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LEGISLATIVE ACTION

Senate	.	House
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The Committee on Banking and Insurance (Hays) recommended the following:

1 **Senate Amendment to Amendment (457546) (with title**
2 **amendment)**

3
4 Delete lines 1366 - 1390

5 and insert:

6 Section 41. Subsections (8), (9), and (13) of section
7 628.901, Florida Statutes, are amended to read:

8 628.901 Definitions.—As used in this part, the term:

9 (8) "Industrial insured" means an insured that:

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

11 (b) Procures insurance through the use of a full-time
12 employee of the insured who acts as an insurance manager or



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13 buyer or through the services of a person licensed as a property
14 and casualty insurance agent, broker, or consultant in such
15 person's state of domicile;

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

17 (d) Pays annual premiums of at least \$200,000 for each line
18 of insurance purchased from the industrial insured captive
19 insurance company insurer or at least \$75,000 for any line of
20 coverage in excess of at least \$25 million in the annual
21 aggregate. The purchase of umbrella or general liability
22 coverage in excess of \$25 million in the annual aggregate shall
23 be deemed to be the purchase of a single line of insurance.

24 (9) "Industrial insured captive insurance company" means a
25 ~~captive insurance~~ company that provides insurance only to the
26 industrial insureds that are its stockholders or members, and
27 affiliates thereof, or to the stockholders, and affiliates
28 thereof, of its parent corporation. An industrial insured
29 captive insurance company can also provide reinsurance to
30 insurers only on risks written by such insurers for the
31 industrial insureds that are the stockholders or members, and
32 affiliates thereof, of the industrial insured captive insurance
33 company insurer, or the stockholders, and affiliates thereof, of
34 the parent corporation of the industrial insured captive
35 insurance company insurer.

36 (13) "Qualifying reinsurer parent company" means a
37 reinsurer that ~~which~~ currently holds a certificate of authority,
38 ~~letter of eligibility~~ or is an accredited or trusteed under s.
39 624.610(3)(c) ~~a satisfactory non-approved~~ reinsurer in this
40 state possessing a consolidated GAAP net worth of at least \$500
41 million and a consolidated debt to total capital ratio of not



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42 greater than 0.50.

43 Section 42. Subsections (1), (2), (4), and (5) of section
44 628.905, Florida Statutes, are amended to read:

45 628.905 Licensing; authority.—

46 (1) A captive insurance company ~~insurer~~, if permitted by
47 its charter or articles of incorporation, may apply to the
48 office for a license to do any and all insurance authorized
49 under the insurance code, other than workers' compensation and
50 employer's liability, life, health, personal motor vehicle, and
51 personal residential property insurance, except that:

52 (a) A pure captive insurance company may not insure any
53 risks other than those of its parent, affiliated companies,
54 controlled unaffiliated businesses, or a combination thereof.

55 (b) An industrial insured captive insurance company may not
56 insure any risks other than those of the industrial insureds
57 that comprise the industrial insured group and their affiliated
58 companies, or its stockholders or members, and affiliates
59 thereof, of the industrial insured captive, or the stockholders
60 or affiliates of the parent corporation of the industrial
61 insured captive insurance company.

62 (c) A special purpose captive insurance company may insure
63 only the risks of its parent.

64 (d) A captive insurance company may not accept or cede
65 reinsurance except as provided in this part.

66 (e) An industrial insured captive insurance company with
67 unencumbered capital and surplus of at least \$20 million may be
68 licensed to provide workers' compensation and employer's
69 liability insurance in excess of \$25 million in the annual
70 aggregate. An industrial insured captive insurance company must



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71 maintain unencumbered capital and surplus of at least \$20
72 million to continue to write excess workers' compensation
73 insurance.

74 (2) To conduct insurance business in this state, a captive
75 insurance company ~~insurer~~ must:

76 (a) Obtain from the office a license authorizing it to
77 conduct insurance business in this state;

78 (b) Hold at least one board of directors' meeting each year
79 in this state;

80 (c) Maintain its principal place of business in this state;
81 and

82 (d) Appoint a resident registered agent to accept service
83 of process and to otherwise act on its behalf in this state. In
84 the case of a captive insurance company formed as a corporation
85 or a nonprofit corporation, if the registered agent cannot with
86 reasonable diligence be found at the registered office of the
87 captive insurance company, the Chief Financial Officer of this
88 state must be an agent of the captive insurance company upon
89 whom any process, notice, or demand may be served.

90 (4) A captive insurance company or captive reinsurance
91 company must pay to the office a nonrefundable fee of \$1,500 for
92 processing its application for license.

93 (a) A captive insurance company or captive reinsurance
94 company must also pay an annual renewal fee of \$1,000.

95 (b) The office may charge a fee of \$5 for any document
96 requiring certification of authenticity or the signature of the
97 office ~~commissioner or his or her designee.~~

98 (5) If the office ~~commissioner~~ is satisfied that the
99 documents and statements filed by the captive insurance company



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100 comply with this chapter, the office commissioner may grant a
101 license authorizing the company to conduct insurance business in
102 this state until the next succeeding March 1, at which time the
103 license may be renewed.

104 Section 43. Subsection (1) of section 628.907, Florida
105 Statutes, is amended to read:

106 628.907 Minimum capital and net assets requirements;
107 restriction on payment of dividends.—

108 (1) A captive insurance company insurer may not be issued a
109 license unless it possesses and thereafter maintains unimpaired
110 paid-in capital of:

111 (a) In the case of a pure captive insurance company, at
112 least \$100,000.

113 (b) In the case of an industrial insured captive insurance
114 company incorporated as a stock insurer, at least \$200,000.

115 (c) In the case of a special purpose captive insurance
116 company, an amount determined by the office after giving due
117 consideration to the company's business plan, feasibility study,
118 and pro forma financial statements and projections, including
119 the nature of the risks to be insured.

120 Section 44. Section 628.909, Florida Statutes, is amended
121 to read:

122 628.909 Applicability of other laws.—

123 (1) The Florida Insurance Code does not apply to captive
124 insurance companies insurers or industrial insured captive
125 insurance companies insurers except as provided in this part and
126 subsections (2) and (3).

127 (2) The following provisions of the Florida Insurance Code
128 apply to captive insurance companies insurers who are not



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129 industrial insured captive insurance companies ~~insurers~~ to the
130 extent that such provisions are not inconsistent with this part:

131 (a) Chapter 624, except for ss. 624.407, 624.408, 624.4085,
132 624.40851, 624.4095, 624.411, 624.425, and 624.426.

133 (b) Chapter 625, part II.

134 (c) Chapter 626, part IX.

135 (d) Sections 627.730-627.7405, when no-fault coverage is
136 provided.

137 (e) Chapter 628.

138 (3) The following provisions of the Florida Insurance Code
139 apply to industrial insured captive insurance companies ~~insurers~~
140 to the extent that such provisions are not inconsistent with
141 this part:

142 (a) Chapter 624, except for ss. 624.407, 624.408, 624.4085,
143 624.40851, 624.4095, 624.411, 624.425, 624.426, and 624.609(1).

144 (b) Chapter 625, part II, if the industrial insured captive
145 insurance companies ~~insurer~~ is incorporated in this state.

146 (c) Chapter 626, part IX.

147 (d) Sections 627.730-627.7405 when no-fault coverage is
148 provided.

149 (e) Chapter 628, except for ss. 628.341, 628.351, and
150 628.6018.

151 Section 45. Subsection (2) of section 628.9142, Florida
152 Statutes, is amended to read:

153 628.9142 Reinsurance; effect on reserves.-

154 (2) A captive insurance company may take credit for
155 reserves on risks or portions of risks ceded to authorized
156 insurers or reinsurers and unauthorized insurers or reinsurers
157 complying with s. 624.610. A captive insurance company ~~insurer~~



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158 may not take credit for reserves on risks or portions of risks
159 ceded to an unauthorized insurer or reinsurer if the insurer or
160 reinsurer is not in compliance with s. 624.610.

161 Section 46. Section 628.915, Florida Statutes, is amended
162 to read:

163 628.915 Exemption from compulsory association.—

164 (1) A No captive insurance company ~~insurer shall be~~
165 ~~permitted to~~ join or contribute financially to any joint
166 underwriting association or guaranty fund in this state; nor
167 shall any captive insurance company ~~insurer~~, its insured, or its
168 parent or any affiliated company receive any benefit from any
169 such joint underwriting association or guaranty fund for claims
170 arising out of the operations of such captive insurer.

171 (2) An No industrial insured captive insurance company ~~may~~
172 ~~not insurer shall be permitted to~~ join or contribute financially
173 to any joint underwriting association or guaranty fund in this
174 state; nor shall any industrial insured captive insurance
175 company ~~insurer~~, its industrial insured, or its parent or any
176 affiliated company receive any benefit from any such joint
177 underwriting association or guaranty fund for claims arising out
178 of the operations of such industrial insured captive insurance
179 company ~~insurer~~.

180 Section 47. Section 628.917, Florida Statutes, is amended
181 to read:

182 628.917 Insolvency and liquidation.—In the event that a
183 captive insurance company ~~insurer~~ is insolvent as defined in
184 chapter 631, the office shall liquidate the captive insurance
185 company ~~insurer~~ pursuant to the provisions of part I of chapter
186 631. ~~;~~ ~~except that~~ The office may not ~~shall make no~~ attempt to



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187 rehabilitate such insurer.

188 Section 48. Section 628.919, Florida Statutes, is amended
189 to read:

190 628.919 Standards to ensure risk management control by
191 parent company.—A pure captive insurance company shall submit to
192 the office for approval ~~The Financial Services Commission shall~~
193 ~~adopt rules establishing~~ standards to ensure that a parent or
194 affiliated company is able to exercise control of the risk
195 management function of any controlled unaffiliated business to
196 be insured by the pure captive insurance company.

197
198 ===== T I T L E A M E N D M E N T =====

199 And the title is amended as follows:

200 Delete lines 1647 - 1650

201 and insert:

202 revising the definition of terms applicable to captive
203 insurers; amending s. 628.905, F.S.; authorizing an
204 industrial insured captive insurance company to write
205 workers compensation and employer liability insurance
206 in excess of a certain amount under certain
207 conditions; conforming provisions to changes made by
208 the act; redesignating the Office of Insurance
209 Regulation instead of the Insurance Commissioner as
210 the collector of certain fees and issuer of licenses;
211 amending s. 628.907, F.S.; conforming provisions to
212 changes made by the act; amending s. 628.909, F.S.;
213 providing for applicability of certain provisions of
214 the Insurance Code to specified captive insurers;
215 conforming provisions to changes made by the act;



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216 amending s. 628.9142, F.S.; conforming provisions to
217 changes made by the act; amending s. 628.915, F.S.;
218 conforming provisions to changes made by the act;
219 amending s. 628.917, F.S.; conforming provisions to
220 changes made by the act; amending s. 628.919, F.S.;
221 requiring a pure captive insurance company to submit
222 certain risk management standards to the Office of
223 Insurance Regulation;