

1 A bill to be entitled

2 An act relating to captive insurance; amending s.
3 628.901, F.S.; revising definitions; amending s.
4 628.905, F.S.; revising terminology; prohibiting an
5 industrial insured captive insurance company from
6 insuring risks other than specified risks; authorizing
7 the licensure of industrial insured captive insurance
8 companies to provide workers compensation and
9 employer's liability insurance in excess of a
10 specified amount; requiring an industrial insured
11 captive insurance company to maintain a certain amount
12 of capital and surplus in order to continue to write
13 such excess workers compensation; specifying that
14 certain duties or actions are the responsibility of
15 the Office of Insurance Regulation; amending s.
16 628.907, F.S.; conforming a provision; amending s.
17 628.909, F.S.; providing applicability of specified
18 provisions to captive insurance companies and
19 industrial insured captive insurance companies;
20 conforming provisions; amending ss. 628.9142, 628.915,
21 and 628.917, F.S.; conforming provisions; amending s.
22 628.919, F.S.; requiring a pure captive insurance
23 company to submit certain standards relating to the
24 risk management of controlled unaffiliated businesses
25 to the Office of Insurance Regulation for approval;
26 providing an effective date.

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28 Be It Enacted by the Legislature of the State of Florida:

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30 Section 1. Paragraph (d) of subsection (8) and subsections
31 (9) and (13) of section 628.901, Florida Statutes, are amended
32 to read:

33 628.901 Definitions.—As used in this part, the term:

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

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

42 (9) "Industrial insured captive insurance company" means a
43 ~~eaptive insurance~~ company that provides insurance only to the
44 industrial insureds that are its stockholders or members, and
45 affiliates thereof, or to the stockholders, and affiliates
46 thereof, of its parent corporation. An industrial insured
47 captive insurance company can also provide reinsurance to
48 insurers only on risks written by such insurers for the
49 industrial insureds that are the stockholders or members, and
50 affiliates thereof, of the industrial insured captive insurance
51 company insurer, or the stockholders, and affiliates thereof, of
52 the parent corporation of the industrial insured captive
53 insurance company insurer.

54 (13) "Qualifying reinsurer parent company" means a
55 reinsurer that ~~which~~ currently holds a certificate of authority,
56 ~~letter of eligibility~~ or is an accredited reinsurer or trusteed

57 | reinsurer under s. 624.610(3)(c) ~~a satisfactory non-approved~~
 58 | ~~reinsurer~~ in this state possessing a consolidated GAAP net worth
 59 | of at least \$500 million and a consolidated debt to total
 60 | capital ratio of not greater than 0.50.

61 | Section 2. Subsections (1) and (2), paragraph (b) of
 62 | subsection (4), and subsection (5) of section 628.905, Florida
 63 | Statutes, are amended to read:

64 | 628.905 Licensing; authority.—

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

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

74 | (b) An industrial insured captive insurance company may
 75 | not insure any risks other than those of the industrial insureds
 76 | that comprise the industrial insured group and their affiliated
 77 | companies, or its stockholders or members, and affiliates
 78 | thereof, of the industrial insured captive, or the stockholders
 79 | or affiliates of the parent corporation of the industrial
 80 | insured captive insurance company.

81 | (c) A special purpose captive insurance company may insure
 82 | only the risks of its parent.

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

85 (e) An industrial insured captive insurance company with
86 unencumbered capital and surplus of at least \$20 million may be
87 licensed to provide workers' compensation and employer's
88 liability insurance in excess of \$25 million in the annual
89 aggregate. An industrial insured captive insurance company must
90 maintain unencumbered capital and surplus of at least \$20
91 million to continue to write such excess workers' compensation
92 insurance in Florida.

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

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

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

99 (c) Maintain its principal place of business in this
100 state; and

101 (d) Appoint a resident registered agent to accept service
102 of process and to otherwise act on its behalf in this state. In
103 the case of a captive insurance company formed as a corporation
104 or a nonprofit corporation, if the registered agent cannot with
105 reasonable diligence be found at the registered office of the
106 captive insurance company, the Chief Financial Officer of this
107 state must be an agent of the captive insurance company upon
108 whom any process, notice, or demand may be served.

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

112 (b) The office may charge a fee of \$5 for any document

113 requiring certification of authenticity or the signature of a
114 representative of the office ~~commissioner or his or her~~
115 ~~designee~~.

116 (5) If the office ~~commissioner~~ is satisfied that the
117 documents and statements filed by the captive insurance company
118 comply with this chapter, the office ~~commissioner~~ may grant a
119 license authorizing the company to conduct insurance business in
120 this state until the next succeeding March 1, at which time the
121 license may be renewed.

122 Section 3. Subsection (1) of section 628.907, Florida
123 Statutes, is amended to read:

124 628.907 Minimum capital and net assets requirements;
125 restriction on payment of dividends.—

126 (1) A captive insurance company ~~insurer~~ may not be issued
127 a license unless it possesses and thereafter maintains
128 unimpaired paid-in capital of:

129 (a) In the case of a pure captive insurance company, at
130 least \$100,000;~~;~~

131 (b) In the case of an industrial insured captive insurance
132 company incorporated as a stock insurer, at least \$200,000; and~~;~~

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

138 Section 4. Section 628.909, Florida Statutes, is amended
139 to read:

140 628.909 Applicability of other laws.—

141 (1) The Florida Insurance Code does not apply to captive
 142 insurance companies ~~insurers~~ or industrial insured captive
 143 insurance companies ~~insurers~~ except as provided in this part and
 144 subsections (2) and (3).

145 (2) The following provisions of the Florida Insurance Code
 146 apply to captive insurance companies ~~insurers~~ who are not
 147 industrial insured captive insurance companies ~~insurers~~ to the
 148 extent that such provisions are not inconsistent with this part:

149 (a) Chapter 624, except for ss. 624.407, 624.408,
 150 624.4085, 624.40851, 624.4095, 624.411, 624.425, and 624.426.

151 (b) Chapter 625, part II.

152 (c) Chapter 626, part IX.

153 (d) Sections 627.730-627.7405, when no-fault coverage is
 154 provided.

155 (e) Chapter 628.

156 (3) The following provisions of the Florida Insurance Code
 157 shall apply to industrial insured captive insurance companies
 158 ~~insurers~~ to the extent that such provisions are not inconsistent
 159 with this part:

160 (a) Chapter 624, except for ss. 624.407, 624.408,
 161 624.4085, 624.40851, 624.4095, 624.411, 624.425, 624.426, and
 162 624.609(1).

163 (b) Chapter 625, part II, if the industrial insured
 164 captive insurance company ~~insurer~~ is incorporated in this state.

165 (c) Chapter 626, part IX.

166 (d) Sections 627.730-627.7405 when no-fault coverage is
 167 provided.

168 (e) Chapter 628, except for ss. 628.341, 628.351, and

169 628.6018.

170 Section 5. Section 628.9142, Florida Statutes, is amended
171 to read:

172 628.9142 Reinsurance; effect on reserves.—

173 (1) A captive insurance company may provide reinsurance,
174 as authorized in this part, on risks ceded by any other insurer.

175 (2) A captive insurance company may take credit for
176 reserves on risks or portions of risks ceded to authorized
177 insurers or reinsurers and unauthorized insurers or reinsurers
178 complying with s. 624.610. A captive insurance company ~~insurer~~
179 may not take credit for reserves on risks or portions of risks
180 ceded to an unauthorized insurer or reinsurer if the insurer or
181 reinsurer is not in compliance with s. 624.610.

182 Section 6. Section 628.915, Florida Statutes, is amended
183 to read:

184 628.915 Exemption from compulsory association.—

185 (1) No captive insurance company ~~insurer~~ shall be
186 permitted to join or contribute financially to any joint
187 underwriting association or guaranty fund in this state; nor
188 shall any captive insurance company ~~insurer~~, its insured, or its
189 parent or any affiliated company receive any benefit from any
190 such joint underwriting association or guaranty fund for claims
191 arising out of the operations of such captive insurer.

192 (2) No industrial insured captive insurance company
193 ~~insurer~~ shall be permitted to join or contribute financially to
194 any joint underwriting association or guaranty fund in this
195 state; nor shall any industrial insured captive insurance
196 company ~~insurer~~, its industrial insured, or its parent or any

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197 affiliated company receive any benefit from any such joint
198 underwriting association or guaranty fund for claims arising out
199 of the operations of such industrial insured captive insurance
200 company insurer.

201 Section 7. Section 628.917, Florida Statutes, is amended
202 to read:

203 628.917 Insolvency and liquidation.—In the event that a
204 captive insurance company insurer is insolvent as defined in
205 chapter 631, the office shall liquidate the captive insurance
206 company insurer pursuant to the provisions of part I of chapter
207 631; except that the office shall make no attempt to
208 rehabilitate such insurance company insurer.

209 Section 8. Section 628.919, Florida Statutes, is amended
210 to read:

211 628.919 Standards to ensure risk management control by
212 parent company.—A pure captive insurance company shall submit to
213 the office for approval ~~The Financial Services Commission shall~~
214 ~~adopt rules establishing~~ standards to ensure that a parent or
215 affiliated company is able to exercise control of the risk
216 management function of any controlled unaffiliated business to
217 be insured by the pure captive insurance company.

218 Section 9. This act shall take effect July 1, 2013.