



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.

27  
28 Be It Enacted by the Legislature of the State of Florida:



29  
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 ~~captive 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 or qualifies for credit for reinsurance under s. 624.610(3) and



57 ~~possesses, letter of eligibility or is an accredited or a~~  
58 ~~satisfactory non-approved reinsurer in this state possessing a~~  
59 consolidated GAAP net worth of at least \$500 million and a  
60 consolidated debt to total capital ratio of not greater than  
61 0.50.

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

65 628.905 Licensing; authority.—

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

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

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

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

84 (d) A captive insurance company may not accept or cede



85 reinsurance except as provided in this part.

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

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

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

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

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

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

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



113 (b) The office may charge a fee of \$5 for any document  
 114 requiring certification of authenticity or the signature of a  
 115 representative of the office ~~commissioner or his or her~~  
 116 ~~designee~~.

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

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

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

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

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

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

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

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



141           628.909   Applicability of other laws.—

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

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

150           (a)   Chapter 624, except for ss. 624.407, 624.408,  
 151 624.4085, 624.40851, 624.4095, 624.411, 624.425, and 624.426.

152           (b)   Chapter 625, part II.

153           (c)   Chapter 626, part IX.

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

156           (e)   Chapter 628.

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

161           (a)   Chapter 624, except for ss. 624.407, 624.408,  
 162 624.4085, 624.40851, 624.4095, 624.411, 624.425, 624.426, and  
 163 624.609(1).

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

166           (c)   Chapter 626, part IX.

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



169 (e) Chapter 628, except for ss. 628.341, 628.351, and  
 170 628.6018.

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

173 628.9142 Reinsurance; effect on reserves.—

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

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

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

185 628.915 Exemption from compulsory association.—

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

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



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

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

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

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

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

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