

By the Committee on Banking and Insurance; and Senator Holzendorf

311-2107-00

1 A bill to be entitled
2 An act relating to insurance; amending s.
3 284.33, F.S.; authorizing the Department of
4 Insurance to directly purchase annuities
5 through a structured settlement insurance
6 services consultant; providing procedures and
7 requirements; amending s. 625.121, F.S.;
8 deleting a reference to deficiency reserves for
9 certain term life insurance policies;
10 authorizing the Department of Insurance to
11 adopt a certain valuation of life insurance
12 policies model regulation; amending s. 626.99,
13 F.S.; revising a reference to a more current
14 edition of a cited buyer's guide; amending s.
15 627.6487, F.S.; clarifying that creditable
16 coverage must have been in effect in this
17 state; amending s. 627.901, F.S.; increasing
18 maximum service charge for financing insurance
19 premiums; amending s. 627.902, F.S.; revising
20 applicability of premium finance rate of
21 interest; providing an effective date.

22
23 Be It Enacted by the Legislature of the State of Florida:

24
25 Section 1. Subsection (1) of section 284.33, Florida
26 Statutes, is amended to read:

27 284.33 Purchase of insurance, reinsurance, and
28 services.--

29 (1) The Department of Insurance is authorized to
30 provide insurance, specific excess insurance, and aggregate
31 excess insurance through the Department of Management

1 Services, pursuant to the provisions of part I of chapter 287,
2 as necessary to provide insurance coverages authorized by this
3 part, consistent with market availability. However, the
4 Department of Insurance may directly purchase annuities by
5 using a structured settlement insurance consulting firm
6 selected by the department to assist in the settlement of
7 claims being handled by the Division of Risk Management. The
8 selection of the structured settlement insurance services
9 consultant shall be made by using competitive sealed
10 proposals. The consulting firm shall act as an agent of record
11 for the department in procuring the best annuity products
12 available to facilitate structured settlement of claims,
13 considering price, insurer financial strength, and the best
14 interests of the state risk management program. Purchase of
15 annuities by the department using a structured settlement
16 method is excepted from competitive sealed bidding or proposal
17 requirements.The Department of Insurance is further
18 authorized to purchase such risk management services,
19 including, but not limited to, risk and claims control; safety
20 management; and legal, investigative, and adjustment services,
21 as may be required and pay claims. The department may contract
22 with a service organization for such services and advance
23 money to such service organization for deposit in a special
24 checking account for paying claims made against the state
25 under the provisions of this part. The special checking
26 account shall be maintained in this state in a bank or savings
27 association organized under the laws of this state or of the
28 United States. The department may replenish such account as
29 often as necessary upon the presentation by the service
30 organization of documentation for payments of claims equal to
31 the amount of the requested reimbursement.

1 Section 2. Subsections (5), (7), and (11) of section
2 625.121, Florida Statutes, are amended to read:

3 625.121 Standard Valuation Law; life insurance.--

4 (5) MINIMUM STANDARD FOR VALUATION OF POLICIES AND
5 CONTRACTS ISSUED ON OR AFTER OPERATIVE DATE OF STANDARD
6 NONFORFEITURE LAW.--Except as otherwise provided in paragraph
7 (h) and subsections (6), (11), and (14), the minimum standard
8 for the valuation of all such policies and contracts issued on
9 or after the operative date of s. 627.476 (Standard
10 Nonforfeiture Law for Life Insurance) shall be the
11 commissioners' reserve valuation method defined in subsections
12 (7), (11), and (14); 5 percent interest for group annuity and
13 pure endowment contracts and 3.5 percent interest for all
14 other such policies and contracts, or in the case of life
15 insurance policies and contracts, other than annuity and pure
16 endowment contracts, issued on or after July 1, 1973, 4
17 percent interest for such policies issued prior to October 1,
18 1979, and 4.5 percent interest for such policies issued on or
19 after October 1, 1979; and the following tables:

20 (a) For all ordinary policies of life insurance issued
21 on the standard basis, excluding any disability and accidental
22 death benefits in such policies:

23 1. For policies issued prior to the operative date of
24 s. 627.476(9), the commissioners' 1958 Standard Ordinary
25 Mortality Table; except that, for any category of such
26 policies issued on female risks, modified net premiums and
27 present values, referred to in subsection (7), may be
28 calculated according to an age not more than 6 years younger
29 than the actual age of the insured; and

30 2. For policies issued on or after the operative date
31 of s. 627.476(9), the commissioners' 1980 Standard Ordinary

1 Mortality Table or, at the election of the insurer for any one
2 or more specified plans of life insurance, the commissioners'
3 1980 Standard Ordinary Mortality Table with Ten-Year Select
4 Mortality Factors.

5 (b) For all industrial life insurance policies issued
6 on the standard basis, excluding any disability and accidental
7 death benefits in such policies:

8 1. For policies issued prior to the first date to
9 which the commissioners' 1961 Standard Industrial Mortality
10 Table is applicable according to s. 627.476, the 1941 Standard
11 Industrial Mortality Table; and

12 2. For such policies issued on or after that date, the
13 commissioners' 1961 Standard Industrial Mortality Table.

14 (c) For individual annuity and pure endowment
15 contracts, excluding any disability and accidental death
16 benefits in such policies, the 1937 Standard Annuity Mortality
17 Table or, at the option of the insurer, the Annuity Mortality
18 Table for 1949, Ultimate, or any modification of either of
19 these tables approved by the department.

20 (d) For group annuity and pure endowment contracts,
21 excluding any disability and accidental death benefits in such
22 policies, the Group Annuity Mortality Table for 1951; any
23 modification of such table approved by the department; or, at
24 the option of the insurer, any of the tables or modifications
25 of tables specified for individual annuity and pure endowment
26 contracts.

27 (e) For total and permanent disability benefits in or
28 supplementary to ordinary policies or contracts:

29 1. For policies or contracts issued on or after
30 January 1, 1966, the tables of period 2 disablement rates and
31 the 1930 to 1950 termination rates of the 1952 disability

1 study of the Society of Actuaries, with due regard to the type
2 of benefit;

3 2. For policies or contracts issued on or after
4 January 1, 1961, and prior to January 1, 1966, either those
5 tables or, at the option of the insurer, the class three
6 disability table (1926); and

7 3. For policies issued prior to January 1, 1961, the
8 class three disability table (1926).

9
10 Any such table for active lives shall be combined with a
11 mortality table permitted for calculating the reserves for
12 life insurance policies.

13 (f) For accidental death benefits in or supplementary
14 to policies:

15 1. For policies issued on or after January 1, 1966,
16 the 1959 Accidental Death Benefits Table;

17 2. For policies issued on or after January 1, 1961,
18 and prior to January 1, 1966, either that table or, at the
19 option of the insurer, the Intercompany Double Indemnity
20 Mortality Table; and

21 3. For policies issued prior to January 1, 1961, the
22 Intercompany Double Indemnity Mortality Table.

23
24 Either table shall be combined with a mortality table
25 permitted for calculating the reserves for life insurance
26 policies.

27 (g) For group life insurance, life insurance issued on
28 the substandard basis, and other special benefits, such tables
29 as may be approved by the department as being sufficient with
30 relation to the benefits provided by such policies.

31

1 (h) Except as provided in subsection (6), the minimum
2 standard for the valuation of all individual annuity and pure
3 endowment contracts issued on or after the operative date of
4 this paragraph and for all annuities and pure endowments
5 purchased on or after such operative date under group annuity
6 and pure endowment contracts shall be the commissioners'
7 reserve valuation method defined in subsection (7) and the
8 following tables and interest rates:

9 1. For individual annuity and pure endowment contracts
10 issued prior to October 1, 1979, excluding any disability and
11 accidental death benefits in such contracts, the 1971
12 Individual Annuity Mortality Table, or any modification of
13 this table approved by the department, and 6 percent interest
14 for single-premium immediate annuity contracts and 4 percent
15 interest for all other individual annuity and pure endowment
16 contracts.

17 2. For individual single-premium immediate annuity
18 contracts issued on or after October 1, 1979, and prior to
19 October 1, 1986, excluding any disability and accidental death
20 benefits in such contracts, the 1971 Individual Annuity
21 Mortality Table, or any modification of this table approved by
22 the department, and 7.5 percent interest. For such contracts
23 issued on or after October 1, 1986, the 1983 Individual Annual
24 Mortality Table, or any modification of such table approved by
25 the department, and the applicable calendar year statutory
26 valuation interest rate as described in subsection (6).

27 3. For individual annuity and pure endowment contracts
28 issued on or after October 1, 1979, and prior to October 1,
29 1986, other than single-premium immediate annuity contracts,
30 excluding any disability and accidental death benefits in such
31 contracts, the 1971 Individual Annuity Mortality Table, or any

1 modification of this table approved by the department, and 5.5
2 percent interest for single-premium deferred annuity and pure
3 endowment contracts and 4.5 percent interest for all other
4 such individual annuity and pure endowment contracts. For such
5 contracts issued on or after October 1, 1986, the 1983
6 Individual Annual Mortality Table, or any modification of such
7 table approved by the department, and the applicable calendar
8 year statutory valuation interest rate as described in
9 subsection (6).

10 4. For all annuities and pure endowments purchased
11 prior to October 1, 1979, under group annuity and pure
12 endowment contracts, excluding any disability and accidental
13 death benefits purchased under such contracts, the 1971 Group
14 Annuity Mortality Table, or any modification of this table
15 approved by the department, and 6 percent interest.

16 5. For all annuities and pure endowments purchased on
17 or after October 1, 1979, and prior to October 1, 1986, under
18 group annuity and pure endowment contracts, excluding any
19 disability and accidental death benefits purchased under such
20 contracts, the 1971 Group Annuity Mortality Table, or any
21 modification of this table approved by the department, and 7.5
22 percent interest. For such contracts purchased on or after
23 October 1, 1986, the 1983 Group Annuity Mortality Table, or
24 any modification of such table approved by the department, and
25 the applicable calendar year statutory valuation interest rate
26 as described in subsection (6).

27
28 After July 1, 1973, any insurer may file with the department a
29 written notice of its election to comply with the provisions
30 of this paragraph after a specified date before January 1,
31 1979, which shall be the operative date of this paragraph for

1 such insurer. However, an insurer may elect a different
2 operative date for individual annuity and pure endowment
3 contracts from that elected for group annuity and pure
4 endowment contracts. If an insurer makes no such election,
5 the operative date of this paragraph for such insurer shall be
6 January 1, 1979.

7 (i) In lieu of the mortality tables specified in this
8 subsection, and subject to rules adopted by the department,
9 the insurance company may, at its option:

10 1. Substitute the applicable 1958 CSO or CET Smoker
11 and Nonsmoker Mortality Tables, in lieu of the 1980 CSO or CET
12 mortality table standard, for policies issued on or after the
13 operative date of s. 627.476(9) and before January 1, 1989.

14 2. Substitute the applicable 1980 CSO or CET Smoker
15 and Nonsmoker Mortality Tables in lieu of the 1980 CSO or CET
16 mortality table standard;

17 3. Use the Annuity 2000 Mortality Table for
18 determining the minimum standard of valuation for individual
19 annuity and pure endowment contracts issued on or after the
20 operative date of this section until the department, on a date
21 certain that is on or after January 1, 1998, adopts by rule
22 that table for determining the minimum standard for valuation
23 purposes.

24 4. Use the 1994 GAR Table for determining the minimum
25 standard of valuation for annuities and pure endowments
26 purchased on or after the operative date of this section under
27 group annuity and pure endowment contracts until the
28 department, on a date certain that is on or after January 1,
29 1998, adopts by rule that table for determining the minimum
30 standard for valuation purposes.

31

1 (j) The department may adopt by rule the model
2 regulation for valuation of life insurance policies as
3 approved by the National Association of Insurance
4 Commissioners in March 1999, including tables of select
5 mortality factors, and may make the regulation effective
6 January 1, 2000.

7 (7) COMMISSIONERS' RESERVE VALUATION METHOD.--

8 (a)1. Except as otherwise provided in this subsection
9 and subsections (11) and (14), reserves according to the
10 commissioners' reserve valuation method, for the life
11 insurance and endowment benefits of policies providing for a
12 uniform amount of insurance and requiring the payment of
13 uniform premiums, shall be the excess, if any, of the present
14 value, at the date of valuation, of such future guaranteed
15 benefits provided for by such policies, over the then-present
16 value of any future modified net premiums therefor. The
17 modified net premiums for any such policy shall be such
18 uniform percentage of the respective contract premiums for
19 such benefits that the present value, at the date of issue of
20 the policy, of all such modified net premiums shall be equal
21 to the sum of the then-present value of such benefits provided
22 for by the policy and the excess of sub-subparagraph a. over
23 sub-subparagraph b. as follows:

24 a. A net-level annual premium equal to the present
25 value, at the date of issue, of such benefits provided for
26 after the first policy year, divided by the present value, at
27 the date of issue, of an annuity of one per annum payable on
28 the first and each subsequent anniversary of such policy on
29 which a premium falls due; provided, however, that such
30 net-level annual premium shall not exceed the net-level annual
31 premium on the 19-year premium whole life plan for insurance

1 of the same amount at an age 1 year higher than the age at
2 issue of such policy.

3 b. A net-1-year-term premium for such benefits
4 provided for in the first policy year.

5 2. For any life insurance policy which is issued on or
6 after January 1, 1985, for which the contract premium in the
7 first policy year exceeds that of the second year and for
8 which no comparable additional benefit is provided in the
9 first year for such excess, and which provides an endowment
10 benefit, a cash surrender value, or a combination thereof in
11 an amount greater than such excess premium, the reserve
12 according to the commissioners' reserve valuation method as of
13 any policy anniversary occurring on or before the assumed
14 ending date, defined herein as the first policy anniversary on
15 which the sum of any endowment benefit and any cash surrender
16 value then available is greater than such excess premium,
17 shall, except as otherwise provided in subsection (11), be the
18 greater of the reserve as of such policy anniversary
19 calculated as described in subparagraph 1. and the reserve as
20 of such policy anniversary calculated as described in
21 subparagraph 1. but with:

22 a. The value defined in subparagraph 1. being reduced
23 by 15 percent of the amount of such excess first year premium;

24 b. All present values of benefits and premiums being
25 determined without reference to premiums or benefits provided
26 for by the policy after the assumed ending date;

27 c. The policy being assumed to mature on such date as
28 an endowment; and

29 d. The cash surrender value provided on such date
30 being considered as an endowment benefit.

31

1 In making the above comparison, the mortality and interest
2 bases stated in subsections (5) and (6) shall be used.

3 (b) Reserves according to the commissioners' reserve
4 valuation method for:

5 1. Life insurance policies providing for a varying
6 amount of insurance or requiring the payment of varying
7 premiums;

8 2. Group annuity and pure endowment contracts,
9 purchased under a retirement plan or plan of deferred
10 compensation, established or maintained by an employer,
11 including a partnership or sole proprietorship, or by an
12 employee organization, or by both, other than a plan providing
13 individual retirement accounts or individual retirement
14 annuities under s. 408 of the Internal Revenue Code, as now or
15 hereafter amended;

16 3. Disability and accidental death benefits in all
17 policies and contracts; and

18 4. All other benefits, except life insurance and
19 endowment benefits in life insurance policies, and benefits
20 provided by all other annuity and pure endowment contracts,
21

22 shall be calculated by a method which is consistent with and
23 yields results consistent with the principles of paragraph
24 ~~(a), except that any extra premiums charged because of~~
25 ~~impairments, nonrecurring expense factors, or special hazards~~
26 ~~shall be disregarded in the determination of modified net~~
27 ~~premiums.~~

28 (c) This subsection shall apply to all annuity and
29 pure endowment contracts other than group annuity and pure
30 endowment contracts purchased under a retirement plan or plan
31 of deferred compensation, established or maintained by an

1 employer, including a partnership or sole proprietorship, or
2 by an employee organization, or by both, other than a plan
3 providing individual retirement accounts or individual
4 retirement annuities under s. 408 of the Internal Revenue
5 Code, as now or hereafter amended. Reserves according to the
6 commissioners' annuity reserve method for benefits under
7 annuity or pure endowment contracts, excluding any disability
8 and accidental death benefits in such contracts, shall be the
9 greatest of the respective excesses of the present values, at
10 the date of valuation, of the future guaranteed benefits,
11 including guaranteed nonforfeiture benefits, provided for by
12 such contracts at the end of each respective contract year,
13 over the present value, at the date of valuation, of any
14 future valuation considerations derived from future gross
15 considerations, required by the terms of such contract, that
16 become payable prior to the end of such respective contract
17 year. The future guaranteed benefits shall be determined by
18 using the mortality table, if any, and the interest rate or
19 rates specified in such contracts for determining guaranteed
20 benefits. The valuation considerations are the portions of
21 the respective gross considerations applied under the terms of
22 such contracts to determine nonforfeiture values.

23 (11) DEFICIENCY RESERVE.--If in any contract year the
24 gross premium charged by any life insurer on any policy or
25 contract is less than the valuation net premium for the policy
26 or contract calculated by the method used in calculating the
27 reserve thereon but using the minimum valuation standards of
28 mortality and rate of interest, there shall be maintained on
29 such policy or contract a deficiency reserve in addition to
30 the reserve defined by subsections (7) and (12). For each
31 such policy or contract, the deficiency reserve shall be the

1 present value, according to the minimum valuation standards of
2 mortality and rate of interest, of the differences between all
3 such valuation net premiums and the corresponding premiums
4 charged for such policy or contract during the remainder of
5 the premium-paying period. ~~As regards renewable term life~~
6 ~~insurance, the policy reserve and foregoing deficiency reserve~~
7 ~~shall be calculated using the current term period only.~~For
8 any category of policies, contracts, or benefits specified in
9 subsections (5) and (6), issued on or after the operative date
10 of s. 627.476 (the Standard Nonforfeiture Law for Life
11 Insurance), the aggregate deficiency reserves may be reduced
12 by the amount, if any, by which the aggregate reserves
13 actually calculated in accordance with subsection (9) exceed
14 the minimum aggregate reserves prescribed by subsection (8).
15 The minimum valuation standards of mortality and rate of
16 interest referred to in this subsection are those standards
17 stated in subsections (5) and (6). However, for any life
18 insurance policy which is issued on or after January 1, 1985,
19 for which the gross premium in the first policy year exceeds
20 that of the second year and for which no comparable additional
21 benefit is provided in the first year for such excess, and
22 which provides an endowment benefit, a cash surrender value,
23 or a combination thereof in an amount greater than such excess
24 premium, the foregoing provisions of this subsection shall be
25 applied as if the method actually used in calculating the
26 reserve for such policy were the method described in
27 subsection (7), the provisions of subparagraph (7)(a)2. being
28 ignored. The amount of the deficiency reserve, if any, at
29 each policy anniversary of such a policy shall be the excess,
30 if any, of the amount determined by the foregoing provisions
31 of this subsection plus the reserve calculated by the method

1 described in subsection (7), the provisions of subparagraph
2 (7)(a)2. being ignored, over the reserve actually calculated
3 by the method described in subsection (7), the provisions of
4 subparagraph (7)(a)2. being taken into account.

5 Section 3. Subsection (6) of section 626.99, Florida
6 Statutes, is amended to read:

7 626.99 Life insurance solicitation.--

8 (6) ADOPTION OF BUYER'S GUIDE; REQUIREMENTS.--Any
9 insurer soliciting life insurance in this state on or after
10 October 1, 1980, shall adopt and use a buyer's guide, and the
11 adoption and use by an insurer of the buyer's guide adopted
12 October 1, 1996, ~~May 4, 1976~~, by the National Association of
13 Insurance Commissioners in the NAIC Life Insurance Disclosure
14 ~~Solicitation~~ Model Regulation shall be in compliance with the
15 requirements of this section.

16 Section 4. Subsection (3) of section 627.6487, Florida
17 Statutes, is amended to read:

18 627.6487 Guaranteed availability of individual health
19 insurance coverage to eligible individuals.--

20 (3) For the purposes of this section, the term
21 "eligible individual" means an individual:

22 (a)1. For whom, as of the date on which the individual
23 seeks coverage under this section, the aggregate of the
24 periods of creditable coverage, as defined in s. 627.6561(5)
25 and (6), is 18 or more months; and

26 2.a. Whose most recent prior creditable coverage was
27 under a group health plan, governmental plan, or church plan,
28 or health insurance coverage offered in connection with any
29 such plan; or

30 b. Whose most recent prior creditable coverage was
31 under an individual plan issued in this state by a health

1 insurer or health maintenance organization, which coverage is
2 terminated due to the insurer or health maintenance
3 organization becoming insolvent or discontinuing the offering
4 of all individual coverage in the State of Florida, or due to
5 the insured no longer living in the service area in the State
6 of Florida of the insurer or health maintenance organization
7 that provides coverage through a network plan in the State of
8 Florida;

9 (b) Who is not eligible for coverage under:

10 1. A group health plan, as defined in s. 2791 of the
11 Public Health Service Act;

12 2. A conversion policy or contract issued by an
13 authorized insurer or health maintenance organization under s.
14 627.6675 or s. 641.3921, respectively, offered to an
15 individual who is no longer eligible for coverage under either
16 an insured or self-insured employer plan;

17 3. Part A or part B of Title XVIII of the Social
18 Security Act; or

19 4. A state plan under Title XIX of such act, or any
20 successor program, and does not have other health insurance
21 coverage;

22 (c) With respect to whom the most recent coverage
23 within the coverage period described in paragraph (a) was not
24 terminated based on a factor described in s. 627.6571(2)(a) or
25 (b), relating to nonpayment of premiums or fraud, unless such
26 nonpayment of premiums or fraud was due to acts of an employer
27 or person other than the individual;

28 (d) Who, having been offered the option of
29 continuation coverage under a COBRA continuation provision or
30 under s. 627.6692, elected such coverage; and

31

1 (e) Who, if the individual elected such continuation
2 provision, has exhausted such continuation coverage under such
3 provision or program.

4 Section 5. Section 627.901, Florida Statutes, is
5 amended to read:

6 627.901 Premium financing by an insurance agent or
7 agency.--

8 (1) A general lines agent may make reasonable service
9 charges for financing insurance premiums on policies issued or
10 business produced by such an agent or agency, s. 626.9541
11 notwithstanding. The service charge shall not exceed \$1 per
12 installment, or a \$6 total service charge per year, for any
13 premium balance of \$120 or less. For any premium balance
14 greater than \$120 but not more than \$220, the service charge
15 shall not exceed \$9 per year. The maximum service charge ~~of~~
16 ~~\$1 per installment~~ for any premium balance greater than \$220
17 shall not exceed \$12 per year. In lieu of such service
18 charges, an insurance agent or agency may charge a rate of
19 interest not to exceed 18 percent simple interest per year on
20 the unpaid balance.

21 (2) Every such agent or agency engaging in premium
22 financing whose total service charge per year or rate of
23 interest is more than as provided in subsection (1) shall be
24 subject to part XV of this chapter.

25 Section 6. Section 627.902, Florida Statutes, is
26 amended to read:

27 627.902 Premium financing by an insurer or
28 subsidiary.--An insurer, a subsidiary of an insurer, or a
29 corporation under substantially the same management or control
30 as an authorized insurer or group of authorized insurers may
31 finance property, casualty, surety, and marine insurance

1 premiums on policies issued or business produced by such
2 insurer or insurers; however, any such insurer, subsidiary, or
3 corporation or group of insurers the total service charge per
4 year or rate of interest of which is substantially more than
5 that provided in s. 627.901 shall be subject to part XV of
6 this chapter.

7 Section 7. This act shall take effect upon becoming a
8 law.

9
10 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
11 COMMITTEE SUBSTITUTE FOR
12 Senate Bill 1226

13 The committee substitute provides the following:

- 14 1. Requires the most recent prior creditable coverage under
15 an individual plan to have been provided or issued in
16 Florida for purposes of determining an individual's
17 eligibility for guaranteed availability of individual
18 coverage. Maintains present law with regard to the most
19 recent prior creditable coverage under a group plan.
20 2. Eliminates the maximum service charge of \$1 per
21 installment payment for financing any premium balance
22 greater than \$220 and authorizes an agent or insurer to
23 charge a maximum service charge of \$12 per year,
24 regardless of the number of installment payments, and
25 subjects an agent or insurer to the provisions of part
26 XV, of chapter 627, F.S., if the service charge exceeds
27 the statutory limits.
28 3. Transfers the life insurance reserve requirements of the
29 bill to s. 625.121 and provides technical and conforming
30 changes.
31