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By the Committee on Insurance and Representative Ogden

This publication was produced at an average cost of 15 cents per single page in compliance with the Rules and for the information of members of the Legislature and the public.

1 A bill to be entitled
2 An act relating to insurance; creating part III
3 of chapter 628, F.S., relating to captive
4 insurers; renumbering and amending s. 628.035,
5 F.S.; redefining the term "captive insurer";
6 creating s. 628.903, F.S.; defining the term
7 "industrial insured captive insurer";
8 renumbering and amending s. 628.601, F.S.;
9 providing criteria with respect to the
10 licensing of industrial insured captive
11 insurers; renumbering and amending s. 628.607,
12 F.S.; providing for the applicability of other
13 laws to captive insurers; renumbering and
14 amending s. 628.613, F.S.; prohibiting
15 industrial insured captive insurers from
16 joining or contributing financially to any
17 joint underwriting association or guaranty
18 fund; amending s. 625.305, F.S., revising
19 language with respect to the diversification of
20 domestic insurers and commercially domiciled
21 insurers; providing definitions; providing for
22 review and repeal; providing effective dates.

23
24 Be It Enacted by the Legislature of the State of Florida:

25
26 Section 1. Part III of chapter 628, Florida Statutes,
27 consisting of sections 628.901, 628.903, 628.905, 628.907,
28 628.909, 628.911, 628.913, 628.915, and 628.917, is created to
29 read.

30 PART III

31 CAPTIVE INSURERS

Section 2. Section 628.035, Florida Statutes, is renumbered as section 628.901, Florida Statutes, and amended to read:

628.901~~628.035~~ "Captive insurer" defined.--For the purposes of this part, except as provided in s. 628.903, a "captive insurer" is a domestic insurer established pursuant to part I of this chapter under this part to insure the risks of a specific corporation or group of corporations owned or controlled by the corporation or corporations from which it accepts risk under a contract of insurance.

Section 3. Section 628.903, Florida Statutes, is created to read:

628.903 "Industrial insured captive insurer" defined.--For the purposes of this part.

(1) An "industrial insured" means an insured which:

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

(b) Procures insurance through the use of a full-time employee of the insured who acts as an insurance manager or buyer or through the services of a person licensed as a property and casualty insurance agent, broker, or consultant in such person's state of domicile;

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

(d) Pays annual premiums of at least \$200,000 for each line of insurance purchased from the industrial insured captive insurer or at least \$150,000 with respect to any line of coverage excess of at least \$25 million in the annual aggregate. The purchase of umbrella or general liability coverage excess of \$25 million in the annual aggregate shall be deemed to be the purchase of a single line of insurance.

(2) An "industrial insured captive insurer" is a captive insurer that:

1	<u>(a) Has as its stockholders or members only industrial</u>	1:1us
2	<u>insureds that are reinsured pursuant to subparagraph (b)2. or</u>	1.46
3	<u>insured by the industrial insured captive insurer, or has as</u>	1.47
4	<u>its sole stockholder a corporation, which corporation's sole</u>	1.48
5	<u>stockholders are industrial insureds that are reinsured</u>	
6	<u>pursuant to subparagraph (b)2. or insured by the industrial</u>	1.49
7	<u>insured captive insurer; and</u>	1.50
8	<u>(b)1. Provides insurance only to the industrial</u>	1:1us
9	<u>insureds that are its stockholders or members, and affiliates</u>	1.52
10	<u>thereof, or to the stockholders, and affiliates thereof, of</u>	
11	<u>its parent corporation; or</u>	1.53
12	<u>2. Provides reinsurance to insurers only on risks</u>	1:1us
13	<u>written by such insurers for the industrial insureds who are</u>	1.55
14	<u>the stockholders or members, and affiliates thereof, of the</u>	
15	<u>industrial insured captive insurer, or the stockholders, and</u>	1.56
16	<u>affiliates thereof, of the parent corporation of the</u>	1.57
17	<u>industrial insured captive insurer.</u>	
18		
19	<u>For the purposes of this paragraph, the term "affiliate" means</u>	1:1us
20	<u>a person that directly, or indirectly through one or more</u>	1.59
21	<u>intermediaries, controls, is controlled by, or is under common</u>	1.60
22	<u>control with one or more of the stockholders or members of the</u>	
23	<u>industrial insured captive insurer or one or more of the</u>	1.61
24	<u>stockholders of the parent corporation of the industrial</u>	
25	<u>insured captive insurer.</u>	1.62
26	Section 4. Section 628.601, Florida Statutes, is	1.63
27	renumbered as section 628.905, Florida Statutes, and amended	1.64
28	to read:	
29	<u>628.905628-601 Licensing, authority.--</u>	1.65
30	(1) Any captive insurer, when permitted by its charter	1.67
31	or articles of incorporation, may apply to the department for	1.68

1	a license to provide commercial property, <u>commercial</u> casualty,	
2	and <u>commercial</u> marine insurance coverage other than workers'	1.70
3	compensation and employer's liability insurance coverage,	
4	<u>except that an industrial insured captive insurer may apply</u>	1.71
5	<u>for a license to provide workers' compensation and employer's</u>	1.72
6	<u>liability insurance as set forth in subsection (6).</u>	
7	(2) No captive <u>insurer, other than an industrial</u>	1.73
8	<u>insured captive insurer,</u> shall insure or accept reinsurance on	1.75
9	any risks other than those of its parent and affiliated	
10	companies.	1.76
11	(3) In addition to information otherwise required by	1.77
12	this code, each applicant captive insurer shall file with the	1.78
13	department evidence of the adequacy of the loss prevention	1.79
14	program of its insureds.	
15	(4) <u>An industrial insured captive insurer need not be</u>	1:1us
16	<u>incorporated in this state if it has been validly incorporated</u>	1.81
17	<u>under the laws of another jurisdiction.</u>	1.82
18	(5) <u>An industrial insured captive insurer is subject</u>	1:1us
19	<u>to all provisions of this part except as otherwise indicated.</u>	1.84
20	(6) <u>An industrial insured captive insurer may not</u>	1:1us
21	<u>provide workers' compensation and employer's liability</u>	2.2
22	<u>insurance except in excess of at least \$25 million in the</u>	
23	<u>annual aggregate.</u>	2 3
24	Section 5. Section 628.605, Florida Statutes, is	2.4
25	renumbered as section 628.907, Florida Statutes.	2.5
26	Section 6. Section 628.607, Florida Statutes, is	2.6
27	renumbered as section 628.909, Florida Statutes, and is	2.8
28	amended to read:	
29	<u>628.909</u> 628.607 Applicability of other laws.--	2.10
30		
31		

1	<u>(1) The Florida Insurance Code shall not apply to</u>	1:1us
2	<u>captive insurers or industrial insured captive insurers except</u>	2:11
3	<u>as provided in this part and this section.</u>	2:12
4	<u>(2) The following provisions of the Florida Insurance</u>	1 lus
5	<u>Code shall apply to captive insurers who are not industrial</u>	2 14
6	<u>insured captive insurers to the extent that such provisions</u>	
7	<u>are not inconsistent with this part.</u>	2 15
8	<u>(a) Chapter 624, except for ss. 624.425 and 624.426.</u>	1 lus
9	<u>(b) Chapter 625, part II.</u>	1:1us
10	<u>(c) Chapter 626, part X.</u>	1:1us
11	<u>(d) Sections 627.730-627.7405 when no-fault coverage</u>	1:1us
12	<u>is provided.</u>	
13	<u>(e) Chapter 628.</u>	1 lus
14	<u>(3) The following provisions of the Florida Insurance</u>	1 lus
15	<u>Code shall apply to industrial insured captive insurers to the</u>	2:22
16	<u>extent that such provisions are not inconsistent with this</u>	2:23
17	<u>part:</u>	
18	<u>(a) Chapter 624, except for ss. 624.408, 624.4095,</u>	1 lus
19	<u>624.425, 624.426, and 624.609(1).</u>	2:25
20	<u>(b) Chapter 625, part II, if the industrial insured</u>	1:1us
21	<u>captive insurer is incorporated in this state.</u>	2:27
22	<u>(c) Chapter 626, part X.</u>	1 lus
23	<u>(d) Sections 627.730-627.7405 when no-fault coverage</u>	1 lus
24	<u>is provided.</u>	
25	<u>(e) Chapter 628, except for ss. 628.311, 628.321,</u>	1:1us
26	<u>628.331, 628.341, and 628.351.</u>	2 31
27	<u>(4) Section 624.404(8) of the Florida Insurance Code</u>	1 lus
28	<u>shall not apply to an industrial insured captive insurer if.</u>	2 33
29	<u>(a) No more than 5 percent of the voting rights of</u>	1:1us
30	<u>such insurer are held or controlled by any single government</u>	2:35
31		

1	<u>or government agency, other than an agency or instrumentality</u>	
2	<u>of the Federal Government;</u>	2.36
3	<u>(b) No more than 10 percent of the voting rights of</u>	1:lus
4	<u>such insurer are held or controlled by any single agency or</u>	2.38
5	<u>instrumentality of the Federal Government, and</u>	
6	<u>(c) No more than 20 percent of the voting rights of</u>	1:lus
7	<u>such insurer are held or controlled in the aggregate by</u>	2.40
8	<u>government or government agencies, including agencies or</u>	
9	<u>instrumentalities of the Federal Government. The following</u>	1:los
10	provisions of the Florida Insurance Code shall apply to	2.44
11	captive insurers to the extent that such provisions are not	2.45
12	inconsistent with the provisions of ss 628.035 and ss 628.601	2.46
13	through 628.617:	2.47
14	(1)--Chapter 6247 except for ss 624.425 and 624.426	1:los
15	(2)--Chapter 6257 part III	2.50
16	(3)--Chapter 6267 part X	1:los
17	(4)--Chapter 6287	1:los
18	Section 7. Section 628.609, Florida Statutes, is	2.53
19	renumbered as section 628.911, Florida Statutes.	2.54
20	Section 8. Section 628.611, Florida Statutes, is	2.55
21	renumbered as section 628.913, Florida Statutes.	2.56
22	Section 9. Section 628.163, Florida Statutes, is	2.57
23	renumbered as section 628.915, Florida Statutes, and amended	2.58
24	to read:	
25	<u>628.915628-613</u> Exemption from compulsory	1:lus
26	association.--	2.60
27	<u>(1)</u> No captive insurer shall be permitted to join or	1 lus
28	contribute financially to any joint underwriting association	2.63
29	or guaranty fund in this state; nor shall any captive insurer,	
30	its insured, or its parent or any affiliated company receive	2.64
31	any benefit from any such joint underwriting association or	2.65

1	guaranty fund for claims arising out of the operations of such	
2	captive insurer.	2.66
3	<u>(2) No industrial insured captive insurer shall be</u>	1:1us
4	<u>permitted to join or contribute financially to any joint</u>	2.68
5	<u>underwriting association or guaranty fund in this state; nor</u>	
6	<u>shall any industrial insured captive insurer, its industrial</u>	2.69
7	<u>insured, or its parent or any affiliated company receive any</u>	2.70
8	<u>benefit from any such joint underwriting association or</u>	
9	<u>guaranty fund for claims arising out of the operations of such</u>	2.71
10	<u>industrial insured captive insurer.</u>	
11	Section 10. Section 628.617, Florida Statutes, is	2.72
12	renumbered as section 628.917, Florida Statutes.	2.73
13	Section 11. Effective January 1, 1988, subsections	2.74
14	(4), (5), (6), (7), and (8) are added to section 625.305,	2.75
15	Florida Statutes, to read:	
16	625.305 Diversification.--	2.76
17	<u>(4) Without the prior written approval of the</u>	1:1us
18	<u>department, the cost of investments in bonds, debentures,</u>	2.78
19	<u>notes, commercial paper, or other debt obligations issued,</u>	
20	<u>assumed, or guaranteed by any solvent institution, and which</u>	2.79
21	<u>are not rated as investment grade, other than obligations of</u>	2.80
22	<u>subsidiaries or related corporations as that term is defined</u>	
23	<u>in s. 625.325, shall be limited to</u>	2.81
24	<u>(a) No more than 20 percent of an insurer's admitted</u>	1:1us
25	<u>assets or 200 percent of an insurer's capital and surplus,</u>	2.83
26	<u>whichever is greater;</u>	
27	<u>(b) No more than 10 percent of an insurer's admitted</u>	1:1us
28	<u>assets or 100 percent of an insurer's capital and surplus,</u>	3.1
29	<u>whichever is greater, if the investments are in issuers from</u>	
30	<u>any one industry; and</u>	3.2
31		

1 (c) No more than 1 percent of an insurer's admitted 1:1us
2 assets or 10 percent of any insurer's capital and surplus, 3.4
3 whichever is greater, if the investment is in any one issuer. 3.5

4 (5) For purposes of subsection (4), the following 1:1us
5 definitions shall apply: 3.7

6 (a) "Investment grade" means that the obligation has 1:1us
7 been determined to be in one of the top four generic lettered 3.9
8 rating classifications by a securities rating agency or that
9 the obligation has been determined to be investment grade (as 3.10
10 indicated by a "yes" rating) by the Securities Valuation 3.11
11 Office of the National Association of Insurance Commissioners.
12 If the obligation is commercial paper, then the rating shall 3.12
13 be in one of the top three rating classifications to be 3.13
14 considered investment grade.

15 (b) "Industry" means a distinct and recognized area of 1:1us
16 economic activity that consists of the production, 3.15
17 manufacture, or distribution of common goods, products,
18 commodities, or services. 3.16

19 (c) "Securities rating agency" means Moody's Investors 1:1us
20 Service, Standard & Poor's Corporation, Duff and Phelps, Inc., 3.18
21 or any successor organization of the aforementioned companies. 3.19

22 (6) Each insurer shall possess and maintain adequate 1:1us
23 documentation to establish that its investments in other than 3.21
24 investment grade obligations do not exceed the limitations
25 under subsection (4). 3.22

26 (7) The provisions of subsections (4), (5), and (6) 1:1us
27 shall apply to any investment made after December 31, 1987. 3.24
28 If an insurer's investments in lower grade or unrated 3.25
29 obligations equal or exceed the maximum amounts permitted by 3.26
30 subsection (4) as of January 1, 1988, the insurer shall not
31 acquire any additional lower grade or unrated obligations 3.27

1	<u>without the prior written approval of the department. An</u>	3.28
2	<u>insurer that is not in compliance with subsection (4) as of</u>	
3	<u>January 1, 1988, may hold until maturity only those lower</u>	3.29
4	<u>grade or unrated obligations it owns on that date. If the</u>	3.30
5	<u>insurer sells, transfers, or otherwise disposes of such</u>	
6	<u>securities prior to maturity, the insurer may not acquire any</u>	3.31
7	<u>lower grade or unrated obligations as substitutions or</u>	
8	<u>replacements without the prior approval of the department.</u>	3.32
9	<u>However, the consent of the department shall not be required</u>	3.33
10	<u>if any investment in lower grade or unrated obligations will</u>	3.34
11	<u>not result in the maximum limits of subsection (4) being</u>	
12	<u>exceeded. An insurer that is not in compliance with</u>	3.35
13	<u>subsection (4) on December 31, 1987, shall file with its</u>	
14	<u>annual statement a separate schedule of the lower grade or</u>	3.37
15	<u>unrated obligations it owns on December 31, 1987. Until it is</u>	3.38
16	<u>in compliance with subsection (4), the insurer shall file with</u>	
17	<u>each succeeding annual and quarterly statement a separate</u>	3.39
18	<u>schedule of the lower grade or unrated obligations it owns as</u>	
19	<u>of the reporting date of the filed statement.</u>	3.40
20	<u>(8) Failure to obtain the prior written approval of</u>	1.1us
21	<u>the department shall result in any investments in excess of</u>	3.42
22	<u>those permitted by subsection (4) not being allowed as an</u>	
23	<u>asset of the insurer.</u>	3.43
24	Section 12. <u>Sections 628.901, 628.903, 628.905,</u>	3.44
25	<u>628.907, 628.909, 628.911, 628.913, 628.915, and 628.917,</u>	3.45
26	<u>Florida Statutes, are repealed on October 1, 1991, and shall</u>	
27	<u>be reviewed by the Legislature pursuant to s. 11.61, Florida</u>	3.46
28	<u>Statutes.</u>	
29	Section 13 Except as otherwise provided herein, this	3.47
30	act shall take effect July 1, 1987, or upon becoming a law,	3.48
31	whichever occurs later.	

1	*****	1:hbs
2	HOUSE SUMMARY	1:hbs
3	Creates part III of chapter 628, F.S., relating to	3.51
4	captive insurers, to.	
5	1. Define the term "industrial insured captive	3.53
6	insurer."	
7	2. Provide licensing criteria with respect to	3.55
8	industrial insured captive insurers.	
9	3. Provide for the applicability of other provisions	3.57
10	of the insurance code to industrial insured captive	3.58
11	insurers.	
12	4. Prohibit industrial insured captive insurers from	3.60
13	joining or contributing financially to any joint	3.61
14	underwriting association or guaranty fund.	
15	Revises language with respect to the diversification of	3.63
16	domestic insurers and commercially domiciled insurers.	3.64
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LEGISLATIVE RESEARCH REPORT

Client: Loyd Starrett
Fordham & Starrett
260 Franklin Street
Boston, MA 02110

Report No. L88-043

Subject: Chapter 628.903, Florida Statutes

Date: May 17, 1988

The following report was prepared solely for the use of the above client, and in no way constitutes a legal opinion. Florida Information Associates uses only records and publications open to public inspection under the Florida Public Records Law (Chapter 119, Florida Statutes). Any copyrighted material reproduced is for the client's informational use only and does not constitute authorization for publication from the copyright holder. Florida Information Associates has used reasonable care in obtaining the information in this report from the appropriate agency or office, per the client's request. However, the ultimate responsibility for maintaining files rests with the filing officer or records custodian and we accept no liability for error or omission.

Supplemental to this report is Florida Information Associates' Loose-Leaf Information Series No. 2, "Documenting Florida Legislative Intent," that outlines the inherent problems in legislative history research and defines our research methodology.

Problem Statement

Trace the legislative history and locate documentation relating to the legislative intent of Florida Statutes, 1987, Section 628.903, as created by Laws of Florida, Chapter 87-127, Section 2.

Legislative History

Laws of Florida, Chapter 87-127 was created by Committee Substitute (CS) for Senate Bill (SB) 1080. SB 1080 was reviewed by the Senate Commerce Committee on April 30, 1987 where it was voted favorably as a Committee substitute. CS/SB 1080 was not amended subsequently on the Senate or House floor. There was no formal House committee debate on CS/SB 1080 as the House considered the House version of the Industrial Insured Captive Insurer bill in the form of House Insurance Committee Proposed Committee Bill (PCB) 87-13. PCB 87-13 was heard by the Property and Casualty Subcommittee on April 14, 1987 and by the full Insurance Committee on April 22, 1987. PCB 87-13 was filed on April 29, 1987 as House Bill (HB) 1400. HB 1400 was substituted by CS/SB 1080 by the House on May 29, 1987.

Enclosed are bill histories of CS/SB 1080 and HB 1400.
(See Item 3)

Findings

The substance of the text of FS 628.903 was in the original version of SB 1080. Minor changes were made by the committee substitute for that bill. Enclosed are copies of the original version of SB 1080 and the committee substitute as well as a copy of original HB 1400. Staff Analyses of both CS/SB 1080 and HB 1400 were also obtained from the appropriate committees. According to the Senate Commerce Committee summary of CS/SB 1080, the most significant provision "is that an industrial insured captive insurer need not be incorporated in Florida." (see item 07).

According to Senate Commerce Committee Analyst Mark Casteel, the source of SB 1080 was from the Florida Department of Insurance. He does not think that they used a model law from another state. He suggested that if we desire any more information, we contact that Department's chief Lobbyist:

John W. Herzog
Florida Department of Insurance
Room 413-B, Larson Building
Tallahassee, FL 32399
(904) 488-4580

Documentation

Unless otherwise noted, all documentation listed below is attached to this report with the corresponding number in the upper left hand corner of the document. Records in the Florida State Archives are cited by the record group, series, box or volume number, and file folder title(if any), e.g. "RG#/S.#/#, "title". Other documentation was obtained directly from the appropriate committee or from Florida Information Associates' research files.

01. Florida Statutes, 1987 Section 628.903
02. Laws of Florida, Chapter 87-127, Section 2. (In West's Florida Session Law Service, 1987, No. 6, pp. 319-322).
03. History of Legislation, 1987 Regular Session; SB 1080, p. 170; HB 1400, p. 390.
04. SB 1080, as filed 4/13/87.
05. CS/SB 1080, as passed by the Senate Commerce Committee, 4/30/87.
06. HB 1400, as filed 4/29/87
07. Senate Commerce Committee, Staff Analysis of CS/SB 1080 (1987), 4/30/87. Also attached is an undated summary for use by Senators on the Senate Floor. (on file with the committee).
08. House Insurance Committee, Staff Analysis of HB 1400 (1987) [PCB 87-13], 4/13/87 (final, 7/1/87). (on file with the committee).
09. Joint Legislative Management Committee. Division of Library Services. 1987 Summary of General Legislation, pp. 282-283, 292-293, re: CS/SB 1080.

Florida Information Associates
LEGISLATIVE RESEARCH REPORT
No. L88-043 (F.S. 628.903)
May 17, 1988
Page Four

Comments

A review of the meeting tapes of the Senate Commerce and House Insurance Committees might yield additional information. Also contact could be made with John Herzog of the Department of Insurance to see if he has any records that may have more information. An estimated 3 to 5 hours of additional research time would be required to do this.



Edward J. Tribble, Researcher

Time: 2.5 hours
Costs: Copying; 31 pages @ \$.25/page: \$ 7.75.

A bill to be entitled

19 1679

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

Section 1. Part III of chapter 28, Florida Statutes, consisting of sections 628.903, 628.905, 628.907, 628.909, 628.911, 628.913, 628.915 and 628.917, is created to read:

PART III

CAPTIVE INSURERS

Section 2. Section 628.035, Florida Statutes, is transferred to section 628.901, and is amended to read:

628.901 ~~628.035~~ "Captive insurer" defined.--Except as provided in s. 628.903 of this part, a "captive insurer" is a domestic insurer established pursuant to part I of under this chapter to insure the risks of a specific corporation or group of corporations owned or controlled by the corporation or corporations from which it accepts risk under a contract of insurance.

Section 3. Section 628.903, Florida Statutes, is created to read:

628.903 "Industrial insured captive insurer" defined.--

(1) An "industrial insured captive insurer" is a captive insurer that:

1 (a) Has as its stockholders or members only industrial
2 insureds that are insured or reinsured by the industrial
3 insured captive insurer, or has as its sole stockholder a
4 corporation, which corporation's sole stockholders are
5 industrial insureds that are insured or reinsured by the
6 industrial insured captive insurer; and

7 (b) Provides insurance or reinsurance only to the
8 industrial insureds that are its stockholders or members (and
9 the affiliates thereof), or the stockholders (and the
10 affiliates thereof) of its parent corporation.

11 (2) An "industrial insured" means an insured with
12 gross assets in excess of \$5 million, which procures insurance
13 through the use of a full-time employee acting as an insurance
14 manager or buyer or the services of a regularly and
15 continuously retained qualified insurance consultant and pays
16 aggregate annual premiums in excess of \$150,000 for all
17 insurance coverage.

18 Section 4. Section 628.601, Florida Statutes, is
19 transferred to section 628.905, and is amended to read:

20 628.905 ~~628.601~~ Licensing; authority.--

21 (1) Any captive insurer, when permitted by its charter
22 or articles of incorporation, may apply to the department for
23 a license to provide commercial property, casualty, and marine
24 insurance coverage other than workers' compensation coverage.

25 (2) No captive insurer shall insure or accept
26 reinsurance on any risks other than those of its parent and
27 affiliated companies, provided, however, that an industrial
28 insured captive insurer may insure or accept reinsurance on
29 the risks of its stockholders or members (and the affiliates
30 thereof), or the stockholders (and the affiliates thereof) of
31 its parent corporation.

1 (3) In addition to information otherwise required by
2 this code, each applicant captive insurer shall file with the
3 department evidence of the adequacy of the loss prevention
4 program of its insureds.

5 (4) An industrial insured captive insurer need not be
6 incorporated in the State of Florida provided it has been
7 validly incorporated under the laws of another jurisdiction.

8 (5) Industrial insured captive insurers shall be
9 subject to all provisions of this part except as otherwise
10 indicated.

11 Section 5. Section 628.605, Florida Statutes, is
12 transferred to section 628.907.

13 Section 6. Section 628.607, Florida Statutes, is
14 transferred to section 628.909, and is amended to read:

15 628.909 ~~628-607~~ Applicability of other laws.--

16 (1) The following provisions of the Florida Insurance
17 Code shall apply to captive insurers including industrial
18 insured captive insurers to the extent that such provisions
19 are not inconsistent with the provisions of ~~s. 628-035~~ and ss.
20 628.901 through 628.917:

21 (a) ~~{1}~~ Chapter 624, except for sections 624.425 and
22 624.426.

23 (b) ~~{2}~~ Chapter 625, part II.

24 (c) ~~{3}~~ Chapter 626, part X.

25 (d) ~~{4}~~ Chapter 628.

26 (2) An industrial insured captive insurer shall be
27 exempt from the following provisions of the Florida Insurance
28 Code:

29 (a) Section 624.609(1).

30 (b) Section 624.4095.

31 (c) Section 624.408

1 (d) Section 628.311.

2 (e) Section 628.321.

3 (f) Section 628.331.

4 (g) Section 628.341.

5 (h) Section 628.351.

6 (i) Section 624.404(8).

7 Section 7. Section 628.609, Florida Statutes, is
8 transferred to section 628.911.

9 Section 8. Section 628.611, Florida Statutes, is
10 transferred to section 628.913.

11 Section 9. Section 628.613, Florida Statutes, is
12 transferred to section 628.915.

13 Section 10. Section 628.617, Florida Statutes, is
14 transferred to section 628.917.

15 Section 11. Sections 628.901, 628.903, 628.905,
16 628.907, 628.909, 628.911, 628.913, 628.915 and 628.917,
17 Florida Statutes, are repealed on October 1, 1991, and shall
18 be reviewed by the Legislature pursuant to section 11.61,
19 Florida Statutes.

20 Section 12. This act shall take effect on July 1,
21 1987.

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1 A bill to be entitled

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3 19 1679
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6 Be It Enacted by the Legislature of the State of Florida:

7
8 Section 1. Part III of chapter 628, Florida Statutes,
9 consisting of sections 628.901, 628.903, 628.905, 628.907,
10 628.909, 628.911, 628.913, 628.915 and 628.917, is created to
11 read:

12
13 PART III

14 CAPTIVE INSURERS

15
16 Section 2. Section 628.035, Florida Statutes, is
17 transferred to section 628.901, and is amended to read:

18 628.901 ~~628.035~~ "Captive insurer" defined.--~~For the~~
19 purposes of this part, except as provided in s. 628.903, a
20 "captive insurer" is a domestic insurer established pursuant
21 to part I of ~~under~~ this chapter to insure the risks of a
22 specific corporation or group of corporations owned or
23 controlled by the corporation or corporations from which it
24 accepts risk under a contract of insurance.

25 Section 3. Section 628.903, Florida Statutes, is
26 created to read:

27 628.903 "Industrial insured captive insurer"
28 defined.--For the purposes of this part:

29 (1) An "industrial insured" means an insured which has
30 gross assets in excess of \$50 million, which procures
31 insurance through the use of a full-time employee of the

1 insured who acts as an insurance manager or buyer or through
2 the services of a person licensed as a property and casualty
3 agent, broker or consultant in such person's state of
4 domicile; which pays aggregate annual premiums in excess of
5 \$150,000 for all insurance coverage, and which has at least
6 100 full-time employees.

7 (2) An "industrial insured captive insurer" is a
8 captive insurer that:

9 (a) Has as its stockholders or members only industrial
10 insureds that are reinsured pursuant to subparagraph (b)2. or
11 insured by the industrial insured captive insurer, or has as
12 its sole stockholder a corporation, which corporation's sole
13 stockholders are industrial insureds that are reinsured
14 pursuant to subparagraph (b)2. or insured by the industrial
15 insured captive insurer; and

16 (b)1. Provides insurance only to the industrial
17 insureds that are its stockholders, members or affiliates, or
18 to the stockholders or affiliates of its parent corporation;
19 or

20 2. Provides reinsurance to insurers only on risks
21 written by such insurers for the industrial insureds who are
22 the stockholders, members or affiliates of the industrial
23 insured captive insurer or the stockholders or affiliates of
24 the parent corporation of the industrial insured captive
25 insurer.

26
27 For the purposes of this paragraph, the term "affiliate" means
28 a person that directly, or indirectly through one or more
29 intermediaries, controls, is controlled by, or is under common
30 control with one or more of the stockholders or members of the
31 industrial insured captive insurer or one or more of the

1 stockholders of the parent corporation of the industrial
2 insured captive insurer.

3 Section 4. Section 628.601, Florida Statutes, is
4 transferred to section 628.905, and is amended to read:

5 628.905 628-601 Licensing; authority.--

6 (1) Any captive insurer, when permitted by its charter
7 or articles of incorporation, may apply to the department for
8 a license to provide commercial property, commercial casualty,
9 and commercial marine insurance coverage other than workers'
10 compensation and employer's liability insurance coverage,
11 except that an industrial insured captive insurer may apply
12 for a license to provide workers' compensation and employer's
13 liability insurance as set forth in subsection (6).

14 (2) No captive insurer, other than an industrial
15 insured captive insurer, shall insure or accept reinsurance on
16 any risks other than those of its parent and affiliated
17 companies.

18 (3) In addition to information otherwise required by
19 this code, each applicant captive insurer shall file with the
20 department evidence of the adequacy of the loss prevention
21 program of its insureds.

22 (4) An industrial insured captive insurer need not be
23 incorporated in this state if it has been validly incorporated
24 under the laws of another jurisdiction.

25 (5) An industrial insured captive insurer is subject
26 to all provisions of this part except as otherwise indicated.

27 (6) An industrial insured captive insurer may not
28 provide workers' compensation and employer's liability
29 insurance except in excess of at least \$25 million in the
30 annual aggregate.

31

1 Section 5. Section 628.605, Florida Statutes, is
2 transferred to section 628.907.

3 Section 6. Section 628.607, Florida Statutes, is
4 transferred to section 628.909, and is amended to read:

5 628.909 ~~628.607~~ Applicability of other laws.--

6 (1) ~~The following provisions of~~ The Florida Insurance
7 Code applies ~~shall apply~~ to captive insurers including
8 industrial insured captive insurers, to the extent that such
9 provisions are not inconsistent with the provisions of this
10 part. s. 628.835 and ss. 628.901 through 628.917.

11 ~~{1}--Chapter 624, except for sections 624.425 and~~
12 ~~624.426.~~

13 ~~{2}--Chapter 625, part II.~~

14 ~~{3}--Chapter 626, part X.~~

15 ~~{4}--Chapter 628.~~

16 (2) An industrial insured captive insurer is exempt
17 from the following provisions of the Florida Insurance Code:

18 (a) Section 624.404(8).

19 (b) Section 624.408

20 (c) Section 624.4095.

21 (d) Section 624.609(1).

22 (e) Section 628.311.

23 (f) Section 628.321.

24 (g) Section 628.331.

25 (h) Section 628.341.

26 (i) Section 628.351.

27 Section 7. Section 628.609, Florida Statutes, is
28 transferred to section 628.911.

29 Section 8. Section 628.611, Florida Statutes, is
30 transferred to section 628.913.

31

1 Section 9. Section 628.613, Florida Statutes, is
2 transferred to section 628.915.

3 Section 10. Section 628.617, Florida Statutes, is
4 transferred to section 628.917.

5 Section 11. Sections 628.901, 628.903, 628.905,
6 628.907, 628.909, 628.911, 628.913, 628.915 and 628.917,
7 Florida Statutes, are repealed on October 1, 1991, and shall
8 be reviewed by the Legislature pursuant to section 11.61,
9 Florida Statutes.

10 Section 12. This act shall take effect July 1, 1987,
11 or upon becoming a law, whichever occurs later.

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200-223-4-7

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19 679
1 A bill to be entitled 1:btc
2 An act relating to insurance; creating part III 1.4
3 of chapter 628, F.S., relating to captive
4 insurers; renumbering and amending s. 628.035, 1.5
5 F.S.; redefining the term "captive insurer";
6 creating s. 628.903, F.S.; defining the term 1.6
7 "industrial insured captive insurer";
8 renumbering and amending s. 628.601, F.S.; 1.7
9 providing criteria with respect to the
10 licensing of industrial insured captive
11 insurers; renumbering and amending s. 628.607, 1.8
12 F.S.; providing for the applicability of other
13 laws to captive insurers; renumbering and 1.9
14 amending s. 628.613, F.S.; prohibiting
15 industrial insured captive insurers from 1.10
16 joining or contributing financially to any
17 joint underwriting association or guaranty
18 fund; amending s. 625.305, F.S.; revising 1.11
19 language with respect to the diversification of
20 domestic insurers and commercially domiciled 1.12
21 insurers; providing definitions; providing for
22 review and repeal; providing effective dates. 1.13
23
24 Be It Enacted by the Legislature of the State of Florida: 1:enc
25
26 Section 1. Part III of chapter 628, Florida Statutes, 1.14
27 consisting of sections 628.901, 628.903, 628.905, 628.907, 1.15
28 628.909, 628.911, 628.913, 628.915, and 628.917, is created to
29 read: 1.16
30 PART III 1:lus
31 CAPTIVE INSURERS 1:lus

1	Section 2. Section 628.035, Florida Statutes, is	1.17
2	renumbered as section 628.901, Florida Statutes, and amended	1.18
3	to read:	
4	<u>628.901</u> 628-035 "Captive insurer" defined.--For the	1.20
5	<u>purposes of this part, except as provided in s. 628.903, a</u>	1.21
6	"captive insurer" is a domestic insurer established <u>pursuant</u>	1.23
7	<u>to part I of this chapter</u> under this part to insure the risks	1.24
8	of a specific corporation or group of corporations owned or	1.25
9	controlled by the corporation or corporations from which it	
10	accepts risk under a contract of insurance.	1.27
11	Section 3. Section 628.903, Florida Statutes, is	1.28
12	created to read:	
13	<u>628.903 "Industrial insured captive insurer"</u>	1:lus
14	<u>defined.--For the purposes of this part:</u>	1.30
15	<u>(1) An "industrial insured" means an insured which:</u>	1:lus
16	<u>(a) Has gross assets in excess of \$50 million;</u>	1:lus
17	<u>(b) Procures insurance through the use of a full-time</u>	1:lus
18	<u>employee of the insured who acts as an insurance manager or</u>	1.34
19	<u>buyer or through the services of a person licensed as a</u>	
20	<u>property and casualty insurance agent, broker, or consultant</u>	1.35
21	<u>in such person's state of domicile;</u>	1.36
22	<u>(c) Has at least 100 full-time employees; and</u>	1:lus
23	<u>(d) Pays annual premiums of at least \$200,000 for each</u>	1.38
24	<u>line of insurance purchased from the industrial insured</u>	1.39
25	<u>captive insurer or at least \$150,000 with respect to any line</u>	
26	<u>of coverage excess of at least \$25 million in the annual</u>	1.40
27	<u>aggregate. The purchase of umbrella or general liability</u>	1.41
28	<u>coverage excess of \$25 million in the annual aggregate shall</u>	1.42
29	<u>be deemed to be the purchase of a single line of insurance.</u>	
30	<u>(2) An "industrial insured captive insurer" is a</u>	1:lus
31	<u>captive insurer that:</u>	1.44

1	<u>(a) Has as its stockholders or members only industrial</u>	1:1us
2	<u>insureds that are reinsured pursuant to subparagraph (b)2. or</u>	1.46
3	<u>insured by the industrial insured captive insurer, or has as</u>	1.47
4	<u>its sole stockholder a corporation, which corporation's sole</u>	1.48
5	<u>stockholders are industrial insureds that are reinsured</u>	
6	<u>pursuant to subparagraph (b)2. or insured by the industrial</u>	1.49
7	<u>insured captive insurer; and</u>	1.50
8	<u>(b)1. Provides insurance only to the industrial</u>	1:1us
9	<u>insureds that are its stockholders or members, and affiliates</u>	1.52
10	<u>thereof, or to the stockholders, and affiliates thereof, of</u>	
11	<u>its parent corporation; or</u>	1.53
12	<u>2. Provides reinsurance to insurers only on risks</u>	1:1us
13	<u>written by such insurers for the industrial insureds who are</u>	1.55
14	<u>the stockholders or members, and affiliates thereof, of the</u>	
15	<u>industrial insured captive insurer, or the stockholders, and</u>	1.56
16	<u>affiliates thereof, of the parent corporation of the</u>	1.57
17	<u>industrial insured captive insurer.</u>	
18		
19	<u>For the purposes of this paragraph, the term "affiliate" means</u>	1:1us
20	<u>a person that directly, or indirectly through one or more</u>	1.59
21	<u>intermediaries, controls, is controlled by, or is under common</u>	1.60
22	<u>control with one or more of the stockholders or members of the</u>	
23	<u>industrial insured captive insurer or one or more of the</u>	1.61
24	<u>stockholders of the parent corporation of the industrial</u>	
25	<u>insured captive insurer.</u>	1.62
26	<u>Section 4. Section 628.601, Florida Statutes, is</u>	1.63
27	<u>renumbered as section 628.905, Florida Statutes, and amended</u>	1.64
28	<u>to read:</u>	
29	<u>628.905628.601 Licensing; authority.--</u>	1.65
30	<u>(1) Any captive insurer, when permitted by its charter</u>	1.67
31	<u>or articles of incorporation, may apply to the department for</u>	1.68

1	a license to provide commercial property, <u>commercial</u> casualty,	
2	and <u>commercial</u> marine insurance coverage other than workers'	1.70
3	compensation and <u>employer's liability insurance</u> coverage,	
4	<u>except that an industrial insured captive insurer may apply</u>	1.71
5	<u>for a license to provide workers' compensation and employer's</u>	1.72
6	<u>liability insurance as set forth in subsection (6).</u>	
7	(2) No captive insurer, <u>other than an industrial</u>	1.73
8	<u>insured captive insurer</u> , shall insure or accept reinsurance on	1.75
9	any risks other than those of its parent and affiliated	
10	companies.	1.76
11	(3) In addition to information otherwise required by	1.77
12	this code, each applicant captive insurer shall file with the	1.78
13	department evidence of the adequacy of the loss prevention	1.79
14	program of its insureds.	
15	(4) <u>An industrial insured captive insurer need not be</u>	1:1us
16	<u>incorporated in this state if it has been validly incorporated</u>	1.81
17	<u>under the laws of another jurisdiction.</u>	1.82
18	(5) <u>An industrial insured captive insurer is subject</u>	1:1us
19	<u>to all provisions of this part except as otherwise indicated.</u>	1.84
20	(6) <u>An industrial insured captive insurer may not</u>	1:1us
21	<u>provide workers' compensation and employer's liability</u>	2.2
22	<u>insurance except in excess of at least \$25 million in the</u>	
23	<u>annual aggregate.</u>	2.3
24	Section 5. Section 628.605, Florida Statutes, is	2.4
25	renumbered as section 628.907, Florida Statutes.	2.5
26	Section 6. Section 628.607, Florida Statutes, is	2.6
27	renumbered as section 628.909, Florida Statutes, and is	2.8
28	amended to read:	
29	<u>628.909</u> 628.607 Applicability of other laws.--	2.10
30		
31		

1	<u>(1) The Florida Insurance Code shall not apply to</u>	1:lus
2	<u>captive insurers or industrial insured captive insurers except</u>	2.11
3	<u>as provided in this part and this section.</u>	2.12
4	<u>(2) The following provisions of the Florida Insurance</u>	1:lus
5	<u>Code shall apply to captive insurers who are not industrial</u>	2.14
6	<u>insured captive insurers to the extent that such provisions</u>	
7	<u>are not inconsistent with this part:</u>	2.15
8	<u>(a) Chapter 624, except for ss. 624.425 and 624.426.</u>	1:lus
9	<u>(b) Chapter 625, part II.</u>	1:lus
10	<u>(c) Chapter 626, part X.</u>	1:lus
11	<u>(d) Sections 627.730-627.7405 when no-fault coverage</u>	1:lus
12	<u>is provided.</u>	
13	<u>(e) Chapter 628.</u>	1:lus
14	<u>(3) The following provisions of the Florida Insurance</u>	1:lus
15	<u>Code shall apply to industrial insured captive insurers to the</u>	2.22
16	<u>extent that such provisions are not inconsistent with this</u>	2.23
17	<u>part:</u>	
18	<u>(a) Chapter 624, except for ss. 624.408, 624.4095,</u>	1:lus
19	<u>624.425, 624.426, and 624.609(1).</u>	2.25
20	<u>(b) Chapter 625, part II, if the industrial insured</u>	1:lus
21	<u>captive insurer is incorporated in this state.</u>	2.27
22	<u>(c) Chapter 626, part X.</u>	1:lus
23	<u>(d) Sections 627.730-627.7405 when no-fault coverage</u>	1:lus
24	<u>is provided.</u>	
25	<u>(e) Chapter 628, except for ss. 628.311, 628.321,</u>	1:lus
26	<u>628.331, 628.341, and 628.351.</u>	2.31
27	<u>(4) Section 624.404(8) of the Florida Insurance Code</u>	1:lus
28	<u>shall not apply to an industrial insured captive insurer if:</u>	2.33
29	<u>(a) No more than 5 percent of the voting rights of</u>	1:lus
30	<u>such insurer are held or controlled by any single government</u>	2.35
31		

1	<u>or government agency, other than an agency or instrumentality</u>	
2	<u>of the Federal Government;</u>	2.36
3	<u>(b) No more than 10 percent of the voting rights of</u>	1:lus
4	<u>such insurer are held or controlled by any single agency or</u>	2.38
5	<u>instrumentality of the Federal Government; and</u>	
6	<u>(c) No more than 20 percent of the voting rights of</u>	1:lus
7	<u>such insurer are held or controlled in the aggregate by</u>	2.40
8	<u>government or government agencies, including agencies or</u>	
9	<u>instrumentalities of the Federal Government. The following</u>	1:los
10	provisions of the Florida Insurance Code shall apply to	2.44
11	captive insurers to the extent that such provisions are not	2.45
12	inconsistent with the provisions of s. 628.035 and ss. 628.601	2.46
13	through 628.617.	2.47
14	(1) Chapter 624, except for ss. 624.425 and 624.426.	1:los
15	(2) Chapter 625, part 11.	2.50
16	(3) Chapter 626, part X.	1:los
17	(4) Chapter 628.	1:los
18	Section 7. Section 628.609, Florida Statutes, is	2.53
19	renumbered as section 628.911, Florida Statutes.	2.54
20	Section 8. Section 628.611, Florida Statutes, is	2.55
21	renumbered as section 628.913, Florida Statutes.	2.56
22	Section 9. Section 628.163, Florida Statutes, is	2.57
23	renumbered as section 628.915, Florida Statutes, and amended	2.58
24	to read:	
25	<u>628.915</u> 628.613 Exemption from compulsory	1:lus
26	association.--	2.60
27	<u>(1)</u> No captive insurer shall be permitted to join or	1:lus
28	contribute financially to any joint underwriting association	2.63
29	or guaranty fund in this state; nor shall any captive insurer,	
30	its insured, or its parent or any affiliated company receive	2.64
31	any benefit from any such joint underwriting association or	2.65

1	guaranty fund for claims arising out of the operations of such	
2	captive insurer.	2.66
3	<u>(2) No industrial insured captive insurer shall be</u>	1:lus
4	<u>permitted to join or contribute financially to any joint</u>	2.68
5	<u>underwriting association or guaranty fund in this state; nor</u>	
6	<u>shall any industrial insured captive insurer, its industrial</u>	2.69
7	<u>insured, or its parent or any affiliated company receive any</u>	2.70
8	<u>benefit from any such joint underwriting association or</u>	
9	<u>guaranty fund for claims arising out of the operations of such</u>	2.71
10	<u>industrial insured captive insurer.</u>	
11	Section 10. Section 628.617, Florida Statutes, is	2.72
12	renumbered as section 628.917, Florida Statutes.	2.73
13	Section 11. Effective January 1, 1988, subsections	2.74
14	(4), (5), (6), (7), and (8) are added to section 625.305,	2.75
15	Florida Statutes, to read:	
16	625.305 Diversification.--	2.76
17	<u>(4) Without the prior written approval of the</u>	1:lus
18	<u>department, the cost of investments in bonds, debentures,</u>	2.78
19	<u>notes, commercial paper, or other debt obligations issued,</u>	
20	<u>assumed, or guaranteed by any solvent institution, and which</u>	2.79
21	<u>are not rated as investment grade, other than obligations of</u>	2.80
22	<u>subsidiaries or related corporations as that term is defined</u>	
23	<u>in s. 625.325, shall be limited to:</u>	2.81
24	<u>(a) No more than 20 percent of an insurer's admitted</u>	1:lus
25	<u>assets or 200 percent of an insurer's capital and surplus,</u>	2.83
26	<u>whichever is greater;</u>	
27	<u>(b) No more than 10 percent of an insurer's admitted</u>	1:lus
28	<u>assets or 100 percent of an insurer's capital and surplus,</u>	3.1
29	<u>whichever is greater, if the investments are in issuers from</u>	
30	<u>any one industry; and</u>	3.2
31		

1	<u>(c) No more than 1 percent of an insurer's admitted</u>	1:lus
2	<u>assets or 10 percent of any insurer's capital and surplus,</u>	3.4
3	<u>whichever is greater, if the investment is in any one issuer.</u>	3.5
4	<u>(5) For purposes of subsection (4), the following</u>	1:lus
5	<u>definitions shall apply:</u>	3.7
6	<u>(a) "Investment grade" means that the obligation has</u>	1:lus
7	<u>been determined to be in one of the top four generic lettered</u>	3.9
8	<u>rating classifications by a securities rating agency or that</u>	
9	<u>the obligation has been determined to be investment grade (as</u>	3.10
10	<u>indicated by a "yes" rating) by the Securities Valuation</u>	3.11
11	<u>Office of the National Association of Insurance Commissioners.</u>	
12	<u>If the obligation is commercial paper, then the rating shall</u>	3.12
13	<u>be in one of the top three rating classifications to be</u>	3.13
14	<u>considered investment grade.</u>	
15	<u>(b) "Industry" means a distinct and recognized area of</u>	1:lus
16	<u>economic activity that consists of the production,</u>	3.15
17	<u>manufacture, or distribution of common goods, products,</u>	
18	<u>commodities, or services.</u>	3.16
19	<u>(c) "Securities rating agency" means Moody's Investors</u>	1:lus
20	<u>Service, Standard & Poor's Corporation, Duff and Phelps, Inc.,</u>	3.18
21	<u>or any successor organization of the aforementioned companies.</u>	3.19
22	<u>(6) Each insurer shall possess and maintain adequate</u>	1:lus
23	<u>documentation to establish that its investments in other than</u>	3.21
24	<u>investment grade obligations do not exceed the limitations</u>	
25	<u>under subsection (4).</u>	3.22
26	<u>(7) The provisions of subsections (4), (5), and (6)</u>	1:lus
27	<u>shall apply to any investment made after December 31, 1987.</u>	3.24
28	<u>If an insurer's investments in lower grade or unrated</u>	3.25
29	<u>obligations equal or exceed the maximum amounts permitted by</u>	3.26
30	<u>subsection (4) as of January 1, 1988, the insurer shall not</u>	
31	<u>acquire any additional lower grade or unrated obligations</u>	3.27

1	<u>without the prior written approval of the department. An</u>	3.28
2	<u>insurer that is not in compliance with subsection (4) as of</u>	
3	<u>January 1, 1988, may hold until maturity only those lower</u>	3.29
4	<u>grade or unrated obligations it owns on that date. If the</u>	3.30
5	<u>insurer sells, transfers, or otherwise disposes of such</u>	
6	<u>securities prior to maturity, the insurer may not acquire any</u>	3.31
7	<u>lower grade or unrated obligations as substitutions or</u>	
8	<u>replacements without the prior approval of the department.</u>	3.32
9	<u>However, the consent of the department shall not be required</u>	3.33
10	<u>if any investment in lower grade or unrated obligations will</u>	3.34
11	<u>not result in the maximum limits of subsection (4) being</u>	
12	<u>exceeded. An insurer that is not in compliance with</u>	3.35
13	<u>subsection (4) on December 31, 1987, shall file with its</u>	
14	<u>annual statement a separate schedule of the lower grade or</u>	3.37
15	<u>unrated obligations it owns on December 31, 1987. Until it is</u>	3.38
16	<u>in compliance with subsection (4), the insurer shall file with</u>	
17	<u>each succeeding annual and quarterly statement a separate</u>	3.39
18	<u>schedule of the lower grade or unrated obligations it owns as</u>	
19	<u>of the reporting date of the filed statement.</u>	3.40
20	<u>(8) Failure to obtain the prior written approval of</u>	1:lus
21	<u>the department shall result in any investments in excess of</u>	3.42
22	<u>those permitted by subsection (4) not being allowed as an</u>	
23	<u>asset of the insurer.</u>	3.43
24	<u>Section 12. Sections 628.901, 628.903, 628.905,</u>	3.44
25	<u>628.907, 628.909, 628.911, 628.913, 628.915, and 628.917,</u>	3.45
26	<u>Florida Statutes, are repealed on October 1, 1991, and shall</u>	
27	<u>be reviewed by the Legislature pursuant to s. 11.61, Florida</u>	3.46
28	<u>Statutes.</u>	
29	<u>Section 13. Except as otherwise provided herein, this</u>	3.47
30	<u>act shall take effect July 1, 1987, or upon becoming a law,</u>	3.48
31	<u>whichever occurs later.</u>	

1	*****	1:hbs
2	HOUSE SUMMARY	1:hbs
3	Creates part III of chapter 628, F.S., relating to captive insurers, to:	3.51
4	1. Define the term "industrial insured captive insurer."	3.53
5	2. Provide licensing criteria with respect to industrial insured captive insurers.	3.55
6	3. Provide for the applicability of other provisions of the insurance code to industrial insured captive insurers.	3.57 3.58
7	4. Prohibit industrial insured captive insurers from joining or contributing financially to any joint underwriting association or guaranty fund.	3.60 3.61
9	Revises language with respect to the diversification of domestic insurers and commercially domiciled insurers.	3.63 3.64
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FOR DRAFTING ONLY

RED ON FORM H-29 OR H-39 BEFORE PRESENTATION)

The Committee on _____

HBPCB INS 87-13

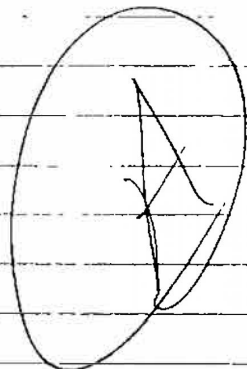
amendment

SB _____

1 line 29 through page 2, line 6,
/strike

All of said lines

19 1081



(1) An "industrial insured" means an insured which:

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

(b) Procures insurance through the use of a full-time employee of the insured who acts as an insurance manager or buyer or through the services of a person licensed as a property and casualty insurance agent, broker or consultant in such person's state of domicile;

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

(d) Pays annual premiums of at least \$200,000 for each line of insurance purchased from the industrial insured captive insurer or at least \$150,000, with respect to any line of coverage excess of at least \$25 million in the annual aggregate. The purchase of umbrella or general liability coverage excess of \$25 million in the annual aggregate shall be deemed to be the purchase of a single line of insurance.

printed

Printed on request

Senate ActionHouse Action

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If amendment is text of another bill insert:
 Bill No. Draft No.

Representative
 offered the following amendment:

Amendment

On page 2 , lines 17-19,
 strike all of said lines

and insert: insureds that are its stockholders or members, and
affiliates thereof, or to the stockholders, and affiliates
thereof, of its parent corporation; or

On page 2, lines 22-25,
 strike all of said lines

and insert: the stockholders or members, and affiliates
thereof, of the industrial insured captive insurer, or the
stockholders, and affiliates thereof, of the parent
corporation of the industrial insured captive insurer.

Orig.
 Journal
 Third
 Fourth

Code: h0013/999-0b
 Date:
 Time:

AMENDMENT -- FOR DRAFTING ONLY

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(MUST BE TYPED ON FORM H-29 OR H-39 BEFORE PRESENTATION)

Representative ☒ The Committee on

210° 15'

HB PCB INS 87-13

The following amendment

SB

On page 4 line 6-26 , strike

All of said lines

and insert (see attached)



adopted

failed of adoption

1 (1) The Florida Insurance Code shall not apply to captive
2 insurers or industrial insured captive insurers except as provid-
3 ed in this part and subsections (2), (3) and (4).

4 (2) The following provisions of the Florida Insurance Code
5 shall apply to captive insurers who are not industrial insured
6 captive insurers to the extent that such provisions are not
7 inconsistent with this part:

8 (a) Chapter 624, except for ss. 624.425 and 624.426.

9 (b) Chapter 625, part II.

10 (c) Chapter 626, part X.

11 (d) Sections 627.730 - 627.7405 when no-fault coverage is
12 provided.

13 (e) Chapter 628.

14 (3) The following provisions of the Florida Insurance Code
15 shall apply to industrial insured captive insurers to the extent
16 that such provisions are not inconsistent with this part:

17 (a) Chapter 624, except for ss. 624.408, 624.4095, 624.425,
18 624.426 and 624.609(1).

19 (b) Chapter 625, part II, if the industrial insured captive
20 insurer is incorporated in this state.

21 (c) Chapter 626, part X.

22 (d) Sections 627.730 - 627.7405 when no-fault coverage is
23 provided.

24 (e) Chapter 628, except for ss. 628.311, 628.321, 628.331,
25 628.341 and 628.351.

26 (4) Section 624.404(8) of the Florida Insurance Code shall
27 not apply to an industrial insured captive insurer if:

28 (a) Not more than 5% of the voting rights of such insurer
29 is held or controlled by any single government or government
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agency, other than an agency or instrumentality of the federal government;

(b) Not more than 10% of the voting rights of such insurer is held or controlled by any single agency or instrumentality of the federal government; and

(c) Not more than 20% of the voting rights of such insurer is held or controlled in the aggregate by government or government agencies, including agencies or instrumentalities of the federal government. The following provisions of the

Insurance Code shall apply to captive insurers to the extent that such provisions are not inconsistent with the provisions of ss. 628.035 and ss. 628.601 through 628.617:

- (1) Chapter 624, except for ss. 624.425 and 624.426;
- (2) Chapter 625, part II;
- (3) Chapter 626, part X;
- (4) Chapter 628;

MEMBER AMENDMENT (in computer)

Bill No. PCB INS 87-13

Senate Action

House Action

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If amendment is text of another bill insert:
Bill No. Draft No.

Representative

offered the following amendment:

Amendment

On page 5 , line 2 ,

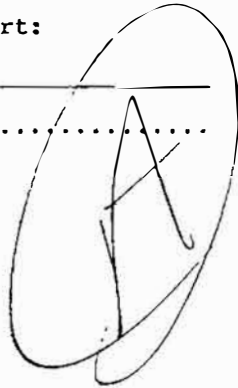
strike all of said line

and insert: transferred to section 628.915, and is amended to
read:

628.915 ~~628.613~~ Exemption from compulsory
association.--

(1) No captive insurer shall be permitted to join or
contribute financially to any joint underwriting association
or guaranty fund in this state; nor shall any captive insurer,
its insured, or its parent or any affiliated company receive
any benefit from any such joint underwriting association or
guaranty fund for claims arising out of the operations of such
captive insurer.

(2) No industrial insured captive insurer shall be
permitted to join or contribute financially to any joint
underwriting association or guaranty fund in this state; nor
shall any industrial insured captive insurer, its industrial
insured, or its parent or any affiliated company receive any
benefit from any such joint underwriting association or
guaranty fund for claims arising out of the operations of such
industrial insured captive insurer.



Orig.
Journal
Third
Fourth

Code: h0013/999-0e
Date:
Time:

House Action

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1 (c) No more than 1 percent of an insurer's admitted
2 assets or 10 percent of an insurer's capital and surplus,
3 whichever is greater, if the investment is in any one issuer.

4 (5) For purposes of subsection (4), the following
5 definitions shall apply:

6 (a) "Investment grade" means that the obligation has
7 been determined to be in one of the top four generic lettered
8 rating classifications by a securities rating agency or that
9 the obligation has been determined to be investment grade (as
10 indicated by a "yes" rating) by the Securities Valuation
11 Office of the National Association of Insurance Commissioners.
12 If the obligation is commercial paper then the rating shall be
13 in one of the top three rating classifications to be
14 considered investment grade.

15 (b) "Industry" means a distinct and recognized area of
16 economic activity that consists of the production, manufacture
17 or distribution of common goods, products, commodities, or
18 services.

19 (c) "Securities rating agency" means Moody's Investors
20 Service, Standard & Poors Corporation, Duff and Phelps, Inc.
21 or any successor organization of the aforementioned companies.

22 (6) Each insurer shall possess and maintain adequate
23 documentation to establish that its investments in other than
24 investment grade obligations do not exceed the limitations
25 under subsection (4).

26 (7) The provisions of subsections (4), (5) and (6)
27 shall apply to any investment made after December 31, 1987.
28 If an insurer's investments in lower grade or unrated
29 obligations equal or exceed the maximum amounts permitted by
30 subsection (4) as of January 1, 1988, the insurer shall not
31 acquire any additional low grade or unrated obligations

1 without the prior written approval of the department. An
2 insurer that is not in compliance with subsection (4) as of
3 January 1, 1988, may hold until maturity only those lower
4 grade or unrated obligations it owns on that date. If the
5 insurer sells, transfers or otherwise disposes of such
6 securities prior to maturity, the insurer may not acquire any
7 lower grade or unrated obligations as substitutions or
8 replacements without the prior approval of the department.
9 However, the consent of the department shall not be required
10 if any investment in lower grade or unrated obligations will
11 not result in the maximum limits of subsection (4) being
12 exceeded. An insurer that is not in compliance with
13 subsection (4) on December 31, 1987, shall file with its
14 annual statement a separate schedule of the lower grade or
15 unrated obligations it owns on December 31, 1987. Until it is
16 in compliance with subsection (4) the insurer shall file with
17 each succeeding annual and quarterly statement a separate
18 schedule of the lower grade or unrated obligations it owns as
19 of the reporting date of the filed statement.
20 (8) Failure to obtain the prior written approval of
21 the department shall result in any investments in excess of
22 those permitted by subsection (4) not being allowed as an
23 asset of the insurer.

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27 (RENUMBER SUBSEQUENT SECTION)
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1 (c) No more than 1 percent of an insurer's admitted
2 assets or 10 percent of an insurer's capital and surplus,
3 whichever is greater, if the investment is in any one issuer.

4 (5) For purposes of subsection (4), the following
5 definitions shall apply:

6 (a) "Investment grade" means that the obligation has
7 been determined to be in one of the top four generic lettered
8 rating classifications by a securities rating agency or that
9 the obligation has been determined to be investment grade (as
10 indicated by a "yes" rating) by the Securities Valuation
11 Office of the National Association of Insurance Commissioners.
12 If the obligation is commercial paper then the rating shall be
13 in one of the top three rating classifications to be
14 considered investment grade.

15 (b) "Industry" means a distinct and recognized area of
16 economic activity that consists of the production, manufacture
17 or distribution of common goods, products, commodities, or
18 services.

19 (c) "Securities rating agency" means Moody's Investors
20 Service, Standard & Poors Corporation, Duff and Phelps, Inc.
21 or any successor organization of the aforementioned companies.

22 (6) Each insurer shall possess and maintain adequate
23 documentation to establish that its investments in other than
24 investment grade obligations do not exceed the limitations
25 under subsection (4).

26 (7) The provisions of subsections (4), (5) and (6)
27 shall apply to any investment made after December 31, 1987.
28 If an insurer's investments in lower grade or unrated
29 obligations equal or exceed the maximum amounts permitted by
30 subsection (4) as of January 1, 1988, the insurer shall not
31 acquire any additional low grade or unrated obligations

1 without the prior written approval of the department. An
2 insurer that is not in compliance with subsection (4) as of
3 January 1, 1988, may hold until maturity only those lower
4 grade or unrated obligations it owns on that date. If the
5 insurer sells, transfers or otherwise disposes of such
6 securities prior to maturity, the insurer may not acquire any
7 lower grade or unrated obligations as substitutions or
8 replacements without the prior approval of the department.
9 However, the consent of the department shall not be required
10 if any investment of lower grade or unrated obligations will
11 not result in the maximum limits of subsection (4) being
12 exceeded. An insurer that is not in compliance with
13 subsection (4) on December 31, 1987, shall file with its
14 annual statement a separate schedule of the lower grade or
15 unrated obligations it owns on December 31, 1987. Until it is
16 in compliance with subsection (4) the insurer shall file with
17 each succeeding annual and quarterly statement a separate
18 schedule of the lower grade or unrated obligations it owns as
19 of the reporting date of the filed statement.

20 (8) Failure to obtain the prior written approval of
21 the department shall result in any investments in excess of
22 those permitted by subsection (4) not being allowed as an
23 asset of the insurer.

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27 (RENUMBER SUBSEQUENT SECTION)
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Date: 04/13/87
Revised: _____
Final: 07/01/87

HOUSE OF REPRESENTATIVES
COMMITTEE ON INSURANCE
STAFF ANALYSIS

BILL #: HB 1400 (PCB INS 87-13)
RELATING TO: Captive Insurers
SPONSOR(S): Committee on Insurance
EFFECTIVE DATE: July 1, 1987, or becoming law - whichever occurs later
COMPANION BILL(S): CS/SB 1080
OTHER COMMITTEES OF REFERENCE: (1) _____
(2) _____

I. SUMMARY

The bill expands the regulation of captive insurers by authorizing the formation and operation of a new type of captive, an "industrial insured captive insurer." Restrictions are set forth as to whom may be insured by these types of entities. Provisions of the insurance code not applicable to industrial insured captive insurers are identified.

The present law authorizes the formation of captive insurers. A captive insurer is a domestic insurer and is owned by a parent corporation for the purpose of insuring the risks of the parent corporation and its subsidiaries. A captive insurer may write commercial property, casualty and marine insurance, but not workers' compensation insurance. A captive insurer must possess \$500,000 in unimpaired paid-in capital and \$250,000 in unimpaired surplus.

The bill authorizes the formation of industrial insured captive insurers to provide insurance for large corporations. Only corporations which have gross assets greater than \$50 million, employ at least 100 persons and pay annual premiums in excess of \$150,000 may be insured by an industrial insured captive insurer. An industrial insured captive insurer may write the same lines of insurance as a captive insurer as well as workers' compensation, if in excess of a specified volume. There is no requirement that an industrial insured captive insurer be domiciled in Florida. An industrial insured captive insurer can provide insurance to companies other than its parent and subsidiaries of its parent.

Section-by-Section Analysis:

Section 1: Creates part III of chapter 628 which will contain the provisions pertaining to captive insurers and industrial insured captive insurers.

Section 2: This section transfers s. 628.035 (captive insurer defined) to s. 628.901. Section 628.901 defines a captive insurer as a domestic insurer which insures the risks of its parent corporation and the subsidiaries of its parent corporation.

Section 3: This section provides definitions of the terms "industrial insured," "industrial insured captive insurer," and "affiliate."

An industrial insured is an insured with gross assets in excess of \$50 million, pays aggregate annual premiums in excess of \$150,000 and has at least 100 full-time employees. An industrial insured must obtain its insurance through a full-time employee or a licensed property and casualty insurance agent.

An industrial insured captive insurer provides insurance or reinsurance to industrial insureds. An industrial insured must be a stockholder or affiliate of the industrial insured captive insurer or a stockholder or affiliate of its parent corporation.

An affiliate is a person that controls or is controlled by one or more of the stockholders of the industrial insured captive insurer or its parent corporation.

Section 4: This section transfers s. 628.601 (licensing; authority) to s. 628.905. Section 628.905 provides clarification that a captive insurer may write commercial casualty and commercial marine insurance coverage. This section also authorizes an industrial insured captive insurer to write workers' compensation insurance in excess of \$25 million in the annual aggregate. Industrial insured captive insurers are authorized to insure or reinsure risks other than those of its parent and affiliated companies. An industrial insured captive insurer is not required to be incorporated in Florida if it is validly incorporated elsewhere.

Section 5: This section transfers s. 628.605 (minimum capital and surplus) to s. 628.907. Section 628.907 requires captive insurers to possess unimpaired paid-in capital of at least \$500,000 and unimpaired surplus of \$250,000 in order to be issued a license.

Section 6: This section transfers s. 628.607 (applicability of other laws) to s. 628.909. Section 628.909 states that the Florida Insurance Code applies to captive insurers and industrial insured captive insurers. References to specific sections of the Florida Insurance Code held to be applicable to captive insurers are deleted. Industrial insured captive insurers are exempt from the following sections of the insurance code:

1. Section 624.404(8). This section prohibits the writing of insurance by an insurer controlled or owned by any government or governmental agency.
2. Section 624.408. This section requires insurers seeking to be licensed in Florida to possess the greater of \$1 million in surplus or a specified level of net reserves.
3. Section 624.4095. This section authorizes the department to establish maximum premium levels that may be written by an insurer. The department may do this when it has reason to believe the financial condition of the insurer endangers the interests of its policyholders.
4. Section 624.609(1). This section restricts the risk which an insurer may retain on any one subject of insurance to 10% of its surplus to policyholders.
5. Sections 628.311 through 628.351. These sections pertain to contingent liability of members of a domestic mutual insurance company. Each member of a domestic mutual insurer has a contingent liability for the discharge of the obligations of the insurer. A domestic mutual insurer may assess members to cure a financial deficiency. A domestic mutual which possesses sufficient surplus may obtain departmental approval to extinguish the contingent liability of its members. Assessments made by a domestic mutual insurer are prima facie correct.

Section 7: This section transfers s. 628.609 (reports and statements) to s. 628.911. Section 628.911 requires captive insurers to submit an annual report to the department. The report is due within 60 days after the end of the captive's fiscal year.

Section 8: This section transfers s. 628.611 (reinsurance) to s. 628.913. Section 628.913 authorizes a captive insurer to obtain reinsurance. This section allows a captive insurer to reinsure. Credit is allowed to the captive insurer for the ceded reinsurance under certain conditions.

Section 9: This section transfers s. 628.613 (exemption from compulsory association) to s. 628.915. Section 628.915 prohibits captive insurers from joining any joint underwriting association or guaranty fund in Florida.

Section 10: This section transfers s. 628.617 (insolvency and liquidation) to s. 628.917. Section 628.917 authorizes the department to liquidate a captive insurer which has become insolvent. The department is prohibited from rehabilitating the captive insurer.

Section 11: This section provides for the repeal of ss. 628.901, 628.903, 628.905, 628.907, 628.909, 628.911, 628.913, 628.915 and 628.917, F.S., on October 1, 1991, and that they be reviewed by the Legislature prior to that date.

Section 12: This section provides for an effective date of July 1, 1987, or upon becoming a law, whichever occurs later.

II. ECONOMIC IMPACT

A. Public

Persons may organize an industrial insured captive insurer to write insurance in Florida. Non-domestic industrial insured captive insurers currently operating out-of-state may seek authority to write insurance in Florida. An industrial insured captive insurer may provide insurance which is otherwise unavailable.

B. Government

The Department of Insurance will regulate industrial insured captive insurers. The department has advised that it will incur no additional costs with this regulation at this time.

III. STATE COMPREHENSIVE PLAN IMPACT

The bill is consistent with the goal of promoting an economic climate which provides economic stability, maximizes job opportunities, and increases per capita income of residents. [s. 187.201(21)(a)]

IV. COMMENTS

The Senate companion, CS/SB 1080, was passed by the Legislature and has been approved by the Governor.

CS/SB 1080 is similar to HB 1400 except the House bill contains a section which limits the investment by insurers in bonds which are not rated as investment grade. (See SB 1130)

V. AMENDMENTS

None

VI. PREPARED BY: Robert A. Henderson *RAH*

VII. STAFF DIRECTOR: Jose A. Diez-Arquelles *JAD*

Date: 04/13/87
Revised: 04/28/87
Final: _____

HOUSE OF REPRESENTATIVES
COMMITTEE ON INSURANCE
STAFF ANALYSIS

19 1679

BILL #: PCB INS 87-13
RELATING TO: Captive Insurers
SPONSOR(S): Committee on Insurance
EFFECTIVE DATE: July 1, 1987, or becoming law - whichever occurs later
COMPANION BILL(S): _____
OTHER COMMITTEES OF REFERENCE: (1) _____
(2) _____

I. SUMMARY

The bill expands the regulation of captive insurers by authorizing the formation and operation of a new type of captive, an "industrial insured captive insurer." Restrictions are set forth as to whom may be insured by these types of entities. Provisions of the insurance code specifically applicable to industrial insured captive insurers are identified.

The present law authorizes the formation of captive insurers. A captive insurer is a domestic insurer and is owned by a parent corporation for the purpose of insuring the risks of the parent corporation and its subsidiaries. A captive insurer may write commercial property, casualty and marine insurance, but not workers' compensation insurance. A captive insurer must possess \$500,000 in unimpaired paid-in capital and \$250,000 in unimpaired surplus.

The bill authorizes the formation of industrial insured captive insurers to provide insurance for large corporations. Only corporations which have gross assets greater than \$50 million, employ at least 100 persons and pay annual premiums in excess of \$200,000 for each line of insurance may be insured by an industrial insured captive insurer. An industrial insured captive insurer may write the same lines of insurance as a captive insurer as well as workers' compensation, if in excess of a specified volume. There is no requirement that an industrial insured captive insurer be domiciled in Florida. An industrial insured captive insurer can provide insurance to industrial insureds who are its stockholders or members (and affiliates thereof). An industrial insured captive insurer can also provide insurance to the stockholders and members (and affiliates thereof) of the its parent.

Section-by-Section Analysis:

Section 1: Creates part III of chapter 628 which will contain the provisions pertaining to captive insurers and industrial insured captive insurers.

Section 2: This section transfers s. 628.035 (captive insurer defined) to s. 628.901. Section 628.901 defines a captive insurer as a domestic insurer which insures the risks of its parent corporation and the subsidiaries of its parent corporation.

Section 3: This section provides definitions of the terms "industrial insured," "industrial insured captive insurer," and "affiliate."

An industrial insured is an insured with gross assets in excess of \$50 million, has at least 100 full-time employees, and pays either annual premiums of at least \$200,000 for each line of insurance or at least \$150,000 for any line of coverage excess of \$25 million in the annual aggregate. An industrial insured must obtain its insurance through a full-time employee or a licensed property and casualty insurance agent.

An industrial insured captive insurer provides insurance to industrial insureds. An industrial insured can be a stockholder or member, or an affiliate of a stockholder or member, of the industrial insured captive insurer. An industrial insured can also be a stockholder or member, or an affiliate of a stockholder or member, of the captive's parent corporation.

An affiliate is a person that controls or is controlled by one or more of the stockholders or members of the industrial insured captive insurer or one or more of the stockholders of its parent corporation.

Section 4: This section transfers s. 628.601 (licensing; authority) to s. 628.905. Section 628.905 provides clarification that a captive insurer may write commercial casualty and commercial marine insurance coverage. This section also authorizes an industrial insured captive insurer to write workers' compensation insurance in excess of \$25 million in the annual aggregate. An industrial insured captive insurer is not required to be incorporated in Florida if it is validly incorporated elsewhere.

Section 5: This section transfers s. 628.605 (minimum capital and surplus) to s. 628.907. Section 628.907 requires captive insurers to possess unimpaired paid-in capital of at least \$500,000 and unimpaired surplus of \$250,000 in order to be issued a license.

Section 6: This section transfers s. 628.607 (applicability of other laws) to s. 628.909. Section 628.909 identifies the sections of the Florida Insurance Code which apply to captive insurers and industrial insured captive insurers. The following sections of the insurance code apply to captive insurers and industrial insured captive insurers:

1. Chapter 624. Identifies the powers and duties of the Department of Insurance, sets forth the requirements for the licensing of insurers, identifies the fees and taxes collected by the department, and defines various types of insurance. (Sections 624.425 and 624.426 are inapplicable to captive insurers and industrial insured captive insurers. Section 624.425 requires property, casualty and surety insurers to issue policies through a licensed resident insurance agent. Section 624.426 provides exceptions to s. 624.425.) (Sections 624.408, 624.4095 and 624.609(1) are inapplicable to industrial insured captive insurers. Section 624.408 requires insurers seeking to be licensed in Florida to possess the greater of \$1 million in surplus or a specified level of net reserves. Section 624.4095 authorizes the department to establish maximum premium levels that may be written by an insurer. Section 624.609(1) restricts the risk which an insurer may retain on any one subject of insurance to 10 percent of its surplus to policyholders.)
2. Chapter 625, part II. Identifies the types of eligible investments for domestic insurers and commercially domiciled insurers. (This part only applies to industrial insured captive insurers incorporated in Florida.)
3. Chapter 626, part X. Contains the provisions of the Unfair Insurance Trade Practices Act. Definitions are provided for unfair methods of competition and unfair or deceptive acts or practices.
4. Sections 627.730-627.7405. Contains the provisions of the Florida Motor Vehicle No-Fault Law. Required personal injury protection benefits are identified.
5. Chapter 628. Provides regulation of stock and mutual insurers, insurance holding companies and captive insurers. Sections 628.311 through 628.351 do not apply to industrial insured captive insurers. These sections pertain to contingent liability of members of a domestic mutual insurance company. Each member of a domestic mutual insurer has a contingent liability for the discharge of the obligations of the insurer. A domestic mutual insurer may assess members to cure a financial deficiency. A domestic mutual which possesses sufficient surplus may obtain departmental approval to extinguish the contingent liability of its members. Assessments made by a domestic mutual insurer are prima facie correct.

Section 624.404(8) is inapplicable to industrial insured captive insurers if: (1) not more than 5 percent of the voting rights of the insurer is held or controlled by any single government or government agency, other than an agency or instrumentality of the federal government; (2) not more than 10 percent of the voting rights of the insurer is held or controlled by any single agency or instrumentality of the federal government; and (3) not more than 20 percent of the voting rights of the insurer is held or controlled in the aggregate by government or government agencies, including agencies or instrumentalities of the federal government.

Section 7: This section transfers s. 628.609 (reports and statements) to s. 628.911. Section 628.911 requires captive insurers to submit an annual report to the department. The report is due within 60 days after the end of the captive's fiscal year.

Section 8: This section transfers s. 628.611 (reinsurance) to s. 628.913. Section 628.913 authorizes a captive insurer to obtain reinsurance. This section allows a captive insurer to reinsure. Credit is allowed to the captive insurer for the ceded reinsurance under certain conditions.

Section 9: This section transfers s. 628.613 (exemption from compulsory association) to s. 628.915. Section 628.915 prohibits captive insurers and industrial insured captive insurers from joining any joint underwriting association or guaranty fund in Florida.

Section 10: This section transfers s. 628.617 (insolvency and liquidation) to s. 628.917. Section 628.917 authorizes the department to liquidate a captive insurer which has become insolvent. The department is prohibited from rehabilitating the captive insurer.

Section 11: Limits the investment by insurers in bonds, debentures, notes and other debt obligations which are not rated as investment grade. The cost of these types of investments are limited, without prior departmental approval, to the greater of 20 percent of an insurer's admitted assets or 200 percent of an insurer's capital and surplus. The cost of these types of investments in issuers from any one industry are limited to the greater of 10 percent of an insurer's admitted assets or 100 percent of an insurer's capital and surplus. The cost of these types of investments in any one issuer is limited to the greater of 1 percent of an insurer's admitted assets or 10 percent of an insurer's capital and surplus.

Definitions are provided for the terms "investment grade," "industry," and "securities rating agency."

Insurers are required to maintain adequate documentation to verify compliance with the investment limitations of this section.

The investment limitations of this section apply to insurers after December 31, 1987. If an insurer's investments in lower grade obligations equal or exceed the maximum amounts set forth, the insurer cannot acquire additional lower grade investments without prior department approval. An insurer which is not in compliance on December 31, 1987, must file with its annual statement a separate schedule of the lower grade or unrated obligations it owns. Until it is in compliance, the insurer must file a separate schedule of the lower grade or unrated obligations it owns on a quarterly basis. Failure to obtain prior written approval of the department regarding the exceeding of the investment limitations will result in any investments in excess of those permitted not being allowed as an asset of the insurer.

Section 12: This section provides for the repeal of ss. 628.901, 628.903, 628.905, 628.907, 628.909, 628.911, 628.913, 628.915 and 628.917, F.S., on October 1, 1991, and that they be reviewed by the Legislature prior to that date.

Section 13: This section provides for an effective date of July 1, 1987, or upon becoming a law, whichever occurs later.

II. ECONOMIC IMPACT

A. Public

Persons may organize an industrial insured captive insurer to write insurance in Florida. An industrial insured captive insurer may provide insurance which is otherwise unavailable.

B. Government

The Department of Insurance will regulate industrial insured captive insurers. The department has advised that it will incur no additional costs with this regulation at this time.

III. STATE COMPREHENSIVE PLAN IMPACT

The bill is consistent with the goal of promoting an economic climate which provides economic stability, maximizes job opportunities, and increases per capita income of residents.
[s. 187.201(21)(a)]

IV. COMMENTS

None

V. AMENDMENTS

None

VI. PREPARED BY: Robert A. Henderson RAH

VII. STAFF DIRECTOR: Jose A. Diez-Arquelles 

Date: 04/13/87
Revised: _____
Final: _____

HOUSE OF REPRESENTATIVES
COMMITTEE ON INSURANCE
STAFF ANALYSIS

19 1679

BILL #: PCB INS 87-13
RELATING TO: Captive Insurers
SPONSOR(S): Committee on Insurance
EFFECTIVE DATE: July 1, 1987, or becoming law - whichever occurs later
COMPANION BILL(S): _____
OTHER COMMITTEES OF REFERENCE: (1) _____
(2) _____

I. SUMMARY

The bill expands the regulation of captive insurers by authorizing the formation and operation of a new type of captive, an "industrial insured captive insurer." Restrictions are set forth as to whom may be insured by these types of entities. Provisions of the insurance code not applicable to industrial insured captive insurers are identified.

The present law authorizes the formation of captive insurers. A captive insurer is a domestic insurer and is owned by a parent corporation for the purpose of insuring the risks of the parent corporation and its subsidiaries. A captive insurer may write commercial property, casualty and marine insurance, but not workers' compensation insurance. A captive insurer must possess \$500,000 in unimpaired paid-in capital and \$250,000 in unimpaired surplus.

The bill authorizes the formation of industrial insured captive insurers to provide insurance for large corporations. Only corporations which have gross assets greater than \$50 million, employ at least 100 persons and pay annual premiums in excess of \$150,000 may be insured by an industrial insured captive insurer. An industrial insured captive insurer may write the same lines of insurance as a captive insurer as well as workers' compensation, if in excess of a specified volume. There is no requirement that an industrial insured captive insurer be domiciled in Florida. An industrial insured captive insurer can provide insurance to companies other than its parent and subsidiaries of its parent.

Section-by-Section Analysis:

Section 1: Creates part III of chapter 628 which will contain the provisions pertaining to captive insurers and industrial insured captive insurers.

Section 2: This section transfers s. 628.035 (captive insurer defined) to s. 628.901. Section 628.901 defines a captive insurer as a domestic insurer which insures the risks of its parent corporation and the subsidiaries of its parent corporation.

Section 3: This section provides definitions of the terms "industrial insured," "industrial insured captive insurer," and "affiliate."

An industrial insured is an insured with gross assets in excess of \$50 million, pays aggregate annual premiums in excess of \$150,000 and has at least 100 full-time employees. An industrial insured must obtain its insurance through a full-time employee or a licensed property and casualty insurance agent.

An industrial insured captive insurer provides insurance or reinsurance to industrial insureds. An industrial insured must be a stockholder or affiliate of the industrial insured captive insurer or a stockholder or affiliate of its parent corporation.

An affiliate is a person that controls or is controlled by one or more of the stockholders of the industrial insured captive insurer or its parent corporation.

Section 4: This section transfers s. 628.601 (licensing; authority) to s. 628.905. Section 628.905 provides clarification that a captive insurer may write commercial casualty and commercial marine insurance coverage. This section also authorizes an industrial insured captive insurer to write workers' compensation insurance in excess of \$25 million in the annual aggregate. Industrial insured captive insurers are authorized to insure or reinsure risks other than those of its parent and affiliated companies. An industrial insured captive insurer is not required to be incorporated in Florida if it is validly incorporated elsewhere.

Section 5: This section transfers s. 628.605 (minimum capital and surplus) to s. 628.907. Section 628.907 requires captive insurers to possess unimpaired paid-in capital of at least \$500,000 and unimpaired surplus of \$250,000 in order to be issued a license.

Section 6: This section transfers s. 628.607 (applicability of other laws) to s. 628.909. Section 628.909 states that the Florida Insurance Code applies to captive insurers and industrial insured captive insurers. References to specific sections of the Florida Insurance Code held to be applicable to captive insurers are deleted. Industrial insured captive insurers are exempt from the following sections of the insurance code:

1. Section 624.404(8). This section prohibits the writing of insurance by an insurer controlled or owned by any government or governmental agency.
2. Section 624.408. This section requires insurers seeking to be licensed in Florida to possess the greater of \$1 million in surplus or a specified level of net reserves.
3. Section 624.4095. This section authorizes the department to establish maximum premium levels that may be written by an insurer. The department may do this when it has reason to believe the financial condition of the insurer endangers the interests of its policyholders.
4. Section 624.609(1). This section restricts the risk which an insurer may retain on any one subject of insurance to 10% of its surplus to policyholders.
5. Sections 628.311 through 628.351. These sections pertain to contingent liability of members of a domestic mutual insurance company. Each member of a domestic mutual insurer has a contingent liability for the discharge of the obligations of the insurer. A domestic mutual insurer may assess members to cure a financial deficiency. A domestic mutual which possesses sufficient surplus may obtain departmental approval to extinguish the contingent liability of its members. Assessments made by a domestic mutual insurer are prima facie correct.

Section 7: This section transfers s. 628.609 (reports and statements) to s. 628.911. Section 628.911 requires captive insurers to submit an annual report to the department. The report is due within 60 days after the end of the captive's fiscal year.

Section 8: This section transfers s. 628.611 (reinsurance) to s. 628.913. Section 628.913 authorizes a captive insurer to obtain reinsurance. This section allows a captive insurer to reinsure. Credit is allowed to the captive insurer for the ceded reinsurance under certain conditions.

Section 9: This section transfers s. 628.613 (exemption from compulsory association) to s. 628.915. Section 628.915 prohibits captive insurers from joining any joint underwriting association or guaranty fund in Florida.

Section 10: This section transfers s. 628.617 (insolvency and liquidation) to s. 628.917. Section 628.917 authorizes the department to liquidate a captive insurer which has become insolvent. The department is prohibited from rehabilitating the captive insurer.

Section 11: This section provides for the repeal of ss. 628.901, 628.903, 628.905, 628.907, 628.909, 628.911, 628.913, 628.915 and 628.917, F.S., on October 1, 1991, and that they be reviewed by the Legislature prior to that date.

Section 12: This section provides for an effective date of July 1, 1987, or upon becoming a law, whichever occurs later.

II. ECONOMIC IMPACT

A. Public

Persons may organize an industrial insured captive insurer to write insurance in Florida. Non-domestic industrial insured captive insurers currently operating out-of-state may seek authority to write insurance in Florida. An industrial insured captive insurer may provide insurance which is otherwise unavailable.

B. Government

The Department of Insurance will regulate industrial insured captive insurers. The department has advised that it will incur no additional costs with this regulation at this time.

III. STATE COMPREHENSIVE PLAN IMPACT


The bill is consistent with the goal of promoting an economic climate which provides economic stability, maximizes job opportunities, and increases per capita income of residents. [s. 187.201(21)(a)]

IV. COMMENTS

None

V. AMENDMENTS

None

VI. PREPARED BY: Robert A. Henderson 

VII. STAFF DIRECTOR: Jose A. Diez-Arquelles 

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

<u>ANALYST</u>	<u>STAFF DIRECTOR</u>	<u>REFERENCE</u>	<u>ACTION</u>
1. <u>Casteel MWC</u>	<u>Fort</u> <i>PH</i>	1. <u>COM</u>	<u>Fav/CS</u>
2. _____	_____	2. _____	_____
3. _____	_____	3. _____	_____
4. _____	_____	4. _____	_____

SUBJECT:

Captive Insurers

BILL NO. AND SPONSOR:

CS/SB 1080 by Commerce and
Senators Lehtinen and HillI. SUMMARY:

Section 628.035, F.S., authorizes the formation of captive insurers. A captive insurer is a domestic insurer and is owned by a parent corporation for the purpose of insuring the risks of the parent corporation and its subsidiaries. A captive insurer may write commercial property, casualty and marine insurance, but not workers' compensation insurance. A captive insurer must possess \$500,000 in unimpaired paid-in capital and \$250,000 in unimpaired surplus.

The bill authorizes the formation of industrial insured captive insurers to provide insurance for large corporations. Only corporations which have gross assets greater than \$50 million, employ at least 100 persons and pay annual premiums in excess of \$150,000 may be insured by an industrial insured captive insurer. An industrial insured captive insurer may write the same lines of insurance as a captive insurer as well as workers' compensation, if in excess of a specified volume. There is no requirement that an industrial insured captive insurer be domiciled in Florida. An industrial insured captive insurer can provide insurance to companies other than its parent and subsidiaries of its parent.

For ease of understanding, a section-by-section analysis of CS/SB 1080 follows:

Section 1

Section 628.035, F.S., ("captive insurer" defined) is transferred to s. 628.901, F.S. Section 628.901, F.S., defines a "captive insurer" as a domestic insurer which insures the risks of its parent corporation and the subsidiaries of its parent corporation.

Section 2

Section 628.903, F.S., is created to provide definitions of the terms "industrial insured," "industrial insured captive insurer," and "affiliate."

An "industrial insured" is an insured with gross assets in excess of \$50 million, who pays aggregate annual premiums of at least \$200,000 for each line of insurance purchased from an industrial insured captive insurer or at least \$150,000, with respect to any line of coverage excess of at least \$25 million in the annual aggregate. The purchase of umbrella or general liability coverage excess of \$25 million in the annual aggregate shall be deemed to be the purchase of a single line of insurance. The "industrial insured" must have at least 100 full-time employees. Also, an "industrial insured" must obtain its insurance through a full-time employee who acts as an insurance manager or a licensed property and casualty insurance agent.

An "industrial insured captive insurer" provides insurance or reinsurance to industrial insureds. An industrial insured must be

a stockholder or member or affiliate of the industrial insured captive insurer or a stockholder or affiliate of its parent corporation.

An "affiliate" is a person that controls or is controlled by one or more of the stockholders of the industrial insured captive insurer or its parent corporation.

Section 3

Section 628.601, F.S., (licensing; authority) is transferred to s. 628.905, F.S. Section 628.905, F.S., provides clarification that a captive insurer may write commercial casualty and commercial marine insurance coverage. This section also authorizes an industrial insured captive insurer to write workers' compensation insurance in excess of \$25 million in the annual aggregate. Industrial insured captive insurers are authorized to insure or reinsure risks other than those of its parent and affiliated companies. An industrial insured captive insurer is not required to be incorporated in Florida if it is validly incorporated elsewhere.

Section 4

Section 628.605, F.S., (minimum capital and surplus) is transferred to s. 628.907, F.S. Section 628.907, F.S., requires captive insurers to possess unimpaired paid-in capital of at least \$500,000 and unimpaired surplus of \$250,000 in order to be issued a license.

Section 5

Section 628.607, F.S., (applicability of other laws) is transferred to s. 628.909, F.S., and is amended. Subsection 628.909(1), F.S., states that the Florida Insurance Code shall not apply to captive insurers and industrial insured captive insurers except as specified in s. 628.909(2), (3) and (4), F.S.

Subsection 628.909(2), F.S., lists the specific sections of the Florida Insurance Code which shall apply to captive insurers who are not industrial insured captive insurers.

Subsection 628.909(3), F.S., lists the specific sections of the Florida Insurance Code which shall apply to industrial insured captive insurers. They are as follows:

1. Chapter 624, F.S., except:
 - a) Section 624.408, F.S., requires insurers seeking to be licensed in Florida to possess the greater of \$1 million in surplus or a specified level of net reserves.
 - b) Section 624.4095, F.S., authorizes the department to establish maximum premium levels that may be written by an insurer. The department may do this when it has reason to believe the financial condition of the insurer endangers the interests of its policyholders.
 - c) Section 624.425, F.S., and s. 624.426, F.S., deal with resident agents and countersignatures by property, casualty, or surety insurers.
 - d) Section 624.609(1), F.S., restricts the risk which an insurer may retain on any one subject of insurance to 10 percent of its surplus to policyholders.
2. Chapter 625, F.S., part II, dealing with investments, if the industrial insured captive insurer is incorporated in this state.
3. Chapter 626, F.S., part X, dealing with unfair insurance trade practices.

4. Sections 627.730 - 627.7405, F.S., when no-fault coverage is provided.
5. Chapter 628, F.S., except s. 628.311 through 628.351, F.S., which pertain to contingent liability of members of a domestic mutual insurance company. Each member of a domestic mutual insurer has a contingent liability for the discharge of the obligations of the insurer. A domestic mutual insurer may assess members to cure a financial deficiency. A domestic mutual which possesses sufficient surplus may obtain departmental approval to extinguish the contingent liability of its members. Assessments made by a domestic mutual insurer are prima facie correct.

Subsection 628.909(4), F.S., specifies that s. 624.404(8), F.S., which prohibits the writing of insurance by an insurer controlled or owned by any government or government agency, shall not apply to industrial insured captive insurers under certain situations. These situations arise when certain percentages of voting rights of insurers are held or controlled by particular government or government agency entities.

Section 6

Section 628.609, F.S., (reports and statements) is transferred to s. 628.911, F.S. Section 628.911, F.S., requires captive insurers to submit an annual report to the department. The report is due within 60 days after the end of the captive's fiscal year.

Section 7

Section 628.611, F.S., (reinsurance) is transferred to s. 628.913, F.S. Section 628.913, F.S., authorizes a captive insurer to obtain reinsurance. This section allows a captive insurer to reinsure. Credit is allowed to the captive insurer for the ceded reinsurance under certain conditions.

Section 8

Section 628.613, F.S., (exemption from compulsory association) is transferred to s. 628.915, F.S., and is amended. Currently, section 628.915, F.S., prohibits captive insurers from joining any joint underwriting association or guaranty fund in Florida. This bill also prohibits an industrial insured captive insurer from joining any joint underwriting association or guaranty fund in Florida.

Section 9

Section 628.617, F.S., (insolvency and liquidation) is transferred to s. 628.917, F.S. Section 628.917, F.S., authorizes the department to liquidate a captive insurer which has become insolvent. The department is prohibited from rehabilitating the captive insurer.

Section 10

Creates part III of ch. 628, F.S., which will contain ss. 628.901, 628.903, 628.905, 628.907, 628.909, 628.911, 628.913, 628.915, and 628.917, F.S., which pertain to captive insurers and industrial insured captive insurers.

Section 11

This section provides for the repeal of ss. 628.901, 628.903, 628.905, 628.907, 628.909, 628.911, 628.913, 628.915 and 628.917, F.S., on October 1, 1991, and that they be reviewed by the Legislature prior to that date.

Section 12

This section provides for an effective date of July 1, 1987, or upon becoming a law, whichever occurs later.

II. ECONOMIC IMPACT AND FISCAL NOTE:

A. Public:

Persons may organize an industrial insured captive insurer to write insurance in Florida. Non-domestic industrial insured captive insurers currently operating out-of-state may seek authority to write insurance in Florida. An industrial insured captive insurer may provide insurance which is otherwise unavailable.

B. Government:

The Department of Insurance will regulate industrial insured captive insurers. The department has advised that it will incur no additional costs with this regulation.

III. COMMENTS:

None.

IV. AMENDMENTS:

None.

[SENATE Committee on the
No date]

CS/SB 1080

COMMITTEE SUBSTITUTE FOR SENATE BILL 1080 (CHAPTER 87-
designates sections 628.901 - 628.917, F.S., to create a
regulatory environment for relocation to Florida by certain
captive insurers. Presently, seven states have captive
insurer laws. The bill revises the Florida law to create a
new class of captive to be known as an industrial insured
captive insurer. The key provision is that an industrial
insured captive insurer need not be incorporated in Florida.

Restrictions are placed as to the type of person who may be
insured and on the coverage which may be written.

Industrial insured captive insurers would provide commercial
property, casualty and marine insurance only. As to
workers' compensation and employer's liability insurance, an
industrial insured captive insurer may only write this type
of coverage in excess of \$25 million in the annual
aggregate. Coverage is only provided to persons who are
industrial insureds. In order to obtain coverage from an
industrial insured captive insurer, an industrial insured
must meet certain requirements including having gross assets
in excess of \$50 million, having at least 100 full-time
employees, and paying annual premiums of at least \$200,000
for each line of insurance purchased from the industrial
insured captive insurer or at least \$150,000 for any
coverage in excess of at least \$25 million in the annual
aggregate.