1983

Session Law 83-165

Florida Senate & House of Representatives

Follow this and additional works at: https://ir.law.fsu.edu/staff-analysis

Part of the Legislation Commons

Recommended Citation
https://ir.law.fsu.edu/staff-analysis/376

This Article is brought to you for free and open access by the Florida Legislative Documents at Scholarship Repository. It has been accepted for inclusion in Staff Analysis by an authorized administrator of Scholarship Repository. For more information, please contact efarrell@law.fsu.edu.
STATEMENT OF THE
REINSURANCE ASSOCIATION OF AMERICA

IN SUPPORT OF
SENATE BILL 812

April 26, 1983

The Reinsurance Association of America is a trade association representing professional property and casualty reinsurers in the United States. The RAA's 26 member companies assume more than $4 billion of gross reinsurance premiums annually, or nearly 80% of the U.S. professional reinsurance premiums. All but two of our members are licensed or approved to reinsure Florida domestic companies.

The Association supports Senate Bill 812 and is pleased to have worked with the Insurance Department and major Florida interests in developing its provisions. The bill before you has the input and support of the Insurance Department, Florida domestic insurers and the Florida Insurance Exchange. The Association made similar recommendations during the recodification process two years ago. When the reinsurance sections were not addressed, Senator Hair encouraged us to submit our suggestions to the Senate Commerce Committee and the Insurance Department. Senate Bill 812 is the result of a year of negotiation and compromise.

Senate Bill 812 balances the desire to expand the available reinsurance market for domestic companies with the need for adequate security where the reinsurer is not regulated by the state. The mechanism for this balance is credit for reinsurance, and the focus is the financial
condition of the reinsurer. Credit for reinsurance is the reduction in liabilities carried by the domestic insurer for risks it has reinsured. A domestic company may take full credit for reinsurance of risks with companies licensed, approved or recognized by the Insurance Department as satisfying Florida financial standards for insurers. The allowance of a full reduction from liability encourages domestic companies to cede risks to known reliable reinsurers.

Senate Bill 812 would still permit transactions with reinsurers not meeting these criteria, but penalizes the domestic insurer on its financial statement for so doing. Credit may only be taken to the extent that the domestic insurer maintains acceptable security within its exclusive control. Whether the security be funds, securities or letters of credit, the Department is assured that money is available should the unauthorized reinsurer fail to honor its obligations. These provisions satisfy the needs of industry and regulators, and therefore are supported by both groups.

Senate Bill 812 also strengthens the liquidation process by placing reinsurance proceeds due insolvent insurers directly in the hands of the domiciliary liquidator. Reinsurance proceeds are assets of the estate of the insolvent insurer, and should be available for distribution to creditors in accordance with legislated priorities. The vast majority of reinsurance contracts require payment to the liquidator or receiver in the event of insolvency, and courts in all jurisdictions have enforced this language.

However, other parties, particularly the original policy-holder, have challenged the liquidation law and reinsurance contract
language by seeking direct access to these reinsurance proceeds. They have not been successful in recent years save one exception, and that occurred in the State of Florida in 1969. A Florida District Court allowed a third party to collect these assets from a reinsurer of an insolvent company, even though the contract did not expressly provide for this payment. The effect of this decision is to encourage policyholders to circumvent the statutory liquidation procedure and, in essence, receive a priority above other deserving creditors. The Association believes that this loophole to the liquidation laws should be eliminated.

The Reinsurance Association of America would like to note that the House Commerce Committee is considering a bill similar in substance to that now before you. We hope that any differences can be worked out in the committees and that a single reinsurance bill will move forward.
SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

ANALYST
1. Fort
2. 
3. 

STAFF DIRECTOR
Martin

REFERENCE
1. Com.
2. 
3. 

ACTION
Fav./CS

SUBJECT:
Reinsurance

BILL NO. AND SPONSOR:
CS/SB 0812 by Commerce Committee and Senator Hair
Enrolled

I. SUMMARY:

A. Present Situation:

Section 624.410, Florida Statutes, provides the standards for allowing insurers to reinsure their risks and for allowing insurers to accept reinsurance. By ceding risks to a reinsurer as authorized by this section, an insurer may reduce its liabilities reported in its annual financial statement. Ambiguities in the current law make it unclear under certain circumstances whether insurers are authorized to reduce their liabilities for ceded risks.

Currently, an insurer may accept reinsurance only of risks it is authorized to insure directly.

Insurers are authorized to reinsure risks with insurers licensed to transact insurance in this state or approved by the Department of Insurance for the purpose of such reinsurance. Under current law, the department shall not approve any proposed reinsurance which it finds would be contrary to the proper interests of the policyholders or stockholders of a ceding domestic insurer.

Currently, a provision is required in the reinsurance treaty that the reinsurance is payable by the assuming insurer to the ceding insurer on the basis of the liability of the ceding insurer under the contracts reinsured without diminution because of the insolvency of the ceding insurer.

B. Effect of Proposed Changes:

The bill provides the following specific standards as to which entities may be approved for reinsurance purposes:

- An insurer authorized to do business in this state.

- An insurer not authorized to do business in this state but who meets the criteria established for an authorized insurer.

- An insurance exchange domiciled in any other state which meets the standards and financial requirements applicable to an authorized insurer.

- A group of unincorporated alien insurers (e.g., Lloyd's of London) which maintains at least $50,000,000 held in trust for United States policyholders in a United States bank or trust company and who otherwise satisfies the department that it can meet its obligations under its reinsurance agreements.

- Non-authorized or non-approved entities if funds are held in trust or secured by a letter of credit subject to control by
the ceding insurer providing security for the payment of obligations under the reinsurance treaties.

New provisions are added requiring non-authorized or non-approved assuming insurers to designate the Commissioner or a person resident in the United States as agent for service of process.

Under this bill, reinsurance is payable by the assuming insurer to the ceding insurer on the basis of the liability of the ceding insurer under the contracts reinsured without diminution because of the insolvency of the ceding insurer except:

- Where the reinsurance agreement specifically provides for direct payment to the named insured in the event of the insolvency of the ceding insurer, or

- Where the assuming insurer with the consent of the insured has assumed the policy obligations of the ceding insurer.

The bill also clarifies the interest of third parties in a reinsurance contract. The basic principle of reinsurance distinguishing it from primary insurance is that it is a contract of indemnity between only the reinsurer and the ceding insurer. The only exception to this rule is when the reinsurer expressly assumes its ceding insurers' policy obligations to the insured or specifies the insured as a payee under the reinsurance contract.

The bill deletes the current exemption for title insurance, wet marine and transportation insurance from the section.

Sections 628.611 and 629.501, Florida Statutes, are amended to make the above provisions applicable to captive insurers and limited reciprocal insurers.

II. ECONOMIC IMPACT AND FISCAL NOTE:

A. Public:

By specifying in greater detail the requirements for reinsuring risks, the bill will alleviate problems experienced by insurers in determining whether ceded risks could be deducted from its liabilities on the annual statement filed with the department. To the extent that ceded risks are more clearly authorized, this will be to the financial benefit of insurers.

B. Government:

None.

III. COMMENTS:

IV. AMENDMENTS:
SUMMARY OF PCB 83-49
REINSURANCE

This bill provides specific standards for authorizing insurance companies to reinsure their risks with another insurer. By reinsuring their risks, an insurer may reduce its liabilities as reported in its annual financial statement. The present law authorizes insurers to reinsure risks with insurers licensed to transact insurance in Florida or approved by the Department of Insurance for the purpose of reinsurance. Under current law, the department may not approve any proposed reinsurance which it finds would be contrary to the proper interests of the policyholders or stockholders of a ceding domestic insurer. In addition to continuing this general standard, the bill provides the following specific standards for an approved reinsurer:

- An insurer not authorized to do business in this state but which meets the criteria established for an authorized insurer,

- An insurance exchange domiciled in any other state which meets the standards and financial requirements applicable to an authorized insurer,

- A group of unincorporated alien insurers (e.g., Lloyd’s of London) which maintains at least $50,000,000 held in trust for United States policyholders in a United States bank or trust company and which otherwise satisfies the department that it can meet its obligations under its reinsurance agreements,

- Non-authorized or non-approved entities if funds are held in trust or secured by a letter of credit subject to control
BY THE CEDING INSURER PROVIDING SECURITY FOR THE PAYMENT OF OBLIGATIONS UNDER THE REINSURANCE TREATIES.
Bill Analysis

Florida House of Representatives

STAFF SUMMARY AND ANALYSIS

PCB 83-49 by ______ Commercial _______ DATE: April 12, 1983
relating to ________ reinsurance ________

Other Committees of Reference: IDENTICAL*/SIMILAR BILLS: ________

EFFECTIVE DATE: October 1, 1983

I. SUMMARY AND PURPOSE

This bill provides specific standards for authorizing insurance companies to reinsure their risks with another insurer.

II. CURRENT LAW AND EFFECT OF CHANGES

Section 624.410 provides the standards for allowing insurers to reinsure their risks and for allowing insurers to accept reinsurance. By ceding risks to a reinsurer as authorized by this section, an insurer may reduce its liabilities reported in its annual financial statement. Ambiguities in the current law make it unclear under certain circumstances whether insurers are authorized to reduce their liabilities for ceded risks.

Current law provides that an insurer may accept reinsurance only of risks it is authorized to insure directly. Technical changes are made to this provision.

Current law authorizes insurers to reinsure risks with insurers licensed to transact insurance in this state or approved by the Department of Insurance for the purpose of such reinsurance. Under current law, the department shall not approve any proposed reinsurance which it finds would be contrary to the proper interests of the policyholders or stockholders of a ceding domestic insurer. In addition to continuing this general standard, the bill provides the following specific standards as to which entities may be approved for reinsurance purposes:

- An insurer authorized to do business in this state.
- An insurer not authorized to do business in this state but who meets the criteria established for an authorized insurer.
- An insurance exchange domiciled in any other state which meets the standards and financial requirements applicable to an authorized insurer.

- A group of unincorporated alien insurers (e.g. Lloyd's of London) which maintains at least $50,000,000 held in trust for United States policyholders in a United States bank or trust company and who otherwise satisfies the department that it can meet its obligations under its reinsurance agreements.

- Non-authorized or non-approved entities if funds are held in trust or secured by a letter of credit subject to control by the ceding insurer providing security for the payment of obligations under the reinsurance treaties.

New provisions are added requiring non-authorized or non-approved assuming insurers to designate the Commissioner or a person resident in the United States as agent for service of process.

Current law requires a provision in the reinsurance treaty that the reinsurance is payable by the assuming insurer to the ceding insurer on the basis of the liability of the ceding insurer under the contracts reinsured without diminution because of the insolvency of the ceding insurer. The bill continues this provision but recognizes the following two exceptions:

- Where the reinsurance agreement specifically provides for direct payment to the named insured in the event of the insolvency of the ceding insurer, or

- Where the assuming insurer with the consent of the insured has assumed the policy obligations of the ceding insurer.

The bill also clarifies the interest of third parties in a reinsurance contract. The guiding principle of reinsurance distinguishing it from primary insurance is that it is a contract of indemnity between only the reinsurer and the ceding insurer. The only exception to this rule is when the reinsurer expressly assumes its ceding insurers' policy obligations to the insured or specifies the insured as a payee under the reinsurance contract.

The bill deletes the current exemption for title insurance, wet marine and transportation insurance from the section.

Sections 2 and 3 amend sections 628.611 and 629.501, Florida Statutes, to make the above provisions applicable to captive insurers and limited reciprocal insurers.

Section 4 provides an effective date of October 1, 1983.

III. ECONOMIC IMPACT CONSIDERATIONS

A. PRIVATE SECTOR CONSIDERATIONS

By specifying in greater detail the requirements for reinsuring risks, the bill will alleviate problems experienced by insurers in determining whether ceded risks could be deducted from its liabilities on the annual statement filed with the department. To the extent that ceded risks are more clearly authorized, this will be to the financial benefit of insurers.

B. PUBLIC SECTOR CONSIDERATIONS

No substantial impact.
IV. COMMENTS

V. AMENDMENTS

Prepared by: 

Brian Deffenbaugh

Staff Director: 

Wyatt T. Martin
A bill to be entitled
An act relating to reinsurance and matters connected therewith, amending and revising s. 624.610, Florida Statutes, 1982 Supplement, relating to general reinsurance; provides minimum standards for reinsurance contracts which must be met in order for a domestic insurer to receive credit for reinsurance; amending and revising s. 628.611, Florida Statutes, 1982 Supplement, relating to reinsurance of captive insurers; provides minimum standards for reinsurance contracts which must be met in order for a captive insurer to receive credit for reinsurance; and amending and revising s. 629.501, Florida Statutes, 1982 Supplement, relating to reinsurance of limited reciprocal insurers; provides minimum standards for reinsurance contracts which must be met in order for reciprocal insurer to receive credit for reinsurance; providing an effective date.

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

Section 1. Section 624.610, Florida Statutes, is amended to read:

(Revised language)

624.610 Reinsurance.—

(1) An insurer may assume reinsurance only of such risks, and retain risk thereon within such limits, as it is otherwise authorized to insure or reinsure. No insurer shall cede or retrocede credit life insurance, credit disability insurance, or both credit life and credit disability insurance covering a risk located or written in this state to any insurer not
authorized to transact insurance in this state or approved by
the Department for such line of insurance.

(2)(a) A ceding insurer may reinsure all or any part of
any particular risk or class of risks with an assuming insurer
approved by the department to transact such line of insurance
or reinsurance in this state. Credit may be taken for
reinsurance with an authorized insurer subject to the other
requirements of this code.

(b) A ceding insurer may reinsure all or any part of any
particular risk or class of risks with an assuming insurer
approved by the department to transact such line of reinsurance
in this state. The department shall approve only solvent
insurers meeting the criteria established for authorized
insurers in this state. From time to time the department shall
publish a list of insurers approved pursuant to this
subsection. Credit may be taken for reinsurance with an
approved reinsurer subject to the other requirements of this
code.

(c) A ceding insurer may reinsure all or any part of any
particular risk or class of risks with an assuming underwriting
member of an insurance exchange domiciled in any other state or
jurisdiction in the United States provided the insurance
exchange presents to the department for its approval and
maintains satisfactory evidence that such assuming underwriting
member maintains the standards and meets the financial
requirements applicable to an authorized insurer. Subject to
the other requirements of this section, credit may be taken for
reinsurance with members approved under this subsection by the
department.

(d) A ceding insurer may reinsure all or any part of any

CODING Words in struck through type are deletions from existing law, words underlined are additions.
of any particular risk or class of risks with a group of
individual/unincorporated alien insurers which maintains funds
held in trust for United States policyholders and beneficiaries
in a bank or trust company subject to supervision by any state
of the United States or which group is a member of the Federal
Reserve System in an amount not less than $50,000,000 and which
group satisfies the department by filing annually evidence that
it can meet its obligations under its reinsurance agreements.
Subject to the other requirements of this section, credit may
be taken for reinsurance with a group approved under this
subsection by the department.

(e) Credit in accounting and financial statements on
account of reinsurance ceded to a non-authorized or
non-approved reinsurer shall be allowed only:

1. Where it is demonstrated by the ceding insurer to the
satisfaction of the department that such reinsurer maintains
the standards and meets the financial requirements applicable
to an authorized insurer; or

2. To the extent of deposits by, or funds withheld from,
such reinsurer pursuant to express provision therefor in the
reinsurance contract as security for the payment of the
obligations thereunder if such deposits or funds are held
subject to withdrawal by, and under the control of, the ceding
insurer or are placed in trust for such purposes in a bank
which is a member of the Federal Reserve System if withdrawals
from the trust cannot be made without the consent of the ceding
insurer. Funds withheld may be cash or securities qualified as
admitted assets under Chapter 625, Part II and which have a
market value equal to or greater than the credit taken; or

3. To the extent that the amount of a clean and
irrevocable letter of credit issued for a term of not less than one year conforming to the requirements set forth below, equals or exceeds the liability of a non-authorized or non-approved reinsurer for unearned premiums, outstanding losses and an adequate reserve for incurred but not reported losses under a specific reinsurance agreement. The requirements are that such a clean and irrevocable letter of credit shall be issued under arrangements satisfactory to the department as constituting security to the ceding insurer substantially equal to that of a deposit under subparagraph 2., and that it shall be issued by a banking institution which is a member of the Federal Reserve System and of financial standing satisfactory to the Commissioner.

(f) A ceding insurer which assumes a substantial volume of reinsurance may retrocede all or part of any particular risk or class of risks with any assuming insurer and take credit for such reinsurance, whether or not the assuming insurer is authorized or approved by the department and whether or not funds are withheld by the ceding insurer, unless such retrocessions are found by the department, to be for the purpose of evasion of other requirements or prohibitions of this code.

(3) The department shall disallow any credit which it finds would be contrary to the proper interest of the policyholders or stockholders of a ceding domestic insurer.

(4) No credit shall be allowed for reinsurance in a non-authorized or non-approved assuming insurer unless such insurer designates the Commissioner or a person resident in the United States as agent for service of process in any action arising out of or in connection with such reinsurance.
(5) Credit shall be allowed to any ceding insurer for reinsurance otherwise complying with this section only where the reinsurance is payable by the assuming insurer on the basis of the liability of the ceding insurer under the contract or contracts reinsured without diminution because of insolvency of the ceding insurer. Credit shall be allowed to any ceding insurer for reinsurance otherwise complying with this section only where the reinsurance agreement provides that payments by the assuming insurer shall be made directly to the ceding insurer or its receiver, except:

(a) Where the reinsurance agreement specifically provides payment to the named insured, assignee or named beneficiary of the policy issued by the ceding insurer in the event of the insolvency of the ceding insurer; or

(b) Where the assuming insurer, with the consent of the named insured, has assumed the policy obligations of the ceding insurer as direct obligations of the assuming insurer in substitution for the obligations of the ceding insurer to the named insured.

(6) No person, other than the ceding insurer, shall have any rights against the reinsurer which are not specifically set forth in the contract of reinsurance or in a specific written, signed agreement between the reinsurer and the person.

(7) No authorized insurer shall knowingly accept as assuming reinsurer any risk covering a subject of insurance resident, located or to be performed in this state and written directly by any insurer not then authorized to transact such insurance in this state, other than as to surplus lines insurance lawfully written under part VI of Chapter 626.

Section 2. Section 628.611, Florida Statutes, is amended
628.611 Reinsurance.--

(l)(a) A ceding captive insurer may reinsure all or any part of any particular risk or class of risks with an assuming insurer authorized by the department to transact such line of insurance or reinsurance in this state. Credit may be taken for reinsurance with an authorized insurer subject to the other requirements of this code.

(b) A ceding captive insurer may reinsure all or any part of any particular risk or class of risks with an assuming insurer approved by the department to transact such line of reinsurance in this state. The department shall approve only solvent insurers meeting the criteria established for authorized insurers in this state. From time to time the department shall publish a list of insurers approved pursuant to this subsection. Credit may be taken for reinsurance with an approved reinsurer subject to the other requirements of this code.

(c) A ceding captive insurer may reinsure all or any part of any particular risk or class of risks with an assuming underwriting member of an insurance exchange domiciled in any other state or jurisdiction in the United States provided the insurance exchange presents to the department for its approval and maintains satisfactory evidence that such assuming underwriting member maintains the standards and meets the financial requirements applicable to an authorized insurer. Subject to the other provisions of this code, credit may be taken for reinsurance with members approved under this
subsection by the department.

(d) A ceding captive insurer may reinsure all or any part of any particular risk or class of risks with a group of individual unincorporated alien insurers which maintains funds held in trust for United States policyholders and beneficiaries in a bank or trust company subject to supervision by any state of the United States or which group is a member of the Federal Reserve System in an amount not less than $50,000,000 and which group satisfies the department by filing annually evidence that it can meet its obligations under its reinsurance agreements. Subject to the other provisions of this code, credit may be taken for reinsurance with a group approved under this subsection by the department.

(e) Credit in accounting and financial statements on account of reinsurance ceded to a non-authorized or non-approved reinsurer shall be allowed only:

1. Where it is demonstrated by the ceding captive insurer to the satisfaction of the department that such reinsurer maintains the standards and meets the financial requirements applicable to an authorized insurer; or

2. To the extent of deposits by, or funds withheld from, such reinsurer pursuant to express provision therefor in the reinsurance contract as security for the payment of the obligations thereunder if such deposits or funds are held subject to withdrawal by, and under the control of, the ceding captive insurer or are placed in trust for such purposes in a bank which is a member of the Federal Reserve System if withdrawals from the trust cannot be made without the consent of the ceding captive insurer. Funds withheld may be cash or securities qualified as admitted assets under Chapter 625, Part -7-
II and which have a market value equal to or greater than the
credit taken; or

3. To the extent that the amount of a clean and
irrevocable letter of credit issued for a term of not less
than one year conforming to the requirements set forth below,
equals or exceeds the liability of a non-authorized or non-
approved reinsurer for unearned premiums, outstanding losses
and an adequate reserve for incurred but not reported losses
under a specific reinsurance agreement. The requirements are
that such a clean and irrevocable letter of credit shall be
issued under arrangements satisfactory to the department as
constituting security to the ceding captive insurer
substantially equal to that of a deposit under subparagraph 2.,
and that it shall be issued by a banking institution which is a
member of the Federal Reserve System and of financial standing
satisfactory to the Commissioner.

(2) The department shall disallow any credit which it
finds would be contrary to the proper interest of the policy-
holders or stockholders of a ceding domestic captive insurer.

(3) No credit shall be allowed for reinsurance in a non-
authorized or non-approved assuming insurer unless such insurer
designates the Commissioner or a person resident in the United
States as agent for service of process in any action arising
out of or in connection with such reinsurance.

(4) Credit shall be allowed to any ceding captive insurer
for reinsurance otherwise complying with this section only
where the reinsurance is payable by the assuming insurer on the
basis of the liability of the ceding captive insurer under the
contract or contracts reinsured without diminution because of
insolvency of the ceding captive insurer. Credit shall be
allowed to any ceding captive insurer for reinsurance otherwise
complying with this section only where the reinsurance
agreement provides that payments by the assuming insurer shall
be made directly to the ceding captive insurer or its receiver,
except:
   (a) Where the reinsurance agreement specifically provides
payment to the named insured, assignee or named beneficiary of
the policy issued by the ceding captive insurer in the event of
the insolvency of the ceding captive insurer; or
   (b) Where the assuming insurer, with the consent of the
named insured, has assumed the policy obligations of the ceding
 captive insurer as direct obligations of the assuming insurer
in substitution for the obligations of the ceding captive
insurer to the named insured.

(5) No person, other than the ceding captive insurer,
shall have any rights against the reinsurer which are not
specifically set forth in the contract of reinsurance or in a
specific written, signed agreement between the reinsurer and
the person.

(6) No captive insurer shall knowingly accept as assuming
reinsurer any risk covering a subject of insurance resident,
located or to be performed in this state and written directly
by any insurer not then authorized to transact such insurance
in this state, other than as to surplus lines insurance
lawfully written under part VI of Chapter 626.

Section 3. Section 629.501, Florida Statutes, is amended
to read:

(Substantial rewording of section. See s.-629.501, F.S.,
1982- Supplement, for present text.)
629.501 Reinsurance.--
(a) A ceding limited reciprocal insurer may reinsure all or any part of any particular risk or class of risks with an assuming insurer authorized by the department to transact such line of insurance or reinsurance in this state. Credit may be taken for reinsurance with an authorized insurer subject to the other requirements of this code.

(b) A ceding limited reciprocal insurer may reinsure all or any part of any particular risk or class of risks with an assuming insurer approved by the department to transact such line of reinsurance in this state. The department shall approve only solvent insurers meeting the criteria established for authorized insurers in this state. From time to time the department shall publish a list of insurers approved pursuant to this subsection. Credit may be taken for reinsurance with an approved reinsurer subject to the other requirements of this code.

(c) A ceding limited reciprocal insurer may reinsure all or any part of any particular risk or class of risks with an assuming underwriting member of an insurance exchange domiciled in any other state or jurisdiction in the United States provided the insurance exchange presents to the department for its approval and maintains satisfactory evidence that such assuming underwriting member maintains the standards and meets the financial requirements applicable to an authorized insurer. Subject to the other provisions of this section, credit may be taken for reinsurance with members approved under this subsection by the department.

(d) A ceding limited reciprocal insurer may reinsure all or any part of any particular risk or class of risks with a group of individual unincorporated alien insurers which

CODING Words in struck through type are deletions from existing law, words underlined are additions.
maintains funds held in trust for United States policyholders and beneficiaries in a bank or trust company subject to supervision by any state of the United States or which group is a member of the Federal Reserve System in an amount not less than $50,000,000 and which group satisfies the department by filing annually evidence that it can meet its obligations under its reinsurance agreements. Credit may be taken for reinsurance with groups approved under this subsection by the department.

(e) Credit in accounting and financial statements on account of reinsurance ceded to a non-authorized or non-approved reinsurer shall be allowed only:

1. Where it is demonstrated by the ceding limited reciprocal insurer to the satisfaction of the department that such reinsurer maintains the standards and meets the financial requirements applicable to an authorized insurer; or

2. To the extent of deposits by, or funds withheld from, such reinsurer pursuant to express provision therefor in the reinsurance contract as security for the payment of the obligations thereunder if such deposits or funds are held subject to withdrawal by, and under the control of, the ceding limited reciprocal insurer or are placed in trust for such purposes in a bank which is a member of the Federal Reserve System if withdrawals from the trust cannot be made without the consent of the ceding limited reciprocal insurer. Funds withheld may be cash or securities qualified as admitted assets under Chapter 625, Part II and which have a market value equal to or greater than the credit taken; or

3. To the extent that the amount of a clean and irrevocable letter of credit issued for a term of not less than...
one year conforming to the requirements set forth below, equals
or exceeds the liability of a non-authorized or non-approved
reinsurer for unearned premiums, outstanding losses and an
adequate reserve for incurred but not reported losses under a
specific reinsurance agreement. The requirements are that such
a clean and irrevocable letter of credit shall be issued under
arrangements satisfactory to the department as constituting
security to the ceding limited reciprocal insurer substantially
equal to that of a deposit under subparagraph 2., and that it
shall be issued by a banking institution which is a member of
the Federal Reserve System and of financial standing
satisfactory to the Commissioner.

(2) The department shall disallow any credit which it
finds would be contrary to the proper interest of the policy­
holders or stockholders of a ceding domestic limited reciprocal
insurer.

(3) No credit shall be allowed for reinsurance in a non­
authorized or non-approved assuming limited reciprocal insurer
unless such insurer designates the Commissioner or a person
resident in the United States as agent for service of process
in any action arising out of or in connection which such
reinsurance.

(4) Credit shall be allowed to any ceding limited
reciprocal insurer for reinsurance otherwise complying with
this section only where the reinsurance is payable by the
assuming insurer on the basis of the liability of the ceding
limited reciprocal insurer under the contract or contracts
reinsured without diminution because of insolvency of the
ceding insurer. Credit shall be allowed to any ceding limited
reciprocal insurer for reinsurance otherwise complying with

CODING: Words in struck through type are deletions from existing law, words underlined are additions.
this section only where the reinsurance agreement provides that payments by the assuming insurer shall be made directly to the ceding limited reciprocal insurer or its receiver, except:

(a) Where the reinsurance agreement specifically provides payment to the named insured, assignee or named beneficiary of the policy issued by the ceding limited reciprocal insurer in the event of the insolvency of the ceding limited reciprocal insurer; or

(b) Where the assuming insurer, with the consent of the named insured, has assumed the policy obligations of the ceding limited reciprocal insurer as direct obligations of the assuming insurer in substitution for the obligations of the ceding limited reciprocal insurer to the named insured.

(5) No person, other than the ceding limited reciprocal insurer, shall have any rights against the reinsurer which are not specifically set forth in the contract of reinsurance or in a specific written, signed agreement between the reinsurer and the person.

(6) No limited reciprocal insurer shall knowingly accept as assuming reinsurer any risk covering a subject of insurance resident, located or to be performed in this state and written directly by any insurer not then authorized to transact such insurance in this state, other than as to surplus lines insurance lawfully written under part VI of Chapter 626.

Section 4. This act shall take effect October 1, 1983.
A bill to be entitled

An act relating to reinsurance and matters connected therewith, amending s. 624.610, Florida Statutes, 1982 Supplement, relating to general reinsurance; providing minimum standards for reinsurance contracts which must be met in order for a domestic insurer to receive credit for reinsurance; amending s. 628.611, Florida Statutes, 1982 Supplement, relating to reinsurance of captive insurers; providing minimum standards for reinsurance contracts which must be met in order for a captive insurer to receive credit for reinsurance; amending s. 629.501, Florida Statutes, 1982 Supplement, relating to reinsurance of limited reciprocal insurers; providing minimum standards for reinsurance contracts which must be met in order for a reciprocal insurer to receive credit for reinsurance; providing an effective date.

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

Section 1. Section 624.610, Florida Statutes, 1982 Supplement, is amended to read:

(1) An insurer may assume reinsurance only of such risks, and retain risk thereon within such limits, as it is otherwise authorized to insure or reinsure. No insurer shall

CODING Words in struck through type are deletions from existing law, words underlined are additions.
cede or retrocede credit life insurance, credit disability insurance, or both credit life and credit disability insurance covering a risk located or written in this state to any insurer not authorized to transact insurance in this state or approved by the department for such line of insurance.  

(2) (a) A ceding insurer may reinsure all or any part of any particular risk or class of risks with an assuming insurer authorized by the department to transact such line of insurance or reinsurance in this state. Credit may be taken for reinsurance with an authorized insurer subject to the other requirements of this code.  

(b) A ceding insurer may reinsure all or any part of any particular risk or class of risks with an assuming insurer approved by the department to transact such line of reinsurance in this state. The department shall approve only solvent insurers meeting the criteria established for authorized insurers in this state. From time to time the department shall publish a list of insurers approved pursuant to this subsection. Credit may be taken for reinsurance with an approved reinsurer subject to the other requirements of this code.  

(c) A ceding insurer may reinsure all or any part of any particular risk or class of risks with an assuming underwriting member of an insurance exchange domiciled in any other state or jurisdiction in the United States provided the insurance exchange presents to the department for its approval and maintains satisfactory evidence that such assuming underwriting member maintains the standards and meets the financial requirements applicable to an authorized insurer. Subject to the other requirements of this section, credit may
be taken for reinsurance with members approved under this subsection by the department.

(d) A ceding insurer may reinsure all or any part of any particular risk or class of risks with a group of individual/unincorporated alien insurers which maintains funds held in trust for United States policyholders and beneficiaries in a bank or trust company subject to supervision by any state of the United States or which group is a member of the Federal Reserve System in an amount not less than $50,000,000 and which group satisfies the department by filing annually evidence that it can meet its obligations under its reinsurance agreements. Subject to the other requirements of this section, credit may be taken for reinsurance with a group approved under this subsection by the department.

(e) Credit in accounting and financial statements on account of reinsurance ceded to a nonauthorized or nonapproved reinsurer shall be allowed only:

1. Where it is demonstrated by the ceding insurer to the satisfaction of the department that such reinsurer maintains the standards and meets the financial requirements applicable to an authorized insurer; or

2. To the extent of deposits by, or funds withheld from, such reinsurer pursuant to express provision therefor in the reinsurance contract as security for the payment of the obligations thereunder if such deposits or funds are held subject to withdrawal by, and under the control of, the ceding insurer or are placed in trust for such purposes in a bank which is a member of the Federal Reserve System if withdrawals from the trust cannot be made without the consent of the ceding insurer. Funds withheld may be cash or securities.
qualified as admitted assets under part II of chapter 625 and which have a market value equal to or greater than the credit taken; or

3. To the extent that the amount of a clean and irrevocable letter of credit issued for a term of not less than 1 year conforming to the requirements set forth below, equals or exceeds the liability of a nonauthorized or nonapproved reinsurer for unearned premiums, outstanding losses and an adequate reserve for incurred but not reported losses under a specific reinsurance agreement. The requirements are that such a clean and irrevocable letter of credit shall be issued under arrangements satisfactory to the department as constituting security to the ceding insurer substantially equal to that of a deposit under subparagraph 2., and that it shall be issued by a banking institution which is a member of the Federal Reserve System and of financial standing satisfactory to the Commissioner.

(f) A ceding insurer which assumes a substantial volume of reinsurance may retrocede all or part of any particular risk or class of risks with any assuming insurer and take credit for such reinsurance, whether or not the assuming insurer is authorized or approved by the department and whether or not funds are withheld by the ceding insurer, unless such retrocessions are found by the department to be for the purpose of evasion of other requirements or prohibitions of this code.

(3) The department shall disallow any credit which it finds would be contrary to the proper interest of the policyholders or stockholders of a ceding domestic insurer.

(4) No credit shall be allowed for reinsurance in a nonauthorized or nonapproved assuming insurer unless such
insurer designates the Commissioner or a person resident in
the United States as agent for service of process in any
1.80
action arising out of or in connection with such reinsurance.
1.81
(5) Credit shall be allowed to any ceding insurer for
1.82
reinsurance otherwise complying with this section only where
1.83
the reinsurance is payable by the assuming insurer on the
1.84
basis of the liability of the ceding insurer under the
contract or contracts reinsured without diminution because of
insolvency of the ceding insurer. Credit shall be allowed to
any ceding insurer for reinsurance otherwise complying with
this section only where the reinsurance agreement provides
that payments by the assuming insurer shall be made directly
to the ceding insurer or its receiver, except:
2.1
(a) Where the reinsurance agreement specifically
2.2
provides payment to the named insured, assignee or named
2.3
beneficiary of the policy issued by the ceding insurer in the
2.4
event of the insolvency of the ceding insurer; or
2.5
(b) Where the assuming insurer, with the consent of
2.6
the named insured, has assumed the policy obligations of the
2.7
ceding insurer as direct obligations of the assuming insurer
2.8
in substitution for the obligations of the ceding insurer to
2.9
the named insured.
2.10
(6) No person, other than the ceding insurer, shall
2.11
have any rights against the reinsurer which are not
2.12
specifically set forth in the contract of reinsurance or in a
2.13
specific written, signed agreement between the reinsurer and
2.14
the person.
2.15
(7) No authorized insurer shall knowingly accept as
2.16
assuming reinsurer any risk covering a subject of insurance
2.17
resident, located or to be performed in this state and written
directly by any insurer not then authorized to transact such
2.18
5

CODING Words in strike through type are deletions from existing law, words underlined are additions.
insurance lawfully written under part VI of chapter 626.  

Section 2. Section 628.611, Florida Statutes, 1982 Supplement, is amended to read:

(Substantial rewording of section. See s. 628.611, F.S., 1982 Supp., for present text.)

628.611 Reinsurance.--

(1)(a) A ceding captive insurer may reinsure all or any part of any particular risk or class of risks with an assuming insurer authorized by the department to transact such line of insurance or reinsurance in this state. Credit may be taken for reinsurance with an authorized insurer subject to the other requirements of this code.

(b) A ceding captive insurer may reinsure all or any part of any particular risk or class of risks with an assuming insurer approved by the department to transact such line of reinsurance in this state. The department shall approve only solvent insurers meeting the criteria established for authorized insurers in this state. From time to time the department shall publish a list of insurers approved pursuant to this subsection. Credit may be taken for reinsurance with an approved reinsurer subject to the other requirements of this code.

(c) A ceding captive insurer may reinsure all or any part of any particular risk or class of risks with an assuming underwriting member of an insurance exchange domiciled in any other state or jurisdiction in the United States provided the insurance exchange presents to the department for its approval and maintains satisfactory evidence that such assuming underwriting member maintains the standards and meets the financial requirements applicable to an authorized insurer.
Subject to the other provisions of this code, credit may be
taken for reinsurance with members approved under this
subsection by the department.

(d) A ceding captive insurer may reinsure all or any
part of any particular risk or class of risks with a group of
individual unincorporated alien insurers which maintains funds
held in trust for United States policyholders and
beneficiaries in a bank or trust company subject to
supervision by any state of the United States or which group
is a member of the Federal Reserve System in an amount not
less than $50,000,000 and which group satisfies the department
by filing annually evidence that it can meet its obligations
under its reinsurance agreements. Subject to the other
provisions of this code, credit may be taken for reinsurance
with a group approved under this subsection by the department.

(e) Credit in accounting and financial statements on
account of reinsurance ceded to a nonauthorized or nonapproved
reinsurer shall be allowed only:

1. Where it is demonstrated by the ceding captive
insurer to the satisfaction of the department that such
reinsurer maintains the standards and meets the financial
requirements applicable to an authorized insurer; or

2. To the extent of deposits by, or funds withheld
from, such reinsurer pursuant to express provision therefor in
the reinsurance contract as security for the payment of the
obligations thereunder if such deposits or funds are held
subject to withdrawal by, and under the control of, the ceding
captive insurer or are placed in trust for such purposes in a
bank which is a member of the Federal Reserve System if
withdrawals from the trust cannot be made without the consent
of the ceding captive insurer. Funds withheld may be cash or
securities qualified as admitted assets under part II of chapter 625 and which have a market value equal to or greater than the credit taken; or

3. To the extent that the amount of a clean and irrevocable letter of credit issued for a term of not less than 1 year conforming to the requirements set forth below, equals or exceeds the liability of a nonauthorized or nonapproved reinsurer for unearned premiums, outstanding losses and an adequate reserve for incurred but not reported losses under a specific reinsurance agreement. The requirements are that such a clean and irrevocable letter of credit shall be issued under arrangements satisfactory to the department as constituting security to the ceding captive insurer substantially equal to that of a deposit under subparagraph 2., and that it shall be issued by a banking institution which is a member of the Federal Reserve System and of financial standing satisfactory to the Commissioner. (2) The department shall disallow any credit which it finds would be contrary to the proper interest of the policyholders or stockholders of a ceding domestic captive insurer.

(3) No credit shall be allowed for reinsurance in a nonauthorized or nonapproved assuming insurer unless such insurer designates the Commissioner or a person resident in the United States as agent for service of process in any action arising out of or in connection with such reinsurance. (4) Credit shall be allowed to any ceding captive insurer for reinsurance otherwise complying with this section only where the reinsurance is payable by the assuming insurer on the basis of the liability of the ceding captive insurer under the contract or contracts reinsured without diminution.
because of insolvency of the ceding captive insurer. Credit
shall be allowed to any ceding captive insurer for reinsurance
otherwise complying with this section only where the
reinsurance agreement provides that payments by the assuming
insurer shall be made directly to the ceding captive insurer
or its receiver, except:

(a) Where the reinsurance specifically provides
payment to the named insured, assignee or named beneficiary of
the policy issued by the ceding captive insurer in the event
of the insolvency of the ceding captive insurer; or

(b) Where the assuming insurer, with the consent of
the named insured, has assumed the policy obligations of the
ceding captive insurer as direct obligations of the assuming
insurer in substitution for the obligations of the ceding
captive insurer to the named insured.

(5) No person, other than the ceding captive insurer,
shall have any rights against the reinsurer which are not
specifically set forth in the contract of reinsurance or in a
specific written, signed agreement between the reinsurer and
the person.

(6) No captive insurer shall knowingly accept as
assuming reinsurer any risk covering a subject of insurance
resident, located or to be performed in this state and written
directly by any insurer not then authorized to transact such
insurance in this state, other than as to surplus lines
insurance lawfully written under part VI of chapter 626.

Section 3. Section 629.501, Florida Statutes, 1982
Supplement, is amended to read:

(Substantial rewording of section. See
s. 629.501, F.S., 1982 Supp., for present text.)

629.501 Reinsurance.--

CODING Words in struck through type are deletions from existing law, words underlined are additions.
(1) (a) A ceding limited reciprocal insurer may reinsure all or any part of any particular risk or class of risks with an assuming insurer authorized by the department to transact such line of insurance or reinsurance in this state. Credit may be taken for reinsurance with an authorized insurer subject to the other requirements of this code.

(b) A ceding limited reciprocal insurer may reinsure all or any part of any particular risk or class of risks with an assuming insurer approved by the department to transact such line of reinsurance in this state. The department shall approve only solvent insurers meeting the criteria established for authorized insurers in this state. From time to time the department shall publish a list of insurers approved pursuant to this subsection. Credit may be taken for reinsurance with an approved reinsurer subject to the other requirements of this code.

(c) A ceding limited reciprocal insurer may reinsure all or any part of any particular risk or class of risks with an assuming underwriting member of an insurance exchange domiciled in any other state or jurisdiction in the United States provided the insurance exchange presents to the department for its approval and maintains satisfactory evidence that such assuming underwriting member maintains the standards and meets the financial requirements applicable to an authorized insurer. Subject to the other provisions of this section, credit may be taken for reinsurance with members approved under this subsection by the department.

(d) A ceding limited reciprocal insurer may reinsure all or any part of any particular risk or class of risks with a group of individual unincorporated alien insurers which maintains funds held in trust for United States policyholders.
nonapproved reinsurer for unearned premiums, outstanding losses and an adequate reserve for incurred but not reported losses under a specific reinsurance agreement. The requirements are that such a clean and irrevocable letter of credit shall be issued under arrangements satisfactory to the department as constituting security to the ceding limited reciprocal insurer substantially equal to that of a deposit under subparagraph 2., and that it shall be issued by a banking institution which is a member of the Federal Reserve System and of financial standing satisfactory to the Commissioner.

(2) The department shall disallow any credit which it finds would be contrary to the proper interest of the policyholders or stockholders of a ceding domestic limited reciprocal insurer.

(3) No credit shall be allowed for reinsurance in a nonauthorized or nonapproved assuming limited reciprocal insurer unless such insurer designates the Commissioner or a person resident in the United States as agent for service of process in any action arising out of or in connection with such reinsurance.

(4) Credit shall be allowed to any ceding limited reciprocal insurer for reinsurance otherwise complying with this section only where the reinsurance is payable by the assuming insurer on the basis of the liability of the ceding limited reciprocal insurer under the contract or contracts reinsured without diminution because of insolvency of the ceding insurer. Credit shall be allowed to any ceding limited reciprocal insurer for reinsurance otherwise complying with this section only where the reinsurance agreement provides that payments by the assuming insurer shall be made directly.
and beneficiaries in a bank or trust company subject to supervision by any state of the United States or which group is a member of the Federal Reserve System in an amount not less than $50,000,000 and which group satisfies the department by filing annually evidence that it can meet its obligations under its reinsurance agreements. Credit may be taken for reinsurance with groups approved under this subsection by the department.

(e) Credit in accounting and financial statements on account of reinsurance ceded to a nonauthorized or nonapproved reinsurer shall be allowed only:

1. Where it is demonstrated by the ceding limited reciprocal insurer to the satisfaction of the department that such reinsurer maintains the standards and meets the financial requirements applicable to an authorized insurer; or

2. To the extent of deposits by, or funds withheld from, such reinsurer pursuant to express provision therefor in the reinsurance contract as security for the payment of the obligations thereunder if such deposits or funds are held subject to withdrawal by, and under the control of, the ceding limited reciprocal insurer or are placed in trust for such purposes in a bank which is a member of the Federal Reserve System if withdrawals from the trust cannot be made without the consent of the ceding limited reciprocal insurer. Funds withheld may be cash or securities qualified as admitted assets under part II of chapter 625, and which have a market value equal to or greater than the credit taken; or

3. To the extent that the amount of a clean and irrevocable letter of credit issued for a term of not less than 1 year conforming to the requirements set forth below, equals or exceeds the liability of a nonauthorized or

CODING Words in struck through type are deletions from existing law, words underlined are additions.
to the ceding limited reciprocal insurer or its receiver, except:

(a) Where the reinsurance agreement specifically provides payment to the named insured, assignee or named beneficiary of the policy issued by the ceding limited reciprocal insurer in the event of the insolvency of the ceding limited reciprocal insurer; or

(b) Where the assuming insurer, with the consent of the named insured, has assumed the policy obligations of the ceding limited reciprocal insurer as direct obligations of the assuming insurer in substitution for the obligations of the ceding limited reciprocal insurer to the named insured.

(5) No person, other than the ceding limited reciprocal insurer, shall have any rights against the reinsurer which are not specifically set forth in the contract of reinsurance or in a specific written, signed agreement between the reinsurer and the person.

(6) No limited reciprocal insurer shall knowingly accept as assuming reinsurer any risk covering a subject of insurance resident, located or to be performed in this state and written directly by any insurer not then authorized to transact such insurance in this state, other than as to surplus lines insurance lawfully written under part VI of chapter 626.

Section 4. This act shall take effect October 1, 1983.
HOUSE SUMMARY

Reviews the types of risks or classes of risks which ceding insurers may reinsure. Expands the types of insurers and entities with whom a ceding insurer may reinsure such risks. Conforms provisions relating to reinsurance by captive insurers and limited reciprocal insurers.
I. SUMMARY:

A. Present Situation:

Section 624.410, Florida Statutes, provides the standards for allowing insurers to reinsure their risks and for allowing insurers to accept reinsurance. By ceding risks to a reinsurer as authorized by this section, an insurer may reduce its liabilities reported in its annual financial statement. Ambiguities in the current law make it unclear under certain circumstances whether insurers are authorized to reduce their liabilities for ceded risks.

Currently, an insurer may accept reinsurance only of risks it is authorized to insure directly.

Insurers are authorized to reinsure risks with insurers licensed to transact insurance in this state or approved by the Department of Insurance for the purpose of such reinsurance. Under current law, the department shall not approve any proposed reinsurance which it finds would be contrary to the proper interests of the policyholders or stockholders of a ceding domestic insurer.

Currently, a provision is required in the reinsurance treaty that the reinsurance is payable by the assuming insurer to the ceding insurer on the basis of the liability of the ceding insurer under the contracts reinsured without diminution because of the insolvency of the ceding insurer.

B. Effect of Proposed Changes:

The bill provides the following specific standards as to which entities may be approved for reinsurance purposes:

- An insurer authorized to do business in this state.
- An insurer not authorized to do business in this state but who meets the criteria established for an authorized insurer.
- An insurance exchange domiciled in any other state which meets the standards and financial requirements applicable to an authorized insurer.
- A group of unincorporated alien insurers (e.g. Lloyd's of London) which maintains at least $50,000,000 held in trust for United States policyholders in a United States bank or trust company and who otherwise satisfies the department that it can meet its obligations under its reinsurance agreements.
- Non-authorized or non-approved entities if funds are held in trust or secured by a letter of credit subject to control by
the ceding insurer providing security for the payment of obligations under the reinsurance treaties.

New provisions are added requiring non-authorized or non-approved assuming insurers to designate the Commissioner or a person resident in the United States as agent for service of process.

Under this bill, reinsurance is payable by the assuming insurer to the ceding insurer on the basis of the liability of the ceding insurer under the contracts reinsured without diminution because of the insolvency of the ceding insurer except:

- Where the reinsurance agreement specifically provides for direct payment to the named insured in the event of the insolvency of the ceding insurer, or

- Where the assuming insurer with the consent of the insured has assumed the policy obligations of the ceding insurer.

The bill also clarifies the interest of third parties in a reinsurance contract. The basic principle of reinsurance distinguishing it from primary insurance is that it is a contract of indemnity between only the reinsurer and the ceding insurer. The only exception to this rule is when the reinsurer expressly assumes its ceding insurers' policy obligations to the insured or specifies the insured as a payee under the reinsurance contract.

The bill deletes the current exemption for title insurance, wet marine and transportation insurance from the section.

Sections 628.611 and 629.501, Florida Statutes, are amended to make the above provisions applicable to captive insurers and limited reciprocal insurers.

II. ECONOMIC IMPACT AND FISCAL NOTE:

A. Public:

By specifying in greater detail the requirements for reinsuring risks, the bill will alleviate problems experienced by insurers in determining whether ceded risks could be deducted from its liabilities on the annual statement filed with the department. To the extent that ceded risks are more clearly authorized, this will be to the financial benefit of insurers.

B. Government:

None.

III. COMMENTS:

IV. AMENDMENTS:
A bill to be entitled
An act relating to reinsurance, amending ss.
624.610, 628.611, 629.501, Florida Statutes,
1982 Supplement, providing minimum standards
for reinsurance contracts which must be met in
order for a domestic, captive, or reciprocal
insurer to receive credit for reinsurance;
providing that no person other than the ceding
insurer has rights against the reinsurer not
specifically stated by contract; providing an
effective date.

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

Section 1. Section 624.610, Florida Statutes, 1982
Supplement, is amended to read:

(Substantial rewording of section. See
s. 624 610, F.S., 1982 Supp., for present text.)
624.610 Reinsurance.--
(1) An insurer may assume reinsurance only of such
risks, and retain risk thereon within such limits, as it is
otherwise authorized to insure or reinsure. No insurer shall
cede or retrocede credit life insurance, credit disability
insurance, or both credit life and credit disability insurance
covering a risk located or written in this state to any
insurer not authorized to transact insurance in this state or
approved by the department for such line of insurance.
(2)(a) A ceding insurer may reinsure all or any part
of any particular risk or class of risks with an assuming
insurer authorized by the department to transact such line of
insurance or reinsurance in this state. Credit may be taken

CODING: Words in struck through type are deletions from existing law, words underlined are additions.
for reinsurance with an authorized insurer subject to the
other requirements of this code

(b) A ceding insurer may reinsure all or any part of
any particular risk or class of risks with an assuming insurer
approved by the department to transact such line of
reinsurance in this state. The department shall approve only
solvent insurers meeting the criteria established for
authorized insurers in this state. From time to time the
department shall publish a list of insurers approved pursuant
to this subsection. Credit may be taken for reinsurance with
an approved reinsurer subject to the other requirements of
this code.

(c) A ceding insurer may reinsure all or any part of
any particular risk or class of risks with an assuming
underwriting member of an insurance exchange domiciled in any
other state or jurisdiction in the United States provided the
insurance exchange presents to the department for its approval
and maintains satisfactory evidence that such assuming
underwriting member maintains the standards and meets the
financial requirements applicable to an authorized insurer.
Credit may be taken for reinsurance with members approved
under this subsection by the department.

(d) A ceding insurer may reinsure all or any part of
any particular risk or class of risks with a group of
individual, unincorporated alien underwriters which maintain
funds held in trust for United States policyholders and
beneficiaries in a bank or trust company subject to
supervision by any state of the United States or that is a
member of the Federal Reserve System in an amount not less
than $50,000,000 and which group satisfies the department by
filing annually evidence that it can meet its obligations
under its reinsurance agreements. Credit may be taken for
reinsurance with groups approved under this subsection by the
department.

(e) A ceding insurer which assumes a substantial
volume of reinsurance may retrocede all or part of any
particular risk or class of risks with any assuming insurer
and take credit for such reinsurance, whether or not the
assuming insurer is authorized or approved by the department
and whether or not funds are withheld by the ceding insurer,
unless such retrocessions are found by the department, to be
for the purpose of evasion of other requirements or
prohibitions of this code.

(f) Credit in accounting and financial statements on
account of reinsurance ceded to a nonauthorized or nonapproved
reinsurer shall be allowed only.

1. Where it is demonstrated by the ceding insurer to
the satisfaction of the department that such reinsurer
maintains the standards and meets the financial requirements
applicable to an authorized insurer,

2. To the extent of deposits by, or funds withheld
from, such reinsurer pursuant to express provision therefor in
the reinsurance contract as security for the payment of the
obligations thereunder if such deposits or funds are held
subject to withdrawal by, and under the control of, the ceding
insurer or are placed in trust for such purposes in a bank
which is a member of the Federal Reserve System if withdrawals
from the trust cannot be made without the consent of the
ceding insurer. Funds withheld may be cash or securities
qualified as admitted assets under part II of chapter 625 and
which have a market value equal to or greater than the credit
taken; or

CODING: Words in struck through type are deletions from existing law, words underlined are additions.
3. To the extent that the amount of a clean and irrevocable letter of credit issued for a term of not less than one year conforming to the requirements set forth below, equals or exceeds the liability of an unauthorized or unapproved reinsurer for unearned premiums, outstanding losses, and an adequate reserve for incurred but not reported losses under a specific reinsurance agreement. The requirements are that such a clean and irrevocable letter of credit shall be issued under arrangements satisfactory to the department as constituting security to the ceding insurer substantially equal to that of a deposit under subparagraph 2., and that it shall be issued by a banking institution which is a member of the Federal Reserve System and of financial standing satisfactory to the commissioner.

(3) The department shall disallow any credit which it finds would be contrary to the proper interest of the policyholders or stockholders of a ceding domestic insurer.

(4) No credit shall be allowed for reinsurance in an unauthorized or unapproved assuming insurer unless such insurer designates the commissioner or a person resident in the United States as agent for service of process in any action arising out of or in connection with such reinsurance.

(5) For reinsurance involving the payment of provisional commissions, only the guaranteed minimum commission and any portion in excess of the minimum which has been earned under the provisions of the contract shall be treated by the company as an asset.

(6) Credit shall be allowed to any ceding insurer for reinsurance otherwise complying with this section only where the reinsurance is payable by the assuming insurer on the basis of the liability of the ceding insurer under the
contract or contracts reinsured without diminution because of
insolvency of the ceding insurer. Credit shall be allowed to
any ceding insurer for reinsurance otherwise complying with
this section only where the reinsurance agreement provides
that payments by the assuming insurer shall be made directly
to the ceding insurer or its receiver, except where:

(a) The reinsurance contract specifically provides
payment to the named insured, assignee, or named beneficiary
of the policy issued by the ceding insurer in the event of the
insolvency of the ceding insurer, or

(b) The assuming insurer, with the consent of the
direct insured, has assumed the policy obligations of the
ceding insurer as direct obligations of the assuming insurer
in substitution for the obligations of the ceding insurer to
the named insured.

(7) No person, other than the ceding insurer, shall
have any rights against the reinsurer which are not
specifically set forth in the contract of reinsurance or in a
specific written, signed agreement between the reinsurer and
the person.

(8) No authorized insurer shall knowingly accept as
assuming reinsurer any risk covering a subject or insurance
resident, located, or to be performed in this state and
written directly by any insurer not then authorized to
transact such insurance in this state, other than as to
surplus lines insurance lawfully written under part VI of
chapter 626.

Section 2. Section 628.611, Florida Statutes, 1982
Supplement, is amended to read:

(Substantial rewording of section. See
s. 628.611, F.S., 1982 Supp., for present text.)
628.611 Reinsurance.--

(1)(a) A ceding captive insurer may reinsure all or any part of any particular risk with an assuming insurer authorized by the department to transact such line of insurance or reinsurance in this state. Credit may be taken for reinsurance with an authorized or approved insurer subject to the other requirements of this code.

(b) A ceding captive insurer may reinsure all or any part of any particular risk or class of risks with an assuming insurer approved by the department to transact such line of reinsurance in this state. The department shall approve only solvent insurers meeting the criteria established for authorized insurers in this state. From time to time the department shall publish a list of insurers approved pursuant to this subsection. Credit may be taken for reinsurance with an approved reinsurer subject to the other requirements of this code.

(c) Credit in accounting and financial statements on account of reinsurance ceded to an unauthorized or unapproved reinsurer shall be allowed only

1. Where it is demonstrated by the ceding captive insurer to the satisfaction of the department that such reinsurer maintains the standards and meets the financial requirements applicable to an authorized insurer;

2. To the extent of deposits by, or funds withheld from, such reinsurer pursuant to express provision therefor in the reinsurance contract as security for the payment of the obligations thereunder if such deposits or funds are held subject to withdrawal by, and under the control of, the ceding captive insurer or are placed in trust for such purposes in a bank which is a member of the Federal Reserve System.
withdrawals from the trust cannot be made without the consent of the ceding captive insurer. Funds withheld may be cash or securities qualified as admitted assets under part II of chapter 625, and which have a market value equal to or greater than the credit taken, or

3 To the extent that the amount of a clean and irrevocable letter of credit issued for a term of not less than one year conforming to the requirements set forth below, equals or exceeds the liability of an unauthorized or unapproved reinsurer for unearned premiums, outstanding losses, and an adequate reserve for incurred but not reported losses under a specific reinsurance agreement. The requirements are that such a clean and irrevocable letter of credit shall be issued under arrangements satisfactory to the department as constituting security to the ceding captive insurer substantially equal to that of a deposit under subparagraph 2., and that it shall be issued by a banking institution which is a member of the Federal Reserve System and of financial standing satisfactory to the commissioner.

(d) A ceding captive insurer may reinsure all or any part of any particular risk or class of risks with an assuming underwriting member of an insurance exchange domiciled in any other state or jurisdiction in the United States if the insurance exchange presents to the department for its approval and maintains satisfactory evidence that such assuming underwriting member maintains the standards and meets the financial requirements applicable to an authorized insurer.

(e) A ceding captive insurer which assumes a substantial volume of reinsurance may retrocede all or part of any particular risk or class of risks with any assuming insurer and take credit for such reinsurance, whether or not

CODING: Words in struck through type are deletions from existing law, words underlined are additions.
the assuming insurer is authorized or approved by the department and whether or not funds are withheld by the ceding captive insurer, unless such retrocessions are found by the department to be for the purpose of evasion of other requirements or prohibitions of this code.

(2) The department shall disallow any credit which it finds would be contrary to the proper interest of the policyholders or stockholders of a ceding captive insurer.

(3) No credit shall be allowed for reinsurance in an unauthorized or unapproved assuming insurer unless such insurer designates the commissioner or a person resident in the United States as agent for service of process in any action arising out of or in connection with such reinsurance.

(4) No credit shall be allowed for reinsurance unless there is a bona fide agreement to transfer risk from the ceding captive insurer to the reinsurer and that the surplus committed by the reinsurer to the ceding captive insurer cannot be recovered at the reinsurer's own option or at the insolvency of the ceding company but only by the working out of the business reinsured or by the election of the ceding captive insurer.

(5) For reinsurance involving the payment of provisional commissions, only the guaranteed minimum commission and any portion in excess of the minimum which has been earned under the provisions of the contract shall be treated by the company as an asset.

(6) Credit shall be allowed to any ceding captive insurer for reinsurance otherwise complying with this section only where the reinsurance is payable by the assuming insurer on the basis of the liability of the ceding captive insurer under the contract or contracts reinsured without diminution.

CODING. Words in struck through type are deletions from existing law, words underlined are additions.
because of insolvency of the ceding insurer. Credit shall be
allowed to any ceding captive insurer for reinsurance
otherwise complying with this section only where the
reinsurance agreement provides that payments by the assuming
insurer shall be made directly to the ceding captive insurer
or its receiver, except where:

(a) The reinsurance contract specifically provides
payment to the named insured, assignee, or named beneficiary
of the policy issued by the ceding insurer in the event of the
insolvency of the ceding insurer; or

(b) The assuming insurer, with the consent of the
named insured, has assumed the policy obligations of the
ceding captive insurer as direct obligations of the assuming
insurer in substitution for the obligations of the ceding
insurer to the direct insured.

(7) No person, other than the ceding captive insurer,
shall have any rights against the reinsurer which are not
specifically set forth in the contract of reinsurance or in a
specific written, signed agreement between the reinsurer and
the person.

(8) No captive insurer shall knowingly accept as
assuming reinsurer any risk covering a subject or insurance
resident, located, or to be performed in this state and
written directly by any insurer not then authorized to
transact such insurance in this state, other than as to
surplus lines insurance lawfully written under part VI of
chapter 626.

Section 3. Section 629 501, Florida Statutes, 1982
Supplement, is amended to read:

(Substantial rewording of section. See
s. 629.501, F.S., 1982 Supp., for present text.)
629.501 Reinsurance.--

(1)(a) A ceding limited reciprocal insurer may reinsure all or any part of any particular risk with an assuming insurer authorized by the department to transact such line of insurance in this state. Credit may be taken for reinsurance with an authorized or approved insurer subject to the other requirements of this code.

(b) A ceding limited reciprocal insurer may reinsure all or any part of any particular risk or class of risks with an assuming insurer approved by the department to transact such line of reinsurance in this state. The department shall approve only solvent insurers meeting the criteria established for authorized insurers in this state. From time to time the department shall publish a list of insurers approved pursuant to this subsection. Credit may be taken for reinsurance with an approved reinsurer subject to the other requirements of this code.

(c) Credit in accounting and financial statements on account of reinsurance ceded to an unauthorized or unapproved reinsurer shall be allowed only.

1. Where it is demonstrated by the ceding limited reciprocal insurer to the satisfaction of the department that such reinsurer maintains the standards and meets the financial requirements applicable to an authorized insurer;

2. To the extent of deposits by, or funds withheld from, such reinsurer pursuant to express provisions therefor in the reinsurance contract as security for the payment of the obligations thereunder if such deposits or funds are held subject to withdrawal by, and under the control of, the ceding limited reciprocal insurer or are placed in trust for such purposes in a bank which is a member of the Federal Reserve System.
System if withdrawals from the trust cannot be made without
the consent of the ceding limited reciprocal insurer. Funds
withheld may be cash or securities qualified as admitted
assets under part II of chapter 625, and which have a market
value equal to or greater than the credit taken; or

3. To the extent that the amount of a clean and
irrevocable letter of credit issued for a term of not less
than one year conforming to the requirements set forth below,
equals or exceeds the liability of an unauthorized or
unapproved reinsurer for unearned premiums, outstanding losses
and an adequate reserve for incurred but not reported losses
under a specific reinsurance agreement. The requirements are
that such a clean and irrevocable letter of credit shall be
issued under arrangements satisfactory to the department as
constituting security to the ceding limited reciprocal insurer
substantially equal to that of a deposit under subparagraph
2., and that it shall be issued by a banking institution which
is a member of the Federal Reserve System and of financial
standing satisfactory to the commissioner.

(d) A ceding limited reciprocal insurer may reinsure
all or any part of any particular risk or class of risks with
an assuming underwriting member of an insurance exchange
domiciled in any other state or jurisdiction in the United
States if the insurance exchange presents to the department
for its approval and maintains satisfactory evidence that such
assuming underwriting member maintains the standards and meets
the financial requirements applicable to an authorized
insurer.

(e) A ceding limited reciprocal insurer which assumes
a substantial volume of reinsurance may retrocede all or part
of any particular risk or class of risks with any assuming
insurer and take credit for such reinsurance, whether or not
the assuming insurer is authorized or approved by the
department and whether or not funds are withheld by the ceding
insurer, unless such retrocessions are found by the
department, to be for the purpose of evasion of other
requirements or prohibitions of this code.

(2) The department shall not disallow any credit which
it finds would be contrary to the proper interest of the
policyholders or stockholders of a ceding limited reciprocal
insurer.

(3) No credit shall be allowed for reinsurance in an
unauthorized or unapproved assuming insurer unless such
insurer designates the commissioner or a person resident in
the United States as agent for service of process in any
action arising out of or in connection with such reinsurance.

(4) No credit shall be allowed for reinsurance unless
there is a bona fide agreement to transfer risk from the
ceding limited reciprocal insurer to the reinsurer and that
the surplus committed by the reinsurer to the ceding limited
reciprocal insurer cannot be recovered at the reinsurer's own
option or at the insolvency of the ceding company but only by
the working out of the business reinsured or by the election
of the ceding limited reciprocal insurer.

(5) For reinsurance involving the payment of
provisional commissions, only the guaranteed minimum
commission and any portion in excess of the minimum which has
been earned under the provisions of the contract shall be
treated by the company as an asset.

(6) Credit shall be allowed to any ceding insurer for
reinsurance otherwise complying with this section only where
the reinsurance is payable by the assuming insurer on the
basis of the liability of the ceding insurer under the
contract or contracts reinsured without diminution because of
insolvency of the ceding insurer. Credit shall be allowed to
any ceding limited reciprocal insurer for reinsurance
otherwise complying with this section only where the
reinsurance agreement provides that payments by the assuming
insurer shall be made directly to the ceding limited
reciprocal insurer or its receiver, except where:

(a) The reinsurance contract specifically provides
payment to the named insured, assignee, or named beneficiary
of the policy issued by the ceding limited reciprocal insurer
in the event of the insolvency of the ceding insurer; or

(b) The assuming insurer, with the consent of the
named insured, has assumed the policy obligations of the
ceding limited reciprocal insurer as direct obligations of the
assuming insurer in substitution for the obligations of the
ceding insurer to the direct insured.

(7) No person, other than the ceding limited
reciprocal insurer, shall have any rights against the
reinsurer which are not specifically set forth in the contract
of reinsurance or in a specific written, signed agreement
between the reinsurer and the person.

(8) No limited reciprocal insurer shall knowingly
accept as assuming reinsurer any risk covering a subject of
insurance resident, located, or to be performed in this state
and written directly by any insurer not then authorized to
transact such insurance in this state, other than as to
surplus lines insurance lawfully written under part VI of
chapter 626.

Section 4. This act shall take effect October 1, 1983.

CODING. Words in struck through type are deletions from existing law, words underlined are additions.
SENATE SUMMARY

Revises various provisions relating to reinsurance
Provides minimum standards for reinsurance contracts of
domestic, captive, and limited reciprocal insurers.
Provides that no person other than the ceding insurer has
rights against the reinsurer other than those stated in
the contract.
A bill to be entitled

An act relating to reinsurance; amending ss
624.610, 628.611, 629.501, Florida Statutes,
1982 Supplement; providing minimum standards
for reinsurance contracts which must be met in
order for a domestic, captive, or reciprocal
insurer to receive credit for reinsurance,
providing that no person other than the ceding
insurer has rights against the reinsurer not
specifically stated by contract, providing an
effective date.

Be It Enacted by the Legislature of the State of Florida

Section 1. Section 624.610, Florida Statutes, 1982
Supplement, is amended to read:

(Substantial rewording of section. See
s 624.610, F S., 1982 Supp., for present text.)

624.610 Reinsurance.—

(1) An insurer may assume reinsurance only of such
risks, and retain risk thereon within such limits, as it is
otherwise authorized to insure or reinsure. No insurer shall
cede or retrocede credit life insurance, credit disability
insurance, or both credit life and credit disability insurance
covering a risk located or written in this state to any
insurer not authorized to transact insurance in this state or
approved by the department for such line of insurance.

(2)(a) A ceding insurer may reinsure all or any part
of any particular risk or class of risks with an assuming
insurer authorized by the department to transact such line of
insurance or reinsurance in this state. Credit may be taken

CODING Words in struck through type are deletions from existing law, words underlined are additions.
for reinsurance with an authorized insurer subject to the
other requirements of this code.

(b) A ceding insurer may reinsurance all or any part of
any particular risk or class of risks with an assuming insurer
approved by the department to transact such line of
reinsurance in this state. The department shall approve only
solvent insurers meeting the criteria established for
authorized insurers in this state. From time to time the
department shall publish a list of insurers approved pursuant
to this subsection Credit may be taken for reinsurance with
an approved reinsurer subject to the other requirements of
this code.

(c) A ceding insurer may reinsurance all or any part of
any particular risk or class of risks with an assuming
underwriting member of an insurance exchange domiciled in any
other state or jurisdiction in the United States provided the
insurance exchange presents to the department for its approval
and maintains satisfactory evidence that such assuming
underwriting member maintains the standards and meets the
financial requirements applicable to an authorized insurer
Subject to the other requirements of this section, credit may
be taken for reinsurance with members approved under this
subsection by the department.

(d) A ceding insurer may reinsurance all or any part of
any particular risk or class of risks with a group of
individual, unincorporated alien insurers which maintains
funds held in trust for United States policyholders and
beneficiaries in a bank or trust company subject to
supervision by any state of the United States or which group
is a member of the Federal Reserve System in an amount not
less than $50,000,000 and which group satisfies the department

CODING Words in strike through type are deletions from existing law, words underlined are additions.
by filing annually evidence that it can meet its obligations
under its reinsurance agreements. Subject to the other
requirements of this section, credit may be taken for
reinsurance with a group approved under this subsection by the
department.

(e) Credit in accounting and financial statements on
account of reinsurance ceded to a nonauthorized or nonapproved
reinsurer shall be allowed only:

1 Where it is demonstrated by the ceding insurer to
the satisfaction of the department that such reinsurer
maintains the standards and meets the financial requirements
applicable to an authorized insurer, or

2 To the extent of deposits by, or funds withheld
from, such reinsurer pursuant to express provision therefor in
the reinsurance contract as security for the payment of the
obligations thereunder if such deposits or funds are held
subject to withdrawal by, and under the control of, the ceding
insurer or are placed in trust for such purposes in a bank
which is a member of the Federal Reserve System if withdrawals
from the trust cannot be made without the consent of the
ceding insurer. Funds withheld may be cash or securities
qualified as admitted assets under part II of chapter 625 and
which have a market value equal to or greater than the credit
taken, or

3. To the extent that the amount of a clean and
irrevocable letter of credit issued for a term of not less
than one year conforming to the requirements set forth below,
equals or exceeds the liability of an unauthorized or
unapproved reinsurer for unearned premiums, outstanding
losses, and an adequate reserve for incurred but not reported
losses under a specific reinsurance agreement. The

CODING Words in square brackets are deletions from existing law, words underlined are additions.
requirements are that such a clean and irrevocable letter of
credit shall be issued under arrangements satisfactory to the
department as constituting security to the ceding insurer
substantially equal to that of a deposit under subparagraph
2, and that it shall be issued by a banking institution which
is a member of the Federal Reserve System and of financial
standing satisfactory to the commissioner.

(f) A ceding insurer which assumes a substantial
volume of reinsurance may retrocede all or part of any
particular risk or class of risks with any assuming insurer
and take credit for such reinsurance, whether or not the
assuming insurer is authorized or approved by the department
and whether or not funds are withheld by the ceding insurer,
unless such retrocessions are found by the department, to be
for the purpose of evasion of other requirements or
prohibitions of this code.

(3) The department shall disallow any credit which it
finds would be contrary to the proper interest of the policy-
holders or stockholders of a ceding domestic insurer.

(4) No credit shall be allowed for reinsurance in an
unauthorized or unapproved assuming insurer unless such
insurer designates the commissioner or a person resident in
the United States as agent for service of process in any
action arising out of or in connection with such reinsurance

(5) Credit shall be allowed to any ceding insurer for
reinsurance otherwise complying with this section only where
the reinsurance is payable by the assuming insurer on the
basis of the liability of the ceding insurer under the
contract or contracts reinsured without diminution because of
insolvency of the ceding insurer. Credit shall be allowed to
any ceding insurer for reinsurance otherwise complying with
this section only where the reinsurance agreement provides
that payments by the assuming insurer shall be made directly
to the ceding insurer or its receiver, except where

(a) The reinsurance contract specifically provides
payment to the named insured, assignee, or named beneficiary
of the policy issued by the ceding insurer in the event of the
insolvency of the ceding insurer, or

(b) The assuming insurer, with the consent of the
named insured, has assumed the policy obligations of the
ceding insurer as direct obligations of the assuming insurer
in substitution for the obligations of the ceding insurer to
the named insured.

(6) No person, other than the ceding insurer, shall
have any rights against the reinsurer which are not
specifically set forth in the contract of reinsurance or in a
specific written, signed agreement between the reinsurer and
the person.

(7) No authorized insurer shall knowingly accept as
assuming reinsurer any risk covering a subject of insurance
resident, located, or to be performed in this state and
written directly by any insurer not then authorized to
transact such insurance in this state, other than as to
surplus lines insurance lawfully written under part VI of
chapter 626

Section 2. Section 628.611, Florida Statutes, 1982
Supplement, is amended to read:

(Substantial rewording of section. See

s 628.611, F S , 1982 Supp., for present text.)
628.611 Reinsurance.--

(1)(a) A ceding captive insurer may reinsure all or
any part of any particular risk or class of risks with an
assuming insurer authorized by the department to transact such
line of insurance or reinsurance in this state. Credit may be
taken for reinsurance with an authorized insurer subject to
the other requirements of this code

(b) A ceding captive insurer may reinsure all or any
part of any particular risk or class of risks with an assuming
insurer approved by the department to transact such line of
reinsurance in this state. The department shall approve only
solvent insurers meeting the criteria established for
authorized insurers in this state. From time to time the
department shall publish a list of insurers approved pursuant
to this subsection. Credit may be taken for reinsurance with
an approved reinsurer subject to the other requirements of
this code.

(c) A ceding captive insurer may reinsure all or any
part of any particular risk or class of risks with an assuming
underwriting member of an insurance exchange domiciled in any
other state or jurisdiction in the United States provided the
insurance exchange presents to the department for its approval
and maintains satisfactory evidence that such assuming
underwriting member maintains the standards and meets the
financial requirements applicable to an authorized insurer.
Subject to the other provisions of this code, credit may be
taken for reinsurance with members approved under this
subsection by the department.

(d) A ceding captive insurer may reinsure all or any
part of any particular risk or class of risks with a group of
individual unincorporated alien insurers which maintains funds
held in trust for United States policyholders and
beneficiaries in a bank or trust company subject to
supervision by any state of the United States or that is a
member of the Federal Reserve System in an amount not less
than $50,000,000 and which group satisfies the department by
filing annually evidence that it can meet its obligations
under its reinsurance agreements. Subject to the other
provisions of this code, credit may be taken for reinsurance
with groups approved under this subsection by the department.

(e) Credit in accounting and financial statements on
account of reinsurance ceded to an unauthorized or unapproved
reinsurer shall be allowed only

1. Where it is demonstrated by the ceding captive
insurer to the satisfaction of the department that such
reinsurer maintains the standards and meets the financial
requirements applicable to an authorized insurer,

2. To the extent of deposits by, or funds withheld
from, such reinsurer pursuant to express provision therefor in
the reinsurance contract as security for the payment of the
obligations thereunder if such deposits or funds are held
subject to withdrawal by, and under the control of, the ceding
captive insurer or are placed in trust for such purposes in a
bank which is a member of the Federal Reserve System if
withdrawals from the trust cannot be made without the consent
of the ceding captive insurer. Funds withheld may be cash or
securities qualified as admitted assets under part II of
chapter 625, and which have a market value equal to or greater
than the credit taken, or

3. To the extent that the amount of a clean and
irrevocable letter of credit issued for a term of not less
than one year conforming to the requirements set forth below,
equals or exceeds the liability of an unauthorized or
unapproved reinsurer for unearned premiums, outstanding
lesses, and an adequate reserve for incurred but not reported

CODING Words in struck through type are deletions from existing law, words underlined are additions.
losses under a specific reinsurance agreement. The
requirements are that such a clean and irrevocable letter of
credit shall be issued under arrangements satisfactory to the
department as constituting security to the ceding captive
insurer substantially equal to that of a deposit under
subsection 2, and that it shall be issued by a banking
institution which is a member of the Federal Reserve System
and of financial standing satisfactory to the commissioner.

(2) The department shall disallow any credit which it
finds would be contrary to the proper interest of the
policyholders or stockholders of a ceding captive insurer

(3) No credit shall be allowed for reinsurance in an
unauthorized or unapproved assuming insurer unless such
insurer designates the commissioner or a person resident in
the United States as agent for service of process in any
action arising out of or in connection with such reinsurance.

(4) Credit shall be allowed to any ceding captive
insurer for reinsurance otherwise complying with this section
only where the reinsurance is payable by the assuming insurer
on the basis of the liability of the ceding captive insurer
under the contract or contracts reinsured without diminution
because of insolvency of the ceding captive insurer. Credit
shall be allowed to any ceding captive insurer for reinsurance
otherwise complying with this section only where the
reinsurance agreement provides that payments by the assuming
insurer shall be made directly to the ceding captive insurer
or its receiver, except where

(a) The reinsurance agreement specifically provides
payment to the named insured, assignee, or named beneficiary
of the policy issued by the ceding captive insurer in the
event of the insolvency of the ceding insurer; or
(b) The assuming insurer, with the consent of the
named insured, has assumed the policy obligations of the
ceding captive insurer as direct obligations of the assuming
insurer in substitution for the obligations of the ceding
insurer to the named insured.

(5) No person, other than the ceding captive insurer,
shall have any rights against the reinsurer which are not
specifically set forth in the contract of reinsurance or in a
specific written, signed agreement between the reinsurer and
the person.

(6) No captive insurer shall knowingly accept as
assuming reinsurer any risk covering a subject of insurance
resident, located, or to be performed in this state and
written directly by any insurer not then authorized to
transact such insurance in this state, other than as to
surplus lines insurance lawfully written under part VI of
chapter 626.

Section 3. Section 629 501, Florida Statutes, 1982
Supplement, is amended to read

(Substantial rewording of section. See
s 629 501, F S , 1982 Supp , for present text.)

629 501 Reinsurance --

(1)(a) A ceding limited reciprocal insurer may
reinsure all or any part of any particular risk or class of
risks with an assuming insurer authorized by the department to
transact such line of insurance or reinsurance in this state.
Credit may be taken for reinsurance with an authorized insurer
subject to the other requirements of this code.

(b) A ceding limited reciprocal insurer may reinsure
all or any part of any particular risk or class of risks with
an assuming insurer approved by the department to transact
such line of reinsurance in this state. The department shall approve only solvent insurers meeting the criteria established for authorized insurers in this state. From time to time the department shall publish a list of insurers approved pursuant to this subsection. Credit may be taken for reinsurance with an approved reinsurer subject to the other requirements of this code.

(c) A ceding limited reciprocal insurer may reinsure all or any part of any particular risk or class of risks with an assuming underwriting member of an insurance exchange domiciled in any other state or jurisdiction in the United States provided the insurance exchange presents to the department for its approval and maintains satisfactory evidence that such assuming underwriting member maintains the standards and meets the financial requirements applicable to an authorized insurer. Subject to the other provisions of this section, credit may be taken for reinsurance with members approved under this subsection by the department.

(d) A ceding limited reciprocal insurer may reinsure all or any part of any particular risk or class of risks with a group of individual unincorporated alien insurers which maintains funds held in trust for United States policyholders and beneficiaries in a bank or trust company subject to supervision by any state of the United States or which group is a member of the Federal Reserve System in an amount not less than $50,000,000 and which group satisfies the department by filing annually evidence that it can meet its obligations under its reinsurance agreements. Credit may be taken for reinsurance with groups approved under this subsection by the department.
(e) Credit in accounting and financial statements on account of reinsurance ceded to an unauthorized or unapproved reinsurer shall be allowed only.

1. Where it is demonstrated by the ceding limited reciprocal insurer to the satisfaction of the department that such reinsurer maintains the standards and meets the financial requirements applicable to an authorized insurer,

2. To the extent of deposits by, or funds withheld from, such reinsurer pursuant to express provisions therefor in the reinsurance contract as security for the payment of the obligations thereunder if such deposits or funds are held subject to withdrawal by, and under the control of, the ceding limited reciprocal insurer or are placed in trust for such purposes in a bank which is a member of the Federal Reserve System if withdrawals from the trust cannot be made without the consent of the ceding limited reciprocal insurer. Funds withheld may be cash or securities qualified as admitted assets under part II of chapter 625, and which have a market value equal to or greater than the credit taken; or

3. To the extent that the amount of a clean and irrevocable letter of credit issued for a term of not less than one year conforming to the requirements set forth below, equals or exceeds the liability of an unauthorized or unapproved reinsurer for unearned premiums, outstanding losses and an adequate reserve for incurred but not reported losses under a specific reinsurance agreement. The requirements are that such a clean and irrevocable letter of credit shall be issued under arrangements satisfactory to the department as constituting security to the ceding limited reciprocal insurer substantially equal to that of a deposit under subparagraph 2., and that it shall be issued by a banking institution which...
is a member of the Federal Reserve System and of financial 
standing satisfactory to the commissioner.

(2) The department shall disallow any credit which it 
finds would be contrary to the proper interest of the 
policyholders or stockholders of a ceding limited reciprocal 
insurer.

(3) No credit shall be allowed for reinsurance in 
unauthorized or unapproved assuming insurer unless such 
insurer designates the commissioner or a person resident in 
the United States as agent for service of process in any 
action arising out of or in connection with such reinsurance.

(4) Credit shall be allowed to any ceding limited 
reciprocal insurer for reinsurance otherwise complying with 
this section only where the reinsurance is payable by the 
assuming insurer on the basis of the liability of the ceding 
limited reciprocal insurer under the contract or contracts 
reinsured without diminution because of insolvency of the 
ceding insurer. Credit shall be allowed to any ceding limited 
reciprocal insurer for reinsurance otherwise complying with 
this section only where the reinsurance agreement provides 
that payments by the assuming insurer shall be made directly 
to the ceding limited reciprocal insurer or its receiver, 
except where:

(a) The reinsurance contract specifically provides 
payment to the named insured, assignee, or named beneficiary 
of the policy issued by the ceding limited reciprocal insurer 
in the event of the insolvency of the ceding insurer; or

(b) The assuming insurer, with the consent of the 
named insured, has assumed the policy obligations of the 
ceding limited reciprocal insurer as direct obligations of the

CODING. Words in struck through type are deletions from existing law, words underlined are additions.
assuming insurer in substitution for the obligations of the
ceding insurer to the named insured.

(5) No person, other than the ceding limited
reciprocal insurer, shall have any rights against the
reinsurer which are not specifically set forth in the contract
of reinsurance or in a specific written, signed agreement
between the reinsurer and the person.

(6) No limited reciprocal insurer shall knowingly
accept as assuming reinsurer any risk covering a subject of
insurance resident, located, or to be performed in this state
and written directly by any insurer not then authorized to
transact such insurance in this state, other than as to
surplus lines insurance lawfully written under part VI of
chapter 626

Section 4. This act shall take effect October 1, 1983.
STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN COMMITTEE SUBSTITUTE FOR SENATE BILL SB12

This committee Substitute makes technical adjustments and restructures provisions of the original bill.
I. SUMMARY AND PURPOSE

This bill provides specific standards for authorizing insurance companies to reinsure their risks with another insurer.

II. CURRENT LAW AND EFFECT OF CHANGES

Section 624.410 provides the standards for allowing insurers to reinsure their risks and for allowing insurers to accept reinsurance. By ceding risks to a reinsurer as authorized by this section, an insurer may reduce its liabilities reported in its annual financial statement. Ambiguities in the current law make it unclear under certain circumstances whether insurers are authorized to reduce their liabilities for ceded risks.

Current law provides that an insurer may accept reinsurance only of risks it is authorized to insure directly. Technical changes are made to this provision.

Current law authorizes insurers to reinsure risks with insurers licensed to transact insurance in this state or approved by the Department of Insurance for the purpose of such reinsurance. Under current law, the department shall not approve any proposed reinsurance which it finds would be contrary to the proper interests of the policyholders or stockholders of a ceding domestic insurer. In addition to continuing this general standard, the bill provides the following specific standards as to which entities may be approved for reinsurance purposes:

- An insurer authorized to do business in this state.
- An insurer not authorized to do business in this state but who meets the criteria established for an authorized insurer.

- An insurance exchange domiciled in any other state which meets the standards and financial requirements applicable to an authorized insurer.

- A group of unincorporated alien insurers (e.g. Lloyd's of London) which maintains at least $50,000,000 held in trust for United States policyholders in a United States bank or trust company and which otherwise satisfies the department that it can meet its obligations under its reinsurance agreements.

- Non-authorized or non-approved entities if funds are held in trust or secured by a letter of credit subject to control by the ceding insurer providing security for the payment of obligations under the reinsurance treaties.

New provisions are added requiring non-authorized or non-approved assuming insurers to designate the Commissioner or a person resident in the United States as agent for service of process.

Current law requires a provision in the reinsurance treaty that the reinsurance is payable by the assuming insurer to the ceding insurer on the basis of the liability of the ceding insurer under the contracts reinsured without diminution because of the insolvency of the ceding insurer. The bill continues this provision but recognizes the following two exceptions:

- Where the reinsurance agreement specifically provides for direct payment to the named insured in the event of the insolvency of the ceding insurer, or

- Where the assuming insurer with the consent of the insured has assumed the policy obligations of the ceding insurer.

The bill also clarifies the interest of third parties in a reinsurance contract. The guiding principle of reinsurance distinguishing it from primary insurance is that it is a contract of indemnity between only the reinsurer and the ceding insurer. The only exception to this rule is when the reinsurer expressly assumes its ceding insurer's policy obligations to the insured or specifies the insured as a payee under the reinsurance contract.

The bill deletes the current exemption for title insurance, wet marine and transportation insurance from the section.

Sections 2 and 3 amend sections 628.611 and 629.501, Florida Statutes, to make the above provisions applicable to captive insurers and limited reciprocal insurers.

Section 4 provides an effective date of October 1, 1983.

III. ECONOMIC IMPACT

A. PRIVATE SECTOR CONSIDERATIONS

By specifying in greater detail the requirements for reinsuring risks, the bill will alleviate problems experienced by insurers in determining whether ceded risks could be deducted from liabilities on their annual statements filed with the department. To the extent that ceded risks are more clearly authorized, this will be to the financial benefit of insurers.
B. PUBLIC SECTOR CONSIDERATIONS
No substantial impact.

IV. COMMENTS

V. LEGISLATIVE HISTORY

A. ENACTED BILL

Senate Bill 812 was heard by the Senate Commerce Committee on April 26, 1983, and a committee substitute was approved. The committee substitute incorporated technical amendments to the bill.

On May 17, 1983, the Senate passed CS/SB 812, 40-0 (SJ 296).

On May 25, 1983, the House substituted the Senate bill for HB 1303, and read the bill for the second time. Two technical amendments were adopted. On May 26, 1983, the bill was passed as amended, 117-0 (HJ 643).

On May 30, 1983, the Senate concurred in the House amendments and passed the bill, 34-0 (SJ 482).

On June 22, 1983, CS/SB 812 was approved by the Governor (Chapter 83-165, Laws of Florida).

B. DISPOSITION OF COMPANION

The companion measure, HB 1303, originated as PCB 83-49, which was first heard on April 12, 1983, in the Subcommittee on Property and Casualty Insurance of the Commerce Committee. The subcommittee approved the proposed bill and sent it to the full Commerce Committee which passed the bill at its meeting of April 26, 1983. The bill was introduced as HB 1303.

The House substituted CS/SB 812 for the House Bill on May 25, 1983, and passed the bill with amendments, as noted above.

Prepared by: Brian Deffenbaugh

Staff Director: Wyatt T. Martin