



214592

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/09/2013	.	
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The Committee on Banking and Insurance (Richter) recommended the following:

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause  
and insert:

Section 1. Subsections (8), (9), and (13) of section  
628.901, Florida Statutes, are amended to read:

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

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

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

(b) Procures insurance through the use of a full-time  
employee of the insured who acts as an insurance manager or  
buyer or through the services of a person licensed as a property



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13 and casualty insurance agent, broker, or consultant in such  
14 person's state of domicile;

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

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

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

35 (13) "Qualifying reinsurer parent company" means a  
36 reinsurer that ~~which~~ currently holds a certificate of authority,  
37 ~~letter of eligibility~~ or is an accredited or trusteed a  
38 ~~satisfactory non-approved~~ reinsurer under s. 624.610(3)(c) in  
39 this state possessing a consolidated GAAP net worth of at least  
40 \$500 million and a consolidated debt to total capital ratio of  
41 not greater than 0.50.



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42 Section 2. Subsections (1) and (2), paragraph (b) of  
43 subsection (4), and subsection (5) of section 628.905, Florida  
44 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 thereof  
59 of the industrial insured captive, or the stockholders or  
60 affiliates of the parent corporation of the industrial insured  
61 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 under ~~in~~ this part.

66 (e) An industrial insured captive insurance company that  
67 has unencumbered capital and surplus of at least \$20 million may  
68 be 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 in order to continue to write excess workers'  
73 compensation insurance in this state.

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 is of  
88 ~~this state must be~~ an agent of the captive insurance company  
89 upon 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 (b) The office may charge a fee of \$5 for any document  
94 requiring certification of authenticity or the signature of the  
95 office commissioner ~~or his or her designee.~~

96 (5) If the office commissioner is satisfied that the  
97 documents and statements filed by the captive insurance company  
98 comply with this chapter, the office commissioner may grant a  
99 license authorizing the company to conduct insurance business in



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100 this state until the next succeeding March 1, at which time the  
101 license may be renewed.

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

104 628.907 Minimum capital and net assets requirements;  
105 restriction on payment of dividends.—

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

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

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

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

118 Section 4. Section 628.909, Florida Statutes, is amended to  
119 read:

120 628.909 Applicability of other laws.—

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

125 (2) The following provisions of the Florida Insurance Code  
126 apply to captive insurance companies that ~~insurers~~ who are not  
127 industrial insured captive insurance companies ~~insurers~~ to the  
128 extent that such provisions are not inconsistent with this part:



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129 (a) Chapter 624, except for ss. 624.407, 624.408, 624.4085,  
130 624.40851, 624.4095, 624.411, 624.425, and 624.426.

131 (b) Chapter 625, part II.

132 (c) Chapter 626, part IX.

133 (d) Sections 627.730-627.7405, if ~~when~~ no-fault coverage is  
134 provided.

135 (e) Chapter 628.

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

140 (a) Chapter 624, except for ss. 624.407, 624.408, 624.4085,  
141 624.40851, 624.4095, 624.411, 624.425, 624.426, and 624.609(1).

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

144 (c) Chapter 626, part IX.

145 (d) Sections 627.730-627.7405 if ~~when~~ no-fault coverage is  
146 provided.

147 (e) Chapter 628, except for ss. 628.341, 628.351, and  
148 628.6018.

149 Section 5. Subsection (2) of section 628.9142, Florida  
150 Statutes, is amended to read:

151 628.9142 Reinsurance; effect on reserves.—

152 (2) A captive insurance company may take credit for  
153 reserves on risks or portions of risks ceded to authorized  
154 insurers or reinsurers and unauthorized insurers or reinsurers  
155 complying with s. 624.610. A captive insurance company ~~insurer~~  
156 may not take credit for reserves on risks or portions of risks  
157 ceded to an unauthorized insurer or reinsurer if the insurer or



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158 reinsurer is not in compliance with s. 624.610.

159 Section 6. Section 628.915, Florida Statutes, is amended to  
160 read:

161 628.915 Exemption from compulsory association.—

162 (1) ~~A No~~ captive insurance company may not ~~insurer shall be~~  
163 ~~permitted to~~ join or contribute financially to a any joint  
164 underwriting association or guaranty fund in this state; nor may  
165 ~~a shall any~~ captive insurance company ~~insurer~~, its insured, or  
166 its parent or any affiliated company receive any benefit from  
167 any ~~such~~ joint underwriting association or guaranty fund for  
168 claims arising out of the operations of such captive insurance  
169 company ~~insurer~~.

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

179 Section 7. Section 628.917, Florida Statutes, is amended to  
180 read:

181 628.917 Insolvency and liquidation.—~~If In the event that a~~  
182 captive insurance company ~~insurer~~ is insolvent as defined in  
183 chapter 631, the office shall liquidate the captive insurance  
184 company ~~insurer~~ pursuant to ~~the provisions of~~ part I of chapter  
185 631, ~~+~~ except that the office may ~~shall~~ make no attempt to  
186 rehabilitate such company ~~insurer~~.



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187 Section 8. Section 628.919, Florida Statutes, is amended to  
188 read:

189 628.919 Standards to ensure risk management control by  
190 parent company.—A pure captive insurance company must submit ~~The~~  
191 ~~Financial Services Commission shall adopt rules establishing~~  
192 standards to the office which ensure that a parent or affiliated  
193 company is able to exercise control of the risk management  
194 function of a any controlled unaffiliated business to be insured  
195 by the pure captive insurance company.

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

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 everything before the enacting clause  
201 and insert:

202 A bill to be entitled  
203 An act relating to captive insurance; replacing the  
204 term "captive insurer" with "captive insurance  
205 company" in part V of ch. 628, F.S.; amending s.  
206 628.901, F.S.; revising definitions; amending s.  
207 628.905, F.S.; expanding the risks that an industrial  
208 insured capital insurance company may insure;  
209 providing that an industrial insured captive insurance  
210 company may provide certain insurance if the company  
211 has and maintains unencumbered capital and surplus of  
212 a certain amount; amending s. 628.907, F.S.;  
213 conforming terms; amending s. 628.909, F.S.;  
214 conforming terms and requiring captive insurance  
215 companies to deposit and maintain securities for the





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216 protection of policyholders; amending ss. 628.9142,  
217 628.915, 628.917, and 628.919, F.S.; conforming terms;  
218 providing an effective date.