

Amendment No.

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	<u> </u>	(Y/N)
ADOPTED AS AMENDED	<u> </u>	(Y/N)
ADOPTED W/O OBJECTION	<u> </u>	(Y/N)
FAILED TO ADOPT	<u> </u>	(Y/N)
WITHDRAWN	<u> </u>	(Y/N)
OTHER	<u> </u>	

1 Committee/Subcommittee hearing bill: Commerce Committee
 2 Representative Fabricio offered the following:

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5 Remove lines 190-417 and insert:

6 company, at least \$100,000.

7 (b) In the case of a pure captive insurance company, at
 8 least \$100,000.~~†~~

9 (c)~~(b)~~ In the case of an industrial insured captive
 10 insurance company incorporated as a stock insurer, at least
 11 \$200,000.~~†~~ and

12 (d)~~(e)~~ In the case of a special purpose captive insurance
 13 company, an amount determined by the office after giving due
 14 consideration to the company's business plan, feasibility study,
 15 and pro forma financial statements and projections, including
 16 the nature of the risks to be insured.

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17 (2) The office may not issue a license to a captive
18 insurance company incorporated as a nonprofit corporation unless
19 the company possesses and maintains the following applicable
20 unrestricted net assets requirements of:

21 (a) In the case of a protected cell captive insurance
22 company, at least \$100,000.

23 (b) In the case of a pure captive insurance company, at
24 least \$250,000.

25 (c) ~~(b)~~ In the case of a special purpose captive insurance
26 company, an amount determined by the office after giving due
27 consideration to the company's business plan, feasibility study,
28 and pro forma financial statements and projections, including
29 the nature of the risks to be insured.

30 **Section 4. Subsection (1) of section 628.908, Florida**
31 **Statutes, is amended to read:**

32 628.908 Surplus requirements; restriction on payment of
33 dividends.—

34 (1) The office may not issue a license to a captive
35 insurance company unless the company possesses and maintains the
36 following applicable unimpaired surplus requirements of:

37 (a) In the case of a pure captive insurance company, at
38 least \$150,000.

39 (b) In the case of a protected cell captive insurance
40 company, at least \$100,000.

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41 (c) In the case of an industrial insured captive insurance
42 company incorporated as a stock insurer, at least \$300,000.

43 (d)~~(e)~~ In the case of an industrial insured captive
44 insurance company incorporated as a mutual insurer, at least
45 \$500,000.

46 (e)~~(d)~~ In the case of a special purpose captive insurance
47 company, an amount determined by the office after giving due
48 consideration to the company's business plan, feasibility study,
49 and pro forma financial statements and projections, including
50 the nature of the risks to be insured.

51 **Section 5. Subsection (1) of section 628.909, Florida**
52 **Statutes, is amended to read:**

53 628.909 Applicability of other laws.—

54 (1) The Florida Insurance Code does not apply to captive
55 insurance companies, protected cell captive insurance companies,
56 or industrial insured captive insurance companies except as
57 provided in this part and subsections (2) and (3).

58 **Section 6. Section 628.921, Florida Statutes, is created**
59 **to read:**

60 628.921 Protected cell captive insurance companies.—

61 (1) One or more sponsors may form a protected cell captive
62 insurance company under this part.

63 (2) A protected cell captive insurance company must be
64 incorporated as a stock insurer with its capital divided into
65 shares and held by the stockholders, as a mutual corporation, as

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66 a nonprofit corporation with one or more members, or as a
67 limited liability company.

68 (3) In addition to the information required by chapter
69 624, each applicant protected cell captive insurance company
70 must file all of the following information with the office:

71 (a) Materials demonstrating how the applicant will account
72 for the loss and expense experience of each protected cell at a
73 level of detail found to be sufficient by the office, and how it
74 will report such experience to the office.

75 (b) A statement acknowledging that all financial records
76 of the applicant, including records pertaining to any protected
77 cells, must be made available for inspection or examination by
78 the office or the office's designated agent.

79 (c) All contracts or sample contracts between the
80 applicant and any participants.

81 (d) Evidence that expenses will be allocated to each
82 protected cell in a fair and equitable manner.

83 (4) A protected cell captive insurance company formed or
84 licensed under this part may establish and maintain one or more
85 incorporated or unincorporated protected cells, to insure risks
86 of one or more participants, subject to all of the following
87 conditions:

88 (a)1. A protected cell captive insurance company may
89 establish one or more protected cells if the office has approved
90 in writing a plan of operation or amendments to a plan of

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91 operation submitted by the protected cell captive insurance
92 company with respect to each protected cell. A plan of operation
93 must include, but is not limited to, the specific business
94 objectives and investment guidelines of the protected cell.
95 However, the office may require additional information in the
96 plan of operation. The office may make the approval of a plan of
97 operation or amendments to a plan of operation effective as of
98 any date on or before the date the approval is signed so long as
99 the effective date is no earlier than the date on which the plan
100 of operation or amendments to the plan of operation were filed
101 with the office.

102 2. Upon the office's written approval of the plan of
103 operation, the protected cell captive insurance company, in
104 accordance with the approved plan of operation, may attribute
105 insurance obligations with respect to its insurance business to
106 the protected cell.

107 3. A protected cell must have its own distinct name or
108 designation, which must include the words "protected cell" or
109 "incorporated cell." Such names or designations may also be
110 reasonably abbreviated, including, without limitation, PC or
111 P.C. for "protected cell"; IC, I.C., IPC, or I.P.C. for
112 "incorporated cell"; and SC, S.C., SPC, or S.P.C. for "series
113 cell."

114 4. The protected cell captive insurance company shall
115 transfer all assets attributable to a protected cell to one or

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116 more separately established and identified protected cell
117 accounts bearing the name or designation of that protected cell.
118 Protected cell assets must be held in the protected cell
119 accounts for the purpose of satisfying the obligations of that
120 protected cell.

121 5. An incorporated protected cell may be organized and
122 operated in any form of business organization authorized by the
123 office, including, but not limited to, an individual series of a
124 limited liability company under chapter 605. Each incorporated
125 protected cell of a protected cell captive insurance company
126 must be treated as a captive insurer for purposes of this part
127 and has the power to enter into contracts, including an
128 individual series of a limited liability company. Unless
129 otherwise permitted by the organizational documents of a
130 protected cell captive insurance company, each incorporated
131 protected cell of the protected cell captive insurance company
132 must have the same directors, secretary, and registered office
133 as the protected cell captive insurance company.

134 6. All attributions of assets and liabilities between a
135 protected cell and the general account must be in accordance
136 with the plan of operation and participant contracts approved by
137 the office. A protected cell captive insurance company may not
138 make other attributions of assets or liabilities between the
139 protected cell captive insurance company's general account and
140 its protected cells. Any attribution of assets and liabilities

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141 between the general account and a protected cell must be in cash
142 or in readily marketable securities with established market
143 values.

144 (b) The creation of a protected cell does not create, with
145 respect to that protected cell, a legal person separate from the
146 protected cell captive insurance company unless the protected
147 cell is an incorporated cell. Amounts attributed to a protected
148 cell under this part, including assets transferred to a
149 protected cell account, are owned by the protected cell. A
150 protected cell captive insurance company may not act as, or hold
151 itself out to be, a trustee of the protected cell assets of the
152 protected cell account. Notwithstanding this subsection, a
153 protected cell captive insurance company may permit a security
154 interest to attach to the assets of a protected cell assets or a
155 protected cell account if the security interest is in favor of a
156 creditor of that protected cell and is otherwise authorized by
157 applicable law.

158 (c) This subsection may not be construed to prohibit the
159 protected cell captive insurance company from contracting with
160 or arranging for an investment advisor, commodity trading
161 advisor, or other third party to manage the protected cell
162 assets of a protected cell if all remuneration, expenses, and
163 other compensation of the third-party advisor or manager are
164 payable from the protected cell assets of that protected cell
165 and not from the protected cell assets of other protected cells

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166 or the assets of the protected cell captive insurance company's
167 general account.

168 (d)1. A protected cell captive insurance company must
169 establish administrative and accounting procedures necessary to
170 properly identify the one or more protected cells of the
171 protected cell captive insurance company and the protected cell
172 assets and protected cell liabilities attributable to the
173 protected cells. The directors of a protected cell captive
174 insurance company must keep protected cell assets and protected
175 cell liabilities:

176 a. Separate and separately identifiable from the assets
177 and liabilities of the protected cell captive insurance
178 company's general account; and

179 b. Attributable to one protected cell separate and
180 separately identifiable from protected cell assets and protected
181 cell liabilities attributable to other protected cells.

182 2. If subparagraph 1. is violated, the remedy of tracing
183 applies to protected cell assets that have been commingled with
184 the protected cell assets of other protected cells or with the
185 assets of the protected cell captive insurance company's general
186 account. The remedy of tracing may not be construed as
187 exclusive.

188 (e) When establishing a protected cell, the protected cell
189 captive insurance company must attribute to the protected cell

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190 assets a value at least equal to the reserves and other
191 insurance liabilities attributed to that protected cell.

192 (f) Each protected cell must be accounted for separately
193 on the books and records of the protected cell captive insurance
194 company to reflect the financial condition and results of
195 operations of such protected cell, net income or loss, dividends
196 or other distributions to participants, and such other factors
197 as may be provided in the participant contract or required by
198 the office.

199 (g) An asset of a protected cell may not be charged with,
200 or otherwise made liable for, any liability arising out of
201 insurance business conducted by the protected cell captive
202 insurance company on behalf of any other protected cell or its
203 general account.

204 (h) A protected cell captive insurance company may not
205 sell, exchange, or otherwise transfer assets between or among
206 any of its protected cells without the consent of such protected
207 cells.

208 (i) A protected cell captive insurance company may not
209 sell, exchange, transfer, or otherwise distribute assets, or pay
210 any dividend or distribution, from a protected cell to the
211 company or to a participant without the approval of the office.
212 The office may not approve any sale, exchange, transfer,
213 dividend, or distribution that would result in the insolvency or
214 impairment of a protected cell.

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215 (j) All attributions of assets and liabilities to the
216 protected cells and the general account must be in accordance
217 with the plan of operation approved by the office. A protected
218 cell captive insurance company may not attribute assets or
219 liabilities between its general account and any protected cell,
220 or between any protected cells. The protected cell captive
221 insurance company must attribute all insurance obligations,
222 assets, and liabilities relating to a reinsurance contract
223 entered into with respect to a protected cell to such protected
224 cell. The performance under such reinsurance contract and any
225 tax benefits, losses, refunds, or credits allocated pursuant to
226 a tax allocation agreement to which the protected cell captive
227 insurance company is a party, including any payments made by or
228 due to be made to the protected cell captive insurance company
229 pursuant to the terms of such agreement, must reflect the
230 insurance obligations, assets, and liabilities relating to the
231 reinsurance contract which are attributed to such protected
232 cell.

233 (k) In connection with the conservation, rehabilitation,
234 or liquidation