

By the Committee on Banking and Insurance; and Senator Richter

597-03997-13

20131408c1

1 A bill to be entitled

2 An act relating to captive insurance; replacing the
3 term "captive insurer" with "captive insurance
4 company" in part V of ch. 628, F.S.; amending s.
5 628.901, F.S.; revising definitions; amending s.
6 628.905, F.S.; expanding the risks that an industrial
7 insured capital insurance company may insure;
8 providing that an industrial insured captive insurance
9 company may provide certain insurance if the company
10 has and maintains unencumbered capital and surplus of
11 a certain amount; amending s. 628.907, F.S.;
12 conforming terms; amending s. 628.909, F.S.;
13 conforming terms and requiring captive insurance
14 companies to deposit and maintain securities for the
15 protection of policyholders; amending ss. 628.9142,
16 628.915, 628.917, and 628.919, F.S.; conforming terms;
17 providing an effective date.

18
19 Be It Enacted by the Legislature of the State of Florida:

20
21 Section 1. Subsections (8), (9), and (13) of section
22 628.901, Florida Statutes, are amended to read:

23 628.901 Definitions.—As used in this part, the term:

24 (8) "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

597-03997-13

20131408c1

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

39 (9) "Industrial insured captive insurance company" means a
40 ~~captive insurance~~ company that provides insurance only to the
41 industrial insureds that are its stockholders or members, and
42 affiliates thereof, or to the stockholders, and affiliates
43 thereof, of its parent corporation. An industrial insured
44 captive insurance company may ~~can~~ also provide reinsurance to
45 insurers only on risks written by such insurers for the
46 industrial insureds that are the stockholders or members, and
47 affiliates thereof, of the industrial insured captive insurance
48 company insurer, or the stockholders, and affiliates thereof, of
49 the parent corporation of the industrial insured captive
50 insurance company insurer.

51 (13) "Qualifying reinsurer parent company" means a
52 reinsurer that ~~which~~ currently holds a certificate of authority,
53 ~~letter of eligibility~~ or is an accredited or trusteed a
54 ~~satisfactory non-approved~~ reinsurer under s. 624.610(3)(c) in
55 this state possessing a consolidated GAAP net worth of at least
56 \$500 million and a consolidated debt to total capital ratio of
57 not greater than 0.50.

58 Section 2. Subsections (1) and (2), paragraph (b) of

597-03997-13

20131408c1

59 subsection (4), and subsection (5) of section 628.905, Florida
60 Statutes, are amended to read:

61 628.905 Licensing; authority.—

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

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

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

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

80 (d) A captive insurance company may not accept or cede
81 reinsurance except as provided under ~~in~~ this part.

82 (e) An industrial insured captive insurance company that
83 has unencumbered capital and surplus of at least \$20 million may
84 be licensed to provide workers' compensation and employer's
85 liability insurance in excess of \$25 million in the annual
86 aggregate. An industrial insured captive insurance company must
87 maintain unencumbered capital and surplus of at least \$20

597-03997-13

20131408c1

88 million in order to continue to write excess workers'
89 compensation insurance in this state.

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

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

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

96 (c) Maintain its principal place of business in this state;
97 and

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

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

109 (b) The office may charge a fee of \$5 for any document
110 requiring certification of authenticity or the signature of the
111 office ~~commissioner or his or her designee.~~

112 (5) If the office ~~commissioner~~ is satisfied that the
113 documents and statements filed by the captive insurance company
114 comply with this chapter, the office ~~commissioner~~ may grant a
115 license authorizing the company to conduct insurance business in
116 this state until the next succeeding March 1, at which time the

597-03997-13

20131408c1

117 license may be renewed.

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

120 628.907 Minimum capital and net assets requirements;
121 restriction on payment of dividends.—

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

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

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

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

134 Section 4. Section 628.909, Florida Statutes, is amended to
135 read:

136 628.909 Applicability of other laws.—

137 (1) The Florida Insurance Code does not apply to captive
138 insurance companies ~~insurers~~ or industrial insured captive
139 insurance companies ~~insurers~~ except as provided under ~~in~~ this
140 part and subsections (2) and (3).

141 (2) The following provisions of the Florida Insurance Code
142 apply to captive insurance companies that ~~insurers who~~ are not
143 industrial insured captive insurance companies ~~insurers~~ to the
144 extent that such provisions are not inconsistent with this part:

145 (a) Chapter 624, except for ss. 624.407, 624.408, 624.4085,

597-03997-13

20131408c1

146 624.40851, 624.4095, 624.411, 624.425, and 624.426.

147 (b) Chapter 625, part II.

148 (c) Chapter 626, part IX.

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

151 (e) Chapter 628.

152 (3) The following provisions of the Florida Insurance Code
153 apply to industrial insured captive insurance companies ~~insurers~~
154 to the extent that such provisions are not inconsistent with
155 this part:

156 (a) Chapter 624, except for ss. 624.407, 624.408, 624.4085,
157 624.40851, 624.4095, 624.411, 624.425, 624.426, and 624.609(1).

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

160 (c) Chapter 626, part IX.

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

163 (e) Chapter 628, except for ss. 628.341, 628.351, and
164 628.6018.

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

167 628.9142 Reinsurance; effect on reserves.—

168 (2) A captive insurance company may take credit for
169 reserves on risks or portions of risks ceded to authorized
170 insurers or reinsurers and unauthorized insurers or reinsurers
171 complying with s. 624.610. A captive insurance company ~~insurer~~
172 may not take credit for reserves on risks or portions of risks
173 ceded to an unauthorized insurer or reinsurer if the insurer or
174 reinsurer is not in compliance with s. 624.610.

597-03997-13

20131408c1

175 Section 6. Section 628.915, Florida Statutes, is amended to
176 read:

177 628.915 Exemption from compulsory association.—

178 (1) A ~~No~~ captive insurance company ~~may not insurer shall be~~
179 ~~permitted to~~ join or contribute financially to a ~~any~~ joint
180 underwriting association or guaranty fund in this state; nor may
181 ~~a shall any~~ captive insurance company insurer, its insured, or
182 its parent or any affiliated company receive any benefit from
183 any ~~such~~ joint underwriting association or guaranty fund for
184 claims arising out of the operations of such captive insurance
185 company insurer.

186 (2) An ~~No~~ industrial insured captive insurance company ~~may~~
187 ~~not insurer shall be permitted to~~ join or contribute financially
188 to a ~~any~~ joint underwriting association or guaranty fund in this
189 state; nor may an ~~shall any~~ industrial insured captive insurance
190 company insurer, its industrial insured, or its parent or any
191 affiliated company receive any benefit from any ~~such~~ joint
192 underwriting association or guaranty fund for claims arising out
193 of the operations of such industrial insured captive insurance
194 company insurer.

195 Section 7. Section 628.917, Florida Statutes, is amended to
196 read:

197 628.917 Insolvency and liquidation.—~~If In the event that~~ a
198 captive insurance company insurer is insolvent as defined in
199 chapter 631, the office shall liquidate the captive insurance
200 company insurer pursuant to ~~the provisions of~~ part I of chapter
201 631, ~~+~~ except that the office may ~~shall~~ make no attempt to
202 rehabilitate such company insurer.

203 Section 8. Section 628.919, Florida Statutes, is amended to

597-03997-13

20131408c1

204 read:

205 628.919 Standards to ensure risk management control by
206 parent company.—A pure captive insurance company must submit ~~The~~
207 ~~Financial Services Commission shall adopt rules establishing~~
208 standards to the office which ensure that a parent or affiliated
209 company is able to exercise control of the risk management
210 function of a ~~any~~ controlled unaffiliated business to be insured
211 by the pure captive insurance company.

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