

By the Committee on Banking and Insurance; and Senator Diaz de la Portilla

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1 A bill to be entitled
2 An act relating to captive insurers; amending s.
3 624.402, F.S.; exempting certain life or health
4 insurers covering nonresidents from having to obtain a
5 certificate of authority; amending s. 628.901, F.S.;
6 providing definitions; repealing s. 628.903, F.S.,
7 relating to the definition of the term "industrial
8 insured captive insurer"; amending s. 628.905, F.S.;
9 requiring a captive insurer to obtain a license and to
10 file evidence that a person or firm with whom it
11 intends to conduct business is reputable; providing
12 that a certificate of insurance for an association
13 captive insurer does not exceed the total funds of the
14 association members; creating s. 628.908, F.S.;
15 requiring a licensed captive insurer to maintain its
16 principal place of business in this state and hold an
17 annual meeting in this state; amending s. 628.909,
18 F.S.; applying additional provisions of the insurance
19 code to captive insurers; providing an effective date.

20
21 Be It Enacted by the Legislature of the State of Florida:

22
23 Section 1. Subsection (9) is added to section 624.402,
24 Florida Statutes, to read:

25 624.402 Exceptions, certificate of authority required.—A
26 certificate of authority shall not be required of an insurer
27 with respect to:

28 (9) A life or health insurer domiciled outside the United
29 States covering only persons who, at the time of issuance or

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30 renewal, are nonresidents of the United States but residing
31 legally in the United States if:

32 (a) The insurer does not solicit business from residents of
33 the United States;

34 (b) The insurer registers with the office via a letter of
35 notification upon commencing business from this state;

36 (c) Annually, by March 1, the insurer provides the
37 following information to the office:

38 1. The name of the insurer, the country of domicile, the
39 address of the insurer's principal office and office in this
40 state, the names of the owners of the insurer and their
41 percentage of ownership, the names of the officers and directors
42 of the insurer, the name, e-mail, and telephone number of a
43 contact person for the insurer, and the number of individuals
44 who are employed by the insurer or its affiliates in this state;

45 2. The type of products offered by the insurer;

46 3. A statement from the applicable regulatory body of the
47 insurer's domicile certifying that the insurer is licensed or
48 registered in that domicile; and

49 4. A copy of the filings required by the insurer's
50 domicile;

51 (d) All certificates issued in this state showing coverage
52 under the insurer's policy include the following statement in a
53 contrasting color and at least 10-point type: "The policy
54 providing your coverage and the insurer providing this policy
55 have not been approved by the Florida Office of Insurance
56 Regulation"; and

57 (e) The insurer ceases to do business from this state and
58 provides written notification to the office within 30 days after

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59 cessation.

60
61 For purposes of this subsection, the term "nonresident" means a
62 person who has not had his or her principal place of domicile in
63 the United States for 180 days during the 365 days before
64 purchasing or renewing the policy; registered to vote in any
65 state; made a statement of domicile in any state; or filed for
66 homestead tax exemption on property in any state.

67 Section 2. Section 628.901, Florida Statutes, is amended to
68 read:

69 628.901 Definitions ~~"Captive insurer" defined.~~ As used in
70 ~~For the purposes of this part, the term: except as provided in~~
71 ~~s. 628.903, a "captive insurer" is a domestic insurer~~
72 ~~established under part I to insure the risks of a specific~~
73 ~~corporation or group of corporations under common ownership~~
74 ~~owned by the corporation or corporations from which it accepts~~
75 ~~risk under a contract of insurance.~~

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

79 (2) "Association captive insurer" means a company that
80 insures risks of the member organizations of the association and
81 their affiliated companies.

82 (3) "Captive insurer" means a pure captive insurer or an
83 association captive insurer domiciled in this state and formed
84 or licensed under this part.

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

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

87 (b) Procures insurance through the use of a full-time

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88 employee of the insured who acts as an insurance manager or
89 buyer or through the services of a person licensed as a property
90 and casualty insurance agent, broker, or consultant in such
91 person's state of domicile;

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

93 (d) Pays annual premiums of at least \$200,000 for each line
94 of insurance purchased from the industrial insured captive
95 insurer, or at least \$75,000 for any line of coverage in excess
96 of at least \$25 million in the annual aggregate. The purchase of
97 umbrella or general liability coverage in excess of \$25 million
98 in the annual aggregate is deemed to be the purchase of a single
99 line of insurance.

100 (5) "Industrial insured captive insurer" is a captive
101 insurer that:

102 (a) Has as its stockholders or members only industrial
103 insureds that the captive insurer insures, or has as its sole
104 stockholder a corporation whose sole stockholders are industrial
105 insureds that the captive insurer insures; and

106 1. Provides insurance only to the industrial insureds that
107 are its stockholders or members, and affiliates thereof, or to
108 the stockholders, and affiliates thereof, of its parent
109 corporation; or

110 2. Provides reinsurance only on risks written by insurers
111 of industrial insureds who are the stockholders or members, and
112 affiliates thereof, of the captive insurer, or the stockholders,
113 and affiliates thereof, of the parent corporation of the captive
114 insurer;

115 (b) Maintains unimpaired capital and surplus of at least
116 \$20 million; and

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

120 1. Gross assets in excess of \$10 million and procures
121 insurance through the use of a full-time employee of the insured
122 who acts as an insurance manager or buyer or through the
123 services of a person licensed as a property and casualty
124 insurance agent, broker, or consultant in such person's state of
125 domicile;

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

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

129
130 As used in this subsection, the term "affiliate" means a person
131 that directly or indirectly, through one or more intermediaries,
132 controls, is controlled by, or is under common control with one
133 or more of the stockholders or members of an industrial insured
134 captive insurer or one or more of the stockholders of the parent
135 corporation of an industrial insured captive insurer.

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

139 Section 3. Section 628.903, Florida Statutes, is repealed.

140 Section 4. Section 628.905, Florida Statutes, is amended to
141 read:

142 628.905 Licensing; authority.—In order to conduct insurance
143 business in this state, a captive insurer must obtain a license
144 from the office.

145 (1) A ~~Any~~ captive insurer, ~~if~~ ~~when~~ permitted by its charter

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146 or articles of incorporation, may apply to the office for a
147 license to provide commercial property, commercial casualty, and
148 commercial marine insurance. ~~coverage other than workers'~~
149 ~~compensation and employer's liability insurance coverage, except~~
150 ~~that~~ An industrial insured captive insurer may also apply for a
151 license to provide workers' compensation and employer's
152 liability insurance as set forth in subsection (5) ~~(6)~~.

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

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

160 (a) Of the adequacy of the loss prevention program of its
161 insureds.

162 (b) That it intends to employ or contract with a reputable
163 person or firm that possesses the appropriate expertise,
164 experience, and character to manage the association captive
165 insurer.

166 (4) If an association captive insurer operates with
167 separate cells or segregated accounts, a certificate of
168 insurance used to satisfy financial responsibility laws shall be
169 issued in an amount not exceeding the total funds in the
170 segregated accounts or separate cells of each member
171 organization of the association.

172 (5) ~~(4)~~ An industrial insured captive insurer:

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

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

177 ~~(c)(6) An industrial insured captive insurer~~ May not
178 provide workers' compensation and employer's liability insurance
179 except in excess of at least \$25 million in the annual
180 aggregate.

181 Section 5. Section 628.908, Florida Statutes, is created to
182 read:

183 628.908 Principal place of business; annual meeting.-In
184 order to conduct insurance business in this state, a licensed
185 captive insurer must:

186 (1) Maintain its principal place of business in this state;
187 and

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

192 Section 6. Paragraph (a) of subsection (2) and paragraph
193 (a) of subsection (3) of section 628.909, Florida Statutes, are
194 amended to read:

195 628.909 Applicability of other laws.-

196 (2) The following provisions of the Florida Insurance Code
197 shall apply to captive insurers who are not industrial insured
198 captive insurers to the extent that such provisions are not
199 inconsistent with this part:

200 (a) Chapter 624, except for ss. 624.407, 624.408, 624.4085,
201 624.40851, 624.4095, 624.425, and 624.426.

202 (3) The following provisions of the Florida Insurance Code
203 shall apply to industrial insured captive insurers to the extent

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204 that such provisions are not inconsistent with this part:

205 (a) Chapter 624, except for ss. 624.407, 624.408, 624.4085,
206 624.40851, 624.4095, 624.425, 624.426, and 624.609(1).

207 Section 7. This act shall take effect July 1, 2011.