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CS/HB 1191, Engrossed 1

2013 Legislature

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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:



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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 ~~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



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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



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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.



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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:



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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.



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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.