8           628.901 Definitions ~~"Captive insurer" defined. As used in~~  
9 ~~For the purposes of this part, the term: except as provided in~~  
10 ~~s. 628.903, a "captive insurer" is a domestic insurer~~  
11 ~~established under part I to insure the risks of a specific~~  
12 ~~corporation or group of corporations under common ownership~~  
13 ~~owned by the corporation or corporations from which it accepts~~



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14 ~~risk under a contract of insurance.~~

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

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

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

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

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

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

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

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

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

42 (a) Has as its stockholders or members only industrial



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43 insureds that the captive insurer insures, or has as its sole  
44 stockholder a corporation whose sole stockholders are industrial  
45 insureds that the captive insurer insures; and

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

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

55 (b) Maintains unimpaired capital and surplus of at least  
56 \$20 million; and

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

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

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

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

69

70 As used in this subsection, the term "affiliate" means a person  
71 that directly or indirectly, through one or more intermediaries,



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72 controls, is controlled by, or is under common control with one  
73 or more of the stockholders or members of an industrial insured  
74 captive insurer or one or more of the stockholders of the parent  
75 corporation of an industrial insured captive insurer.

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

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

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

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

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

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

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

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



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101 insureds.

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

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

112 (5)-(4) An industrial insured captive insurer:

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

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

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

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

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

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

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



130 subscriber's advisory committee meeting; or, in the case of a  
131 limited liability company, one managing board's meeting.

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

135 628.909 Applicability of other laws.—

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

140 (a) Chapter 624, except for ss. 624.407, 624.408, 624.4085,  
141 624.40851, 624.4095, 624.425, and 624.426.

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

145 (a) Chapter 624, except for ss. 624.407, 624.408, 624.4085,  
146 624.40851, 624.4095, 624.425, 624.426, and 624.609(1).

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

149 And the title is amended as follows:

150 Delete line 1009

151 and insert:

152 providing applicability; amending s. 628.901, F.S.;

153 providing definitions; repealing s. 628.903, F.S.,

154 relating to the definition of the term "industrial

155 insured captive insurer"; amending s. 628.905, F.S.;

156 requiring a captive insurer to obtain a license and to

157 file evidence that a person or firm with whom it

158 intends to conduct business is reputable; providing



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159       that a certificate of insurance for an association  
160       captive insurer does not exceed the total funds of the  
161       association members; creating s. 628.908, F.S.;  
162       requiring a licensed captive insurer to maintain its  
163       principal place of business in this state and hold an  
164       annual meeting in this state; amending s. 628.909,  
165       F.S.; applying additional provisions of the insurance  
166       code to captive insurers; amending s. 817.234, F.S.;