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LEGISLATIVE ACTION

Senate

House

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Floor: WD/2R

05/04/2011 03:01 PM

Senator Smith moved the following:

1 **Senate Amendment to Amendment (404618) (with title**
2 **amendment)**

3
4 Between lines 3914 and 3915
5 insert:

6 Section 79. 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 80. Section 628.903, Florida Statutes, is repealed.

80 Section 81. 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 82. 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



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

132 Section 83. 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 4420

151 and insert:

152 severability of the act; 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; providing effective dates.