

Amendment No.

CHAMBER ACTION

Senate

House

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1 Representative Holder offered the following:

2  
3 **Amendment (with title amendment)**

4 Between lines 773 and 774, insert:

5 Section 12. Section 628.901, Florida Statutes, is amended  
6 to read:

7 628.901 Definitions ~~"Captive insurer" defined. As used in~~  
8 ~~For the purposes of this part, the term: except as provided in~~  
9 ~~s. 628.903, a "captive insurer" is a domestic insurer~~  
10 ~~established under part I to insure the risks of a specific~~  
11 ~~corporation or group of corporations under common ownership~~  
12 ~~owned by the corporation or corporations from which it accepts~~  
13 ~~risk under a contract of insurance.~~

14 (1) "Association" means a legal association of nursing  
15 homes, hospitals, skilled nursing facilities, assisted living  
16 facilities, or continuing care retirement communities.

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17 (2) "Association captive insurer" means a company that  
18 insures risks of the member organizations of the association and  
19 their affiliated companies.

20 (3) "Captive insurer" means a pure captive insurer, an  
21 industrial insured captive insurer, or an association captive  
22 insurer domiciled in this state and formed or licensed under  
23 this part.

24 (4) "Industrial insured" means an insured that:

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

26 (b) Procures insurance through the use of a full-time  
27 employee of the insured who acts as an insurance manager or  
28 buyer or through the services of a person licensed as a property  
29 and casualty insurance agent, broker, or consultant in such  
30 person's state of domicile;

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

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

39 (5) "Industrial insured captive insurer" means a captive  
40 insurer that:

41 (a) Has as its stockholders or members only industrial  
42 insureds that the captive insurer insures, or has as its sole  
43 stockholder a corporation whose sole stockholders are industrial  
44 insureds that the captive insurer insures; and

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45 1. Provides insurance only to the industrial insureds that  
46 are its stockholders or members, and affiliates thereof, or to  
47 the stockholders, and affiliates thereof, of its parent  
48 corporation; or

49 2. Provides reinsurance only on risks written by insurers  
50 of industrial insureds who are the stockholders or members, and  
51 affiliates thereof, of the captive insurer, or the stockholders,  
52 and affiliates thereof, of the parent corporation of the captive  
53 insurer;

54 (b) Maintains unimpaired capital and surplus of at least  
55 \$20 million; and

56 (c) If licensed in this state before December 31, 1999, or  
57 if any subsidiary formed by the licensed insurer on or after  
58 December 31, 1999, has:

59 1. Gross assets in excess of \$10 million and procures  
60 insurance through the use of a full-time employee of the insured  
61 who acts as an insurance manager or buyer or through the  
62 services of a person licensed as a property and casualty  
63 insurance agent, broker, or consultant in such person's state of  
64 domicile;

65 2. At least 25 full-time employees; and

66 3. Annual aggregate premiums for all insurance risks which  
67 total at least \$100,000.

68  
69 As used in this subsection, the term "affiliate" means a person  
70 that directly or indirectly, through one or more intermediaries,  
71 controls, is controlled by, or is under common control with one  
72 or more of the stockholders or members of an industrial insured

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73 captive insurer or one or more of the stockholders of the parent  
74 corporation of an industrial insured captive insurer.

75 (6) "Pure captive insurer" means a company that insures  
76 the risks of its parent, affiliated companies, controlled  
77 unaffiliated businesses, or a combination thereof.

78 Section 13. Section 628.903, Florida Statutes, is  
79 repealed.

80 Section 14. Section 628.905, Florida Statutes, is amended  
81 to read:

82 628.905 Licensing; authority.—In order to conduct  
83 insurance business in this state, a captive insurer must obtain  
84 a license from the office.

85 (1) A ~~Any~~ captive insurer, if ~~when~~ permitted by its  
86 charter or articles of incorporation, may apply to the office  
87 for a license to provide commercial property, commercial  
88 casualty, and commercial marine insurance. ~~coverage other than~~  
89 ~~workers' compensation and employer's liability insurance~~  
90 ~~coverage, except that~~ An industrial insured captive insurer may  
91 also apply for a license to provide workers' compensation and  
92 employer's liability insurance as set forth in subsection (5)  
93 ~~(6)~~.

94 (2) A ~~No~~ captive insurer, other than an industrial insured  
95 captive insurer, may not ~~shall~~ insure or accept reinsurance on  
96 any risks other than those of its parent and affiliated  
97 companies.

98 (3) In addition to information otherwise required by this  
99 code, each applicant captive insurer shall file with the office  
100 evidence:

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101       (a) Of the adequacy of the loss prevention program of its  
102 insureds.

103       (b) That it intends to employ or contract with a reputable  
104 person or firm that possesses the appropriate expertise,  
105 experience, and character to manage the association captive  
106 insurer.

107       (4) If an association captive insurer operates with  
108 separate cells or segregated accounts, a certificate of  
109 insurance used to satisfy financial responsibility laws shall be  
110 issued in an amount not exceeding the total funds in the  
111 segregated accounts or separate cells of each member  
112 organization of the association.

113       (5)-(4) An industrial insured captive insurer:

114       (a) Need not be incorporated in this state if it has been  
115 validly incorporated under the laws of another jurisdiction;-

116       (b)-(5) ~~An industrial insured captive insurer~~ Is subject to  
117 all provisions of this part except as otherwise indicated; and-

118       (c)-(6) ~~An industrial insured captive insurer~~ May not  
119 provide workers' compensation and employer's liability insurance  
120 except in excess of at least \$25 million in the annual  
121 aggregate.

122       Section 15. Section 628.908, Florida Statutes, is created  
123 to read:

124       628.908 Principal place of business; annual meeting.-In  
125 order to conduct insurance business in this state, a licensed  
126 captive insurer must:

127       (1) Maintain its principal place of business in this  
128 state; and

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129       (2) Annually hold in this state at least one board of  
130 directors' meeting; or, in the case of a reciprocal insurer, one  
131 subscriber's advisory committee meeting; or, in the case of a  
132 limited liability company, one managing board's meeting.

133       Section 16. Paragraph (a) of subsection (2) and paragraph  
134 (a) of subsection (3) of section 628.909, Florida Statutes, are  
135 amended to read:

136       628.909 Applicability of other laws.—

137       (2) The following provisions of the Florida Insurance Code  
138 shall apply to captive insurers who are not industrial insured  
139 captive insurers to the extent that such provisions are not  
140 inconsistent with this part:

141       (a) Chapter 624, except for ss. 624.407, 624.408,  
142 624.4085, 624.40851, 624.4095, 624.425, and 624.426.

143       (3) The following provisions of the Florida Insurance Code  
144 shall apply to industrial insured captive insurers to the extent  
145 that such provisions are not inconsistent with this part:

146       (a) Chapter 624, except for ss. 624.407, 624.408,  
147 624.4085, 624.40851, 624.4095, 624.425, 624.426, and 624.609(1).

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151                   **T I T L E   A M E N D M E N T**

152       Between lines 80 and 81, insert:  
153 amending s. 628.901, F.S.; providing definitions; repealing s.  
154 628.903, F.S., relating to the definition of the term  
155 "industrial insured captive insurer"; amending s. 628.905, F.S.;  
156 requiring a captive insurer to obtain a license and to file  
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157 evidence that a person or firm with whom it intends to conduct  
158 business is reputable; providing that a certificate of insurance  
159 for an association captive insurer does not exceed the total  
160 funds of the association members; creating s. 628.908, F.S.;  
161 requiring a licensed captive insurer to maintain its principal  
162 place of business in this state and hold an annual meeting in  
163 this state; amending s. 628.909, F.S.; applying additional  
164 provisions of the insurance code to captive insurers