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LEGISLATIVE ACTION

Senate	.	House
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The Committee on Banking and Insurance (Hays) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

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

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

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



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13 renewal, are nonresidents of the United States but residing
14 legally in the United States if:

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

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

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

21 1. The name of the insurer, the country of domicile, the
22 address of the insurer's principal office and office in this
23 state, the names of the owners of the insurer and their
24 percentage of ownership, the names of the officers and directors
25 of the insurer, the name, e-mail, and telephone number of a
26 contact person for the insurer, and the number of individuals
27 who are employed by the insurer or its affiliates in this state;

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

29 3. A statement from the applicable regulatory body of the
30 insurer's domicile certifying that the insurer is licensed or
31 registered in that domicile; and

32 4. A copy of the filings required by the insurer's
33 domicile;

34 (d) All certificates issued in this state showing coverage
35 under the insurer's policy include the following statement in a
36 contrasting color and at least 10-point type: "The policy
37 providing your coverage and the insurer providing this policy
38 have not been approved by the Florida Office of Insurance
39 Regulation"; and

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



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42 cessation.

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44 For purposes of this subsection, the term "nonresident" means a
45 person who has not had his or her principal place of domicile in
46 the United States for 180 days during the 365 days before
47 purchasing or renewing the policy; registered to vote in any
48 state; made a statement of domicile in any state; or filed for
49 homestead tax exemption on property in any state.

50 Section 2. Section 628.901, Florida Statutes, is amended to
51 read:

52 628.901 Definitions ~~"Captive insurer" defined.~~ As used in
53 ~~For the purposes of this part, the term: except as provided in~~
54 ~~s. 628.903, a "captive insurer" is a domestic insurer~~
55 ~~established under part I to insure the risks of a specific~~
56 ~~corporation or group of corporations under common ownership~~
57 ~~owned by the corporation or corporations from which it accepts~~
58 ~~risk under a contract of insurance.~~

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

62 (2) "Association captive insurer" means a company that
63 insures risks of the member organizations of the association and
64 their affiliated companies.

65 (3) "Captive insurer" means a pure captive insurer or an
66 association captive insurer domiciled in this state and formed
67 or licensed under this part.

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

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

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



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71 employee of the insured who acts as an insurance manager or
72 buyer or through the services of a person licensed as a property
73 and casualty insurance agent, broker, or consultant in such
74 person's state of domicile;

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

76 (d) Pays annual premiums of at least \$200,000 for each line
77 of insurance purchased from the industrial insured captive
78 insurer, or at least \$75,000 for any line of coverage in excess
79 of at least \$25 million in the annual aggregate. The purchase of
80 umbrella or general liability coverage in excess of \$25 million
81 in the annual aggregate is deemed to be the purchase of a single
82 line of insurance.

83 (5) "Industrial insured captive insurer" is a captive
84 insurer that:

85 (a) Has as its stockholders or members only industrial
86 insureds that the captive insurer insures, or has as its sole
87 stockholder a corporation whose sole stockholders are industrial
88 insureds that the captive insurer insures; and

89 1. Provides insurance only to the industrial insureds that
90 are its stockholders or members, and affiliates thereof, or to
91 the stockholders, and affiliates thereof, of its parent
92 corporation; or

93 2. Provides reinsurance only on risks written by insurers
94 of industrial insureds who are the stockholders or members, and
95 affiliates thereof, of the captive insurer, or the stockholders,
96 and affiliates thereof, of the parent corporation of the captive
97 insurer;

98 (b) Maintains unimpaired capital and surplus of at least
99 \$20 million; and



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

103 1. Gross assets in excess of \$10 million and procures
104 insurance through the use of a full-time employee of the insured
105 who acts as an insurance manager or buyer or through the
106 services of a person licensed as a property and casualty
107 insurance agent, broker, or consultant in such person's state of
108 domicile;

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

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

112
113 As used in this subsection, the term "affiliate" means a person
114 that directly or indirectly, through one or more intermediaries,
115 controls, is controlled by, or is under common control with one
116 or more of the stockholders or members of an industrial insured
117 captive insurer or one or more of the stockholders of the parent
118 corporation of an industrial insured captive insurer.

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

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

123 Section 4. Section 628.905, Florida Statutes, is amended to
124 read:

125 628.905 Licensing; authority.—In order to conduct insurance
126 business in this state, a captive insurer must obtain a license
127 from the office.

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



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129 or articles of incorporation, may apply to the office for a
130 license to provide commercial property, commercial casualty, and
131 commercial marine insurance. ~~coverage other than workers'~~
132 ~~compensation and employer's liability insurance coverage, except~~
133 ~~that~~ An industrial insured captive insurer may also apply for a
134 license to provide workers' compensation and employer's
135 liability insurance as set forth in subsection (5) ~~(6)~~.

136 (2) A ~~Ne~~ captive insurer, other than an industrial insured
137 captive insurer, may not ~~shall~~ insure or accept reinsurance on
138 any risks other than those of its parent and affiliated
139 companies.

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

143 (a) Of the adequacy of the loss prevention program of its
144 insureds.

145 (b) That it intends to employ or contract with a reputable
146 person or firm that possesses the appropriate expertise,
147 experience, and character to manage the association captive
148 insurer.

149 (4) If an association captive insurer operates with
150 separate cells or segregated accounts, a certificate of
151 insurance used to satisfy financial responsibility laws shall be
152 issued in an amount not exceeding the total funds in the
153 segregated accounts or separate cells of each member
154 organization of the association.

155 (5) ~~(4)~~ An industrial insured captive insurer:

156 (a) Need not be incorporated in this state if it has been
157 validly incorporated under the laws of another jurisdiction; ~~:-~~



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

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

164 Section 5. Section 628.908, Florida Statutes, is created to
165 read:

166 628.908 Principal place of business; annual meeting.—In
167 order to conduct insurance business in this state, a licensed
168 captive insurer must:

169 (1) Maintain its principal place of business in this state;
170 and

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

175 Section 6. Paragraph (a) of subsection (2) and paragraph
176 (a) of subsection (3) of section 628.909, Florida Statutes, are
177 amended to read:

178 628.909 Applicability of other laws.—

179 (2) The following provisions of the Florida Insurance Code
180 shall apply to captive insurers who are not industrial insured
181 captive insurers to the extent that such provisions are not
182 inconsistent with this part:

183 (a) Chapter 624, except for ss. 624.407, 624.408, 624.4085,
184 624.40851, 624.4095, 624.425, and 624.426.

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



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187 that such provisions are not inconsistent with this part:

188 (a) Chapter 624, except for ss. 624.407, 624.408, 624.4085,
189 624.40851, 624.4095, 624.425, 624.426, and 624.609(1).

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

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192 ===== T I T L E A M E N D M E N T =====

193 And the title is amended as follows:

194 Delete everything before the enacting clause

195 and insert:

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A bill to be entitled

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An act relating to captive insurers; amending s.

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624.402, F.S.; exempting certain life or health

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insurers covering nonresidents from having to obtain a

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certificate of authority; amending s. 628.901, F.S.;

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providing definitions; repealing s. 628.903, F.S.,

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relating to the definition of the term "industrial

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insured captive insurer"; amending s. 628.905, F.S.;

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requiring a captive insurer to obtain a license and to

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file evidence that a person or firm with whom it

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intends to conduct business is reputable; providing

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that a certificate of insurance for an association

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captive insurer does not exceed the total funds of the

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association members; creating s. 628.908, F.S.;

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requiring a licensed captive insurer to maintain its

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principal place of business in this state and hold an

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annual meeting in this state; amending s. 628.909,

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F.S.; applying additional provisions of the insurance

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code to captive insurers; providing an effective date.