

By the Committees on Appropriations; and Banking and Insurance;
and Senator Richter

576-04986-13

20131408c2

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

576-04986-13

20131408c2

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 or qualifies for credit for reinsurance under s. 624.610(3), and
54 possesses letter of eligibility or is an accredited or a
55 ~~satisfactory non-approved reinsurer in this state possessing a~~
56 consolidated GAAP net worth of at least \$500 million and a
57 consolidated debt to total capital ratio of not greater than
58 0.50.

576-04986-13

20131408c2

59 Section 2. Subsections (1) and (2), paragraph (b) of
60 subsection (4), and subsection (5) of section 628.905, Florida
61 Statutes, are amended to read:

62 628.905 Licensing; authority.—

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

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

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

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

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

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

576-04986-13

20131408c2

88 maintain unencumbered capital and surplus of at least \$20
89 million in order to continue to write excess workers'
90 compensation insurance in this state.

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

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

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

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

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

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

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

113 (5) If the office commissioner ~~is~~ is satisfied that the
114 documents and statements filed by the captive insurance company
115 comply with this chapter, the office commissioner may grant a
116 license authorizing the company to conduct insurance business in

576-04986-13

20131408c2

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

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

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

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

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

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

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

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

137 628.909 Applicability of other laws.—

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

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

576-04986-13

20131408c2

146 (a) Chapter 624, except for ss. 624.407, 624.408, 624.4085,
147 624.40851, 624.4095, 624.411, 624.425, and 624.426.

148 (b) Chapter 625, part II.

149 (c) Chapter 626, part IX.

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

152 (e) Chapter 628.

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

157 (a) Chapter 624, except for ss. 624.407, 624.408, 624.4085,
158 624.40851, 624.4095, 624.411, 624.425, 624.426, and 624.609(1).

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

161 (c) Chapter 626, part IX.

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

164 (e) Chapter 628, except for ss. 628.341, 628.351, and
165 628.6018.

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

168 628.9142 Reinsurance; effect on reserves.—

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

576-04986-13

20131408c2

175 reinsurer is not in compliance with s. 624.610.

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

178 628.915 Exemption from compulsory association.—

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

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

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

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

576-04986-13

20131408c2

204 Section 8. Section 628.919, Florida Statutes, is amended to
205 read:

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

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