

Bill No. CS for SB 994

Amendment No. ____

<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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11 Senator Holzendorf moved the following amendment:

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13 **Senate Amendment (with title amendment)**

14 On page 6, between lines 18 and 19,

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16 insert:

17 Section 6. Present subsection (1) of section 624.610,
 18 Florida Statutes, is renumbered as subsection (2), present
 19 subsection (2) of that section is renumbered as subsection (3)
 20 and amended, present subsections (3) through (12) of that
 21 section are renumbered as subsections (4) through (13),
 22 respectively, and a new subsection (1) is added to that
 23 section, to read:

24 624.610 Reinsurance.--

25 (1) The purpose of this section is to protect the
 26 interests of insureds, claimants, ceding insurers, assuming
 27 insurers, and the public. It is the intent of the Legislature
 28 to ensure adequate regulation of insurers and reinsurers and
 29 adequate protection for those to whom they owe obligations.
 30 In furtherance of that state interest, the Legislature
 31 requires that, upon the insolvency of a non-United States

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1 insurer or reinsurer that provides security to fund its United
 2 States obligations in accordance with this section, such
 3 security shall be maintained in the United States and claims
 4 shall be filed with and valued by the state insurance
 5 commissioner with regulatory oversight, and the assets shall
 6 be distributed in accordance with the insurance laws of the
 7 state in which the trust is domiciled which are applicable to
 8 the liquidation of domestic United States insurance companies.
 9 The Legislature declares that the matters contained in this
 10 section are fundamental to the business of insurance in
 11 accordance with 15 U.S.C. ss. 1011-1012.

12 (3)(2)(a) If a ceding insurer reinsures all or any
 13 part of any particular risk or class of risks with an approved
 14 reinsurer, the ceding insurer may receive credit in accounting
 15 and financial statements on account of such reinsurance ceded.
 16 An approved reinsurer is:

17 1. An assuming insurer authorized by the department to
 18 transact such line of insurance or reinsurance in this state.
 19 Subject to the other requirements of this code, credit may be
 20 taken for reinsurance with an authorized insurer.

21 2. An assuming insurer approved by the department to
 22 transact such line of reinsurance in this state. The
 23 department shall approve only solvent insurers meeting the
 24 criteria established for authorized insurers in this state.
 25 From time to time, the department shall publish a list of
 26 insurers approved pursuant to this subsection. Subject to the
 27 other requirements of this code, credit may be taken for
 28 reinsurance with an approved reinsurer.

29 3. An assuming underwriting member of an insurance
 30 exchange domiciled in any other state or jurisdiction in the
 31 United States, which insurance exchange was licensed and in

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1 operation on or before January 1, 1993, provided the insurance
2 exchange presents to the department for its approval, and
3 maintains, satisfactory evidence that such assuming
4 underwriting member maintains the standards and meets the
5 financial requirements applicable to an authorized insurer.
6 Subject to the other requirements of this section, credit may
7 be taken for reinsurance with members approved under this
8 subsection by the department.

9 4. A group of individual, unincorporated, or
10 incorporated alien insurers which maintains funds in an amount
11 not less than \$50 million held in trust for United States
12 policyholders and beneficiaries in a bank or trust company
13 that is subject to supervision by any state of the United
14 States or that is a member of the Federal Reserve System and
15 which group satisfies the department by annually filing
16 evidence that it can meet its obligations under its
17 reinsurance agreements. Subject to the other requirements of
18 this section, credit may be taken for reinsurance with a group
19 approved under this subsection by the department.

20 (b) Credit in accounting and financial statements on
21 account of reinsurance ceded to a nonapproved reinsurer may be
22 allowed only:

23 1. When it is demonstrated by the ceding insurer to
24 the satisfaction of the department that such reinsurer
25 maintains the standards and meets the financial requirements
26 applicable to an authorized insurer;

27 2. To the extent of deposits by, or funds withheld
28 from, such reinsurer pursuant to express provision therefor in
29 the reinsurance contract as security for the payment of the
30 obligations thereunder if such deposits or funds are held
31 subject to withdrawal by, and under the control of, the ceding

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1 insurer or such deposits or funds are placed in trust for such
 2 purposes in a bank which is a member of the Federal Reserve
 3 System if withdrawals from the trust cannot be made without
 4 the consent of the ceding insurer. The funds withheld may be
 5 cash or securities which are qualified as admitted assets
 6 under part II of chapter 625 and which have a market value
 7 equal to or greater than the credit taken; or

8 3. To the extent that the amount of a clean,
 9 unconditional, evergreen, and irrevocable letter of credit,
 10 issued for a term of not less than 1 year and in conformity
 11 with the requirements set forth in this subparagraph, equals
 12 or exceeds the liability of an unauthorized or unapproved
 13 reinsurer for unearned premiums, outstanding losses, and an
 14 adequate reserve for incurred but not reported losses under a
 15 specific reinsurance agreement. The requirements are that such
 16 a clean and irrevocable letter of credit be issued under
 17 arrangements satisfactory to the department as constituting
 18 security to the ceding insurer substantially equal to that of
 19 a deposit under subparagraph 2. and that the letter be issued
 20 by a banking institution which is a member of the Federal
 21 Reserve System and which has financial standing satisfactory
 22 to the commissioner. The department may adopt rules requiring
 23 that the letter adhere in its wording to a format for letters
 24 of credit as the format has been or may be adopted or approved
 25 by the National Association of Insurance Commissioners.

26 4. When the reinsurance is ceded to a reinsurer which
 27 maintains a trust fund, in a bank or trust company that is
 28 subject to supervision by any state of the United States or
 29 that is a member of the Federal Reserve System, for the
 30 payment of the valid claims for business written in the United
 31 States. The trust shall consist of a trustee account in an

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1 amount not less than the reinsurer's liabilities attributable
2 to reinsurance by ceding insurers for business written in the
3 United States and, in addition, the reinsurer shall maintain a
4 trusted surplus of not less than \$20 million. Such trust
5 shall be established in a form approved, and any amendments to
6 the trust approved, by the insurance commissioner where the
7 trust is domiciled, or the insurance commissioner of another
8 state who, pursuant to the terms of the trust agreement, has
9 accepted principal regulatory oversight of the trust. The
10 trust shall remain in effect for as long as the reinsurer has
11 outstanding obligations due under the reinsurance agreements
12 subject to the trust. The trust assets must be in cash or
13 securities which are qualified as admitted assets under part
14 II of chapter 625 and which have a market value of the
15 required liabilities and trusted surplus. The reinsurer shall
16 report quarterly to the insurance commissioner information
17 substantially the same as that required to be reported on the
18 National Association of Insurance Commissioners Annual
19 Statement form by licensed insurers to enable the insurance
20 commissioner to determine the sufficiency of the trust fund.
21 The trust and the reinsurer shall be subject to examination as
22 determined by the commissioner.

23 5. The credit permitted by subparagraph(3)(a)4. and
24 the credit permitted by subparagraph(3)(b)2. shall not be
25 allowed unless the assuming insurer in substance agrees in the
26 trust agreement to the following conditions:

27 a. Notwithstanding any other provisions in the trust
28 instrument, if the trust fund is inadequate because it
29 contains an amount less than the amount required by the
30 department or, if the grantor of the trust has been declared
31 insolvent or placed into receivership, rehabilitation,

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1 liquidation, or similar proceedings under the laws of its
2 state or country of domicile, the trustee shall comply with an
3 order of the commissioner ~~superintendent~~ with regulatory
4 oversight over the trust or with an order of a court of
5 competent jurisdiction directing the trustee to transfer to
6 the commissioner ~~superintendent~~ with regulatory oversight all
7 of the assets of United States trust beneficiaries.

8 b. The assets shall be distributed by, and claims of
9 United States trust beneficiaries shall be filed with and
10 valued by, the commissioner ~~superintendent~~ with regulatory
11 oversight in accordance with the laws of the state in which
12 the trust is domiciled that are applicable to the liquidation
13 of domestic insurance companies.

14 c. If the commissioner ~~superintendent~~ with regulatory
15 oversight determines that the assets of the trust fund or any
16 part thereof are not necessary to satisfy the claims for
17 business written in the United States, the assets or any part
18 thereof shall be returned by the commissioner ~~superintendent~~
19 with regulatory oversight to the trustee for distribution in
20 accordance with the trust agreement.

21 d. The grantor shall waive any right otherwise
22 available to it under United States law that is inconsistent
23 with this provision.

24 (c) For the purposes of this subsection only, the term
25 "ceding insurer" shall include any health maintenance
26 organization operating under a certificate of authority issued
27 under part I of chapter 641.

28 Section 7. Section 624.22, Florida Statutes, as
29 created by section 1 of chapter 97-214, Laws of Florida, is
30 repealed.

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1 (Redesignate subsequent sections.)

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

5 And the title is amended as follows:

6 On page 1, line 20, after the semicolon

7

8 insert:

9 amending s. 624.610, F.S.; specifying purposes

10 of regulation of reinsurance; correcting

11 cross-references; repealing s. 624.22, F.S.,

12 relating to purposes of regulation of

13 reinsurance;

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