

By Representative Clarke

1 A bill to be entitled
2 An act relating to statutory accounting
3 principles; creating s. 625.011, F.S.; defining
4 the terms "statutory accounting principles" and
5 "surplus notes"; amending s. 625.012, F.S.;
6 providing for what constitutes an asset of an
7 insurer; amending s. 625.031, F.S.; providing
8 for assets not allowed in determining financial
9 condition of an insurer; amending s. 625.041,
10 F.S.; revising what constitutes a liability;
11 amending s. 625.141, F.S.; providing for the
12 valuation of bonds; amending s. 625.161, F.S.;
13 revising requirements for new appraisals in
14 valuation of real property; amending s. 641.19,
15 F.S.; redefining the terms "reporting period,"
16 "statutory accounting principles," "surplus,"
17 and "surplus notes" for purposes of the Health
18 Maintenance Organization Act; amending s.
19 641.35, F.S.; providing for what constitutes an
20 asset or liability in determining the financial
21 condition of a health maintenance organization;
22 providing a retroactive effective date.

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

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26 Section 1. Section 625.011, Florida Statutes, is
27 created to read:
28 625.011 Definitions.--As used in this chapter, the
29 term:
30 (1) "Statutory accounting principles" means accounting
31 principles adopted by the National Association of Insurance

1 Commissioners Accounting Practices and Procedures Manual
2 effective January 1, 2001.

3 (2) "Surplus notes" means financial instruments that
4 are subject to strict control by the Department of Insurance
5 of the reporting entity's state of domicile and that have been
6 approved by the department as to form and content. These
7 instruments include surplus notes, surplus debentures, and
8 contribution certificates. The National Association of
9 Insurance Commissioners Statement of Statutory Accounting
10 Principles No. 41, adopted effective January 1, 2001, provides
11 the specific characteristics of surplus notes and provides
12 accounting guidance for surplus notes.

13 Section 2. Subsections (1) and (11) of section
14 625.012, Florida Statutes, are amended, present subsection
15 (12) of that section is redesignated as subsection (17), and
16 new subsections (12), (13), (14), (15), and (16) are added to
17 that section to read:

18 625.012 "Assets" defined.--In any determination of the
19 financial condition of an insurer, there shall be allowed as
20 "assets" only such assets as are owned by the insurer and
21 which consist of:

22 (1) Cash or cash equivalents, in the possession of the
23 insurer, or in transit under its control, and including the
24 true balance of any deposit in a solvent bank, savings and
25 loan association, or trust company. Cash equivalents are
26 short-term, highly liquid investments, with original
27 maturities of 3 months or less, which are both readily
28 convertible to known amounts of cash and so near their
29 maturity that they present insignificant risk of changes in
30 value because of changes in interest rates.

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1 (11) Electronic and mechanical machines, including
2 computer-operating software equipment and operating software
3 constituting a data processing and accounting system, ~~if~~ the
4 cost of which ~~such system~~ is at least \$25,000, which cost
5 shall be amortized in full over a period not to exceed 3 7
6 calendar years. The aggregate amount admitted under this
7 subsection shall be limited to 3 percent of the insurer's
8 capital and surplus, adjusted to exclude any electronic data
9 processing equipment and operating software, net deferred tax
10 assets, and net positive goodwill, as reported on the
11 insurer's most recently filed annual statement.

12 (12) Goodwill arising from acquisitions and mergers
13 occurring after January 1, 2001. The term "goodwill" means the
14 difference between the cost of acquiring the entity and the
15 acquiring or surviving entity's share of the book value of the
16 acquired entity, in accordance with the National Association
17 of Insurance Commissioners Statement of Statutory Accounting
18 Principles No. 68, adopted effective January 1, 2001.
19 Admissible goodwill is limited to 10 percent of the reporting
20 entity's capital and surplus reported on its most recently
21 filed annual statement, adjusted to exclude any net positive
22 goodwill, electronic data processing equipment and operating
23 software, and net deferred tax assets.

24 (13) Loans or advances by an insurer to its parent or
25 principal owner if approved by the department and if the loan
26 or advance is determined to be collectible based on the parent
27 or principal owner's independent payment ability. Loans or
28 advances by an insurer to all other related parties if they
29 constitute arm's-length transactions or economic transactions
30 under the National Association of Insurance Commissioners
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1 Statement of Statutory Accounting Principles No. 25, adopted
2 effective January 1, 2001.
3 (14) Deferred tax assets and liabilities resulting
4 from the expected future tax consequences of temporary
5 differences generated by statutory accounting as defined in
6 paragraph 11 of the Financial Accounting Standards Board's
7 Statement of Financial Accounting Standards No. 109,
8 accounting for income taxes or as a difference between the tax
9 basis of an asset or a liability and its reported amount in
10 the statutory statement of financial position which will
11 result in taxable or deductible amounts in some future year or
12 years when the reported amounts of assets are recovered and
13 the reported amounts of liabilities are settled. Deferred tax
14 assets and liabilities are to be calculated and recorded in
15 accordance with the provisions of the National Association of
16 Insurance Commissioners Statement of Statutory Accounting
17 Principles No. 10, adopted effective January 1, 2001. Deferred
18 tax assets are admitted assets in an amount equal to the sum
19 of:
20 (a) Federal income taxes paid in prior years that can
21 be recovered through loss carrybacks for existing temporary
22 differences that reverse by the end of the subsequent calendar
23 year, and
24 (b) The lesser of:
25 1. The amount of gross deferred tax assets, after
26 application of paragraph (a), expected to be realized within 1
27 year of the balance sheet date, or
28 2. Ten percent of statutory surplus reported on the
29 reporting entity's most recently filed annual report, adjusted
30 to exclude goodwill, electronic data processing equipment and
31 operating software, and

1 (c) The amount of gross deferred tax assets, after
2 application of paragraphs (a) and (b), which can be offset
3 against gross deferred tax liabilities.

4 (15) Current income tax recoverables, as defined in
5 the National Association of Insurance Commissioners Statement
6 of Statutory Accounting Principles No. 10, adopted effective
7 January 1, 2001, are admitted assets.

8 (16) Capitalized interest that is the interest cost
9 incurred during the period of time necessary to complete the
10 activities required to bring an asset to the condition and
11 location necessary for its intended use, in accordance with
12 the National Association of Insurance Commissioners Statement
13 of Statutory Accounting Principles No. 44, adopted effective
14 January 1, 2001.

15 (17)~~(12)~~ Other assets, not inconsistent with the
16 provisions of this section, deemed by the department to be
17 available for the payment of losses and claims, at values to
18 be determined by it.

19 Section 3. Section 625.031, Florida Statutes, is
20 amended to read:

21 625.031 Assets not allowed.--In addition to assets
22 impliedly excluded by the provisions of s. 625.012, the
23 following expressly shall not be allowed as assets in any
24 determination of the financial condition of an insurer:

25 (1) ~~Good will,~~Trade names, patents, agreements not to
26 compete,and other like intangible assets.

27 (2) Advances (other than policy loans) to officers
28 and,directors, ~~and controlling stockholders,~~whether secured
29 or not, and advances to employees, agents, and other persons
30 on personal security only.

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1 (3) Stock of such insurer, owned by it, or any
2 material equity therein or loans secured thereby, or any
3 material proportionate interest in such stock acquired or held
4 through the ownership by such insurer of an interest in
5 another firm, corporation, or business unit.

6 (4) Furniture, fixtures, furnishings, safes, vehicles,
7 libraries, stationery, literature, and supplies, other than
8 data processing and accounting systems authorized under s.
9 625.012(11), except in the case of title insurers such
10 materials and plants as the insurer is expressly authorized to
11 invest in under s. 625.330 and except, in the case of any
12 insurer, such personal property as the insurer is permitted to
13 hold pursuant to part II of this chapter, or which is acquired
14 through foreclosure of chattel mortgages acquired pursuant to
15 s. 625.329, or which is reasonably necessary for the
16 maintenance and operation of real estate lawfully acquired and
17 held by the insurer other than real estate used by it for home
18 office, branch office, and similar purposes.

19 (5) The amount, if any, by which the aggregate book
20 value of investments as carried in the ledger assets of the
21 insurer exceeds the aggregate value thereof as determined
22 under this code.

23 (6) Bonds, notes, or other evidences of indebtedness
24 which are secured by mortgages or deeds of trust which are in
25 default.

26 (7) Prepaid and deferred expenses.

27 ~~(8) Federal income tax refunds when a refund is not~~
28 ~~assured.~~

29 Section 4. Paragraph (d) of subsection (2) of section
30 625.041, Florida Statutes, is amended to read:

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1 625.041 Liabilities, in general.--In any determination
2 of the financial condition of an insurer, liabilities to be
3 charged against its assets shall include:

4 (2) With reference to life and health insurance and
5 annuity contracts:

6 (d) Any additional reserves ~~that~~ which may be required
7 by the department consistent with practice formulated or
8 approved by the National Association of Insurance
9 Commissioners or its successor organization, on account of
10 such insurance, including contract and premium deficiency
11 reserves as described in the National Association of Insurance
12 Commissioners Statement of Statutory Accounting Principles No.
13 55, adopted effective January 1, 2001.

14 Section 5. Subsection (2) of section 625.141, Florida
15 Statutes, is amended to read:

16 625.141 Valuation of bonds.--

17 (2) The department shall have full discretion in
18 determining the method of calculating values according to the
19 rules set forth in this section, but no such method or
20 valuation shall be inconsistent with the method formulated or
21 approved by the National Association of Insurance
22 Commissioners or its successor organization and set forth in
23 the latest edition of its publication "Valuation of
24 Securities"; provided that such valuation methodology is
25 substantially similar to the methodology used by the National
26 Association of Insurance Commissioners in its 1988 edition of
27 such publication. Amortization of bond premium or discount
28 must be calculated using the scientific (constant yield)
29 interest method taking into consideration specified interest
30 and principal provisions over the life of the bond.

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1 Section 6. Subsection (2) of section 625.161, Florida
2 Statutes, is amended to read:

3 625.161 Valuation of property.--

4 (2) Other real property held by an insurer shall not
5 be valued at an amount in excess of fair value as determined
6 by recent appraisal. If valuation is based on an appraisal
7 more than 5 ~~3~~ years old, the department may, at its
8 discretion, call for and require a new appraisal in order to
9 determine fair value.

10 Section 7. Subsections (16), (17), (19), and (20) of
11 section 641.19, Florida Statutes, are amended to read:

12 641.19 Definitions.--As used in this part, the term:

13 (16) "Reporting period" means the annual calendar year
14 accounting period or any part thereof ~~or the fiscal year of~~
15 ~~the health maintenance organization.~~

16 (17) "Statutory accounting principles" means
17 accounting principles set forth in the National Association of
18 Insurance Commissioners Accounting Practices and Procedures
19 Manual, adopted effective January 1, 2001 ~~generally accepted~~
20 ~~accounting principles, except as modified by this part.~~

21 (19) "Surplus" means total statutory assets in excess
22 of total liabilities, except that assets pledged to secure
23 debts ~~not reflected on the books~~ of the health maintenance
24 organization shall not be included in surplus. Surplus
25 includes capital stock, capital in excess of par, other
26 contributed capital, retained earnings, and surplus notes.

27 (20) "Surplus notes" means financial instruments that
28 are subject to strict control by the Department of Insurance
29 of the reporting entity's state of domicile and have been
30 approved by the department as to form and content. These
31 instruments include surplus notes, surplus debentures, and

1 contribution certificates. The National Association of
2 Insurance Commissioners Statement of Statutory Accounting
3 Principles No. 41, adopted effective January 1, 2001, provides
4 the specific characteristics of surplus notes and provides
5 accounting guidance for surplus notes.~~debt which has been~~
6 ~~guaranteed by the United States Government or its agencies, or~~
7 ~~debt which has been subordinated to all claims of subscribers~~
8 ~~and general creditors of the organization.~~

9 Section 8. Subsections (1), (2), and (3) of section
10 641.35, Florida Statutes, are amended to read:

11 641.35 Assets, liabilities, and investments.--

12 (1) ASSETS.--In any determination of the financial
13 condition of a health maintenance organization, there shall be
14 allowed as "assets" only those assets that are owned by the
15 health maintenance organization and which assets consist of:

16 (a) Cash or cash equivalents in the possession of the
17 health maintenance organization, or in transit under its
18 control, including the true balance of any deposit in a
19 solvent bank, savings and loan association, or trust company
20 which is domiciled in the United States. Cash equivalents are
21 short-term, highly liquid investments, with original
22 maturities of 3 months or less, which are both readily
23 convertible to known amounts of cash and so near their
24 maturity that they present insignificant risk of changes in
25 value because of changes in interest rates.

26 (b) Investments, securities, properties, and loans
27 acquired or held in accordance with this part, and in
28 connection therewith the following items:

29 1. Interest due or accrued on any bond or evidence of
30 indebtedness which is not in default and which is not valued
31 on a basis including accrued interest.

- 1 2. Declared and unpaid dividends on stock and shares,
2 unless the amount of the dividends has otherwise been allowed
3 as an asset.
- 4 3. Interest due or accrued upon a collateral loan
5 which is not in default in an amount not to exceed 1 year's
6 interest thereon.
- 7 4. Interest due or accrued on deposits or certificates
8 of deposit in solvent banks, savings and loan associations,
9 and trust companies domiciled in the United States, and
10 interest due or accrued on other assets, if such interest is
11 in the judgment of the department a collectible asset.
- 12 5. Interest due or accrued on current mortgage loans,
13 in an amount not exceeding in any event the amount, if any, of
14 the excess of the value of the property less delinquent taxes
15 thereon over the unpaid principal; but in no event shall
16 interest accrued for a period in excess of 90 days be allowed
17 as an asset.
- 18 ~~6. Rent due or accrued on real property if such rent
19 is not in arrears for more than 3 months. However, in no
20 event shall rent accrued for a period in excess of 90 days be
21 allowed as an asset.~~
- 22 ~~7. The unaccrued portion of taxes paid prior to the
23 due date on real property.~~
- 24 (c) Premiums in the course of collection, not more
25 than 3 months past due, less commissions payable thereon. The
26 foregoing limitation shall not apply to premiums payable
27 directly or indirectly by any governmental body in the United
28 States or by any of their instrumentalities.
- 29 (d) The full amount of reinsurance recoverable from a
30 solvent reinsurer, which reinsurance is authorized under s.
31 624.610.

1 ~~(e) Furniture, fixtures, furnishings, vehicles,~~
2 ~~medical libraries, and equipment, if the original cost of each~~
3 ~~item is at least \$200, which cost shall be amortized in full~~
4 ~~over a period not to exceed 5 calendar years, unless otherwise~~
5 ~~approved by the department.~~

6 ~~(e)(f)~~ Pharmaceutical and medical supply inventories.

7 ~~(g) The liquidation value of prepaid expenses.~~

8 (f) Goodwill, created by acquisitions and mergers
9 occurring after January 1, 2001. The term goodwill means the
10 difference between the cost of acquiring the entity and the
11 acquiring or surviving entity's share of the book value of the
12 acquired entity, in accordance with the National Association
13 of Insurance Commissioners Statement of Statutory Accounting
14 Principles No. 68, adopted effective January 1, 2001.
15 Admissible goodwill is limited to 10 percent of the reporting
16 entity's capital and surplus reported on its most recently
17 filed annual report, adjusted to exclude any net positive
18 goodwill, electronic data processing equipment and operating
19 software, and net deferred tax assets.

20 (g) Loans or advances by a health maintenance
21 organization to its parent or principal owner if approved by
22 the department and the loan or advance is determined to be
23 collectible based on the parent or principal owner's
24 independent payment ability. Loans or advances to all other
25 related parties if they constitute arm's-length transactions
26 or economic transactions under the National Association of
27 Insurance Commissioners Statement of Statutory Accounting
28 Principles No. 25, adopted effective January 1, 2001.

29 (h) Deferred tax assets and liabilities resulting from
30 the expected future tax consequences of temporary differences
31 generated by statutory accounting as defined in paragraph 11

1 of the Financial Accounting Standards Board's Statement of
2 Financial Accounting Standards No. 109, accounting for income
3 taxes or as a difference between the tax basis of an asset or
4 a liability and its reported amount in the statutory statement
5 of financial position which will result in taxable or
6 deductible amounts in some future year or years when the
7 reported amounts of assets are recovered and the reported
8 amounts of liabilities are settled. Deferred tax assets and
9 liabilities are to be calculated and recorded in accordance
10 with the provisions of the National Association of Insurance
11 Commissioners Statement of Statutory Accounting Principles No.
12 10, adopted effective January 1, 2001. Deferred tax assets are
13 admitted assets in an amount equal to the sum of:

14 1. Federal income taxes paid in prior years that can
15 be recovered through loss carrybacks for existing temporary
16 differences that reverse by the end of the subsequent calendar
17 year, and

18 2. The lesser of:

19 a. The amount of gross deferred tax assets, after
20 application of subparagraph 1., expected to be realized within
21 1 year of the balance sheet date, or

22 b. Ten percent of statutory surplus reported on the
23 reporting entity's most recently filed annual report, adjusted
24 to exclude goodwill, electronic data processing equipment, and
25 operating software, and

26 3. The amount of gross deferred tax assets, after
27 application of subparagraphs 1. and 2., which can be offset
28 against gross deferred tax liabilities.

29 (i) Current income tax recoverables, as defined in the
30 National Association of Insurance Commissioners Statement of
31

1 Statutory Accounting Principles No. 10, adopted effective
2 January 1, 2001, are admitted assets.

3 (j) Capitalized interest that is the interest cost
4 incurred during the period of time necessary to complete the
5 activities required to bring an asset to the condition and
6 location necessary for its intended use, in accordance with
7 the National Association of Insurance Commissioners Statement
8 of Statutory Accounting Principles No. 44, adopted effective
9 January 1, 2001.

10 (k)~~(h)~~ Other assets, not inconsistent with the
11 provisions of this section, deemed by the department to be
12 available for the payment of losses and claims, at values to
13 be determined by it.

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15 The department, upon determining that a health maintenance
16 organization's asset has not been evaluated according to
17 applicable law or that it does not qualify as an asset, shall
18 require the health maintenance organization to properly
19 reevaluate the asset or replace the asset with an asset
20 suitable to the department within 30 days of receipt of
21 written notification by the department of this determination,
22 if the removal of the asset from the organization's assets
23 would impair the organization's solvency.

24 (2) ASSETS NOT ALLOWED.--In addition to assets
25 impliedly excluded by the provisions of subsection (1), the
26 following assets expressly shall not be allowed as assets in
27 any determination of the financial condition of a health
28 maintenance organization:

29 (a) ~~Goodwill~~, Subscriber lists, patents, trade names,
30 agreements not to compete, and other like intangible assets.

31

1 (b) Any note or account receivable from or advances to
2 officers, directors, or controlling stockholders, whether
3 secured or not, and advances to employees, agents, or other
4 persons on personal security only, other than those
5 transactions authorized under paragraph (1)(g).

6 (c) Stock of the health maintenance organization owned
7 by it directly or owned by it through any entity in which the
8 organization owns or controls, directly or indirectly, more
9 than 25 percent of the ownership interest.

10 (d) Leasehold improvements, nonmedical libraries,
11 stationery, literature, and nonmedical supply inventories,
12 except that leasehold improvements made prior to October 1,
13 1985, shall be allowed as an asset and shall be amortized over
14 the shortest of the following periods:

- 15 1. The life of the lease.
- 16 2. The useful life of the improvements.
- 17 3. The 3-year period following October 1, 1985.

18 (e) Furniture, fixtures, furnishings, vehicles,
19 medical libraries, and equipment, ~~other than those items~~
20 ~~authorized under paragraph (1)(e).~~

21 (f) Notes or other evidences of indebtedness which are
22 secured by mortgages or deeds of trust which are in default
23 and beyond the express period specified in the instrument for
24 curing the default.

25 (g) Bonds in default for more than 60 days.

26 (h) ~~Deferred costs other than the liquidation value of~~
27 Prepaid and deferred expenses.

28 (i) Any note, account receivable, advance, or other
29 evidence of indebtedness, or investment in:

- 30 1. The parent of the health maintenance organization;

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1 2. Any entity directly or indirectly controlled by the
2 health maintenance organization parent; or

3 3. An affiliate of the parent or the health
4 maintenance organization,

5
6 except as allowed in subsections (1), (11), and (12). The
7 department may, however, allow all or a portion of such asset,
8 at values to be determined by the department, if deemed by the
9 department to be available for the payment of losses and
10 claims.

11 (3) LIABILITIES.--In any determination of the
12 financial condition of a health maintenance organization,
13 liabilities to be charged against its assets shall include:

14 (a) The amount, estimated consistently with the
15 provisions of this part, necessary to pay all of its unpaid
16 losses and claims incurred for or on behalf of a subscriber,
17 on or prior to the end of the reporting period, whether
18 reported or unreported, including contract and premium
19 deficiency reserves as described in the National Association
20 of Insurance Commissioners Statement of Statutory Accounting
21 Principles No. 10, adopted effective January 1, 2001.

22 (b) The amount equal to the unearned portions of the
23 gross premiums charged on health maintenance contracts in
24 force.

25 (c) Taxes, expenses, and other obligations due or
26 accrued at the date of the statement.

27
28 The department, upon determining that a health maintenance
29 organization has failed to report liabilities that should have
30 been reported, shall require a corrected report which reflects
31 the proper liabilities to be submitted by the organization to

1 the department within 10 working days of receipt of written
2 notification.

3 Section 9. This act shall take effect upon becoming a
4 law and shall apply retroactively to January 1, 2001.

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7 SENATE SUMMARY

8 Provides for the determination of the financial condition
9 of certain insurers and health maintenance organizations
10 in accordance with specified parts of the National
11 Association of Insurance Commissioners Statement of
12 Statutory Accounting Principles, adopted on January 1,
13 2001. Provides a retroactive effective date.
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