

Bill No. SB 482

Amendment No. 1 Barcode 195056

<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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The Committee on Banking and Insurance recommended the following amendment:

Senate Amendment (with title amendment)

Delete everything after the enacting clause

and insert:

Section 1. Subsection (14) of section 624.610, Florida Statutes, is amended to read:

624.610 Reinsurance.--

(14) The department may adopt rules implementing the provisions of this section. Rules are authorized to protect the interests of insureds, claimants, ceding insurers, assuming insurers, and the public. These rules shall be in substantial compliance with:

(a) The National Association of Insurance Commissioners model regulations relating to credit for reinsurance;

(b) Version 2001 ~~1999~~ of the National Association of Insurance Commissioners Accounting Practices and Procedures Manual; and

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1 (c) The National Association of Insurance
2 Commissioners model regulation for Credit for Reinsurance and
3 Life and Health Reinsurance Agreements.

4
5 The department may further adopt rules to provide for
6 transition from existing requirements for the approval of
7 reinsurers to the accreditation of reinsurers pursuant to this
8 section.

9 Section 2. Section 625.011, Florida Statutes, is
10 created to read:

11 625.011 Definitions.--As used in this chapter, the
12 term "statutory accounting principles" means accounting
13 principles as defined in the National Association of Insurance
14 Commissioners Accounting Practices and Procedures Manual
15 effective January 1, 2001.

16 Section 3. Subsections (1) and (11) of section
17 625.012, Florida Statutes, are amended, present subsection
18 (12) of that section is redesignated as subsection (16), and
19 new subsections (12), (13), (14), and (15) are added to that
20 section to read:

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

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

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1 maturity that they present insignificant risk of changes in
 2 value because of changes in interest rates.

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

14 (12) Goodwill arising from acquisitions and mergers
 15 occurring after January 1, 2001.

16 (13) Loans or advances by an insurer to its parent or
 17 principal owner if approved by the department.

18 (14) Current income tax recoverables.

19 (15) Capitalized interest.

20 (16)~~(12)~~ Other assets, not inconsistent with the
 21 provisions of this section, deemed by the department to be
 22 available for the payment of losses and claims, at values to
 23 be determined by it.

24 Section 4. Section 625.031, Florida Statutes, is
 25 amended to read:

26 625.031 Assets not allowed.--In addition to assets
 27 impliedly excluded by the provisions of s. 625.012, the
 28 following expressly shall not be allowed as assets in any
 29 determination of the financial condition of an insurer:

30 (1) Good will, Trade names, patents, agreements not to
 31 compete, and other like intangible assets.

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

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

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

23 (5) The amount, if any, by which the aggregate book
24 value of investments as carried in the ledger assets of the
25 insurer exceeds the aggregate value thereof as determined
26 under this code.

27 (6) Bonds, notes, or other evidences of indebtedness
28 which are secured by mortgages or deeds of trust which are in
29 default.

30 (7) Prepaid and deferred expenses.

31 ~~(8) Federal income tax refunds when a refund is not~~

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1 ~~assured.~~

2 Section 5. Paragraph (d) of subsection (2) of section
3 625.041, Florida Statutes, is amended to read:

4 625.041 Liabilities, in general.--In any determination
5 of the financial condition of an insurer, liabilities to be
6 charged against its assets shall include:

7 (2) With reference to life and health insurance and
8 annuity contracts:

9 (d) Any additional reserves that ~~which~~ may be required
10 by the department consistent with practice formulated or
11 approved by the National Association of Insurance
12 Commissioners or its successor organization, on account of
13 such insurance, including contract and premium deficiency
14 reserves.

15 Section 6. Subsection (2) of section 625.141, Florida
16 Statutes, is amended to read:

17 625.141 Valuation of bonds.--

18 (2) The department shall have full discretion in
19 determining the method of calculating values according to the
20 rules set forth in this section, but no such method or
21 valuation shall be inconsistent with the method formulated or
22 approved by the National Association of Insurance
23 Commissioners or its successor organization and set forth in
24 the latest edition of its publication "Valuation of
25 Securities"; provided that such valuation methodology is
26 substantially similar to the methodology used by the National
27 Association of Insurance Commissioners in its 2001 ~~1988~~
28 edition of such publication. Amortization of bond premium or
29 discount must be calculated using the scientific (constant
30 yield) interest method taking into consideration specified
31 interest and principal provisions over the life of the bond.

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1 Bonds containing call provisions shall be amortized to the
2 call or maturity value or date that produces the lowest asset
3 value.

4 Section 7. Section 625.161, Florida Statutes, is
5 amended to read:

6 625.161 Valuation of property.--

7 (1) Real property owned by an insurer which is
8 reported in financial statements filed with the department
9 shall be valued at the lower of depreciated cost or fair
10 market value.

11 (2)(1) Real property acquired pursuant to a mortgage
12 loan or contract for sale, in the absence of a recent
13 appraisal deemed by the department to be reliable, shall not
14 be valued at an amount greater than the unpaid principal and
15 accrued interest of the defaulted loan or contract at the date
16 of such acquisition, together with any taxes and expenses paid
17 or incurred in connection with such acquisition, and the cost
18 of improvements thereafter made by the insurer and any amounts
19 thereafter paid by the insurer on assessments levied for
20 improvements in connection with the property.

21 (3)(2) Other real property held by an insurer shall
22 not be valued at an amount in excess of fair value as
23 determined by recent appraisal. If the valuation of real
24 property is based on an appraisal more than 5 3 years old, the
25 department may, at its discretion, call for and require a new
26 appraisal in order to determine fair market value.

27 (4)(3) Personal property acquired pursuant to chattel
28 mortgages made in accordance with s. 625.329 shall not be
29 valued at an amount greater than the unpaid balance of
30 principal and accrued interest on the defaulted loan at the
31 date of acquisition, together with taxes and expenses incurred

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1 in connection with such acquisition, or the fair value of such
2 property, whichever amount is the lesser.

3 ~~(5)~~(4) In carrying out its responsibilities under this
4 section, in the event that the department and the insurer do
5 not agree on the value of real or personal property of such
6 insurer, the department may retain the services of a qualified
7 real or personal property appraiser. In the event it is
8 subsequently determined that the insurer has overvalued
9 assets, the department shall be reimbursed for the costs of
10 the services of any such appraiser incurred with respect to
11 its responsibilities under this section regarding an insurer
12 by said insurer and any reimbursement shall be deposited in
13 the Insurance Commissioner's Regulatory Trust Fund.

14 (6) Any insurer that reported real estate as of
15 December 31, 2000, with a value in excess of that allowed by
16 subsection (1) shall comply with the requirements of that
17 subsection beginning January 1, 2001.

18 Section 8. Section 625.322, Florida Statutes, is
19 amended to read:

20 625.322 Collateral loans.--An insurer may invest in
21 loans with a maturity not in excess of 12 years from the date
22 thereof which are secured by the pledge of assets permitted by
23 part I of this chapter ~~securities eligible for investment~~
24 ~~under this chapter or by the pledge or assignment of life~~
25 ~~insurance policies issued by other insurers authorized to~~
26 ~~transact insurance in this state. On the date made, no such~~
27 ~~loan shall exceed in amount 80 percent of the market value of~~
28 ~~the collateral pledged, except that loans upon pledge of~~
29 ~~United States Government bonds and loans upon the pledge or~~
30 ~~assignment of life insurance policies shall not exceed 95~~
31 ~~percent of the market value of the bonds or the cash surrender~~

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1 ~~value of the policies pledged.~~ Loans made pursuant to this
 2 section shall not be admitted as an asset when it is
 3 considered probable that any portion of the amounts due under
 4 the contractual terms of the loan will not be collected
 5 ~~renewable beyond a period of 12 years from the date of the~~
 6 ~~loan.~~ Collateral loans reported in financial statements filed
 7 with the department shall not exceed the value of the
 8 collateral held by the company.

9 Section 9. Subsections (16), (17), and (20) of section
 10 641.19, Florida Statutes, are amended to read:

11 641.19 Definitions.--As used in this part, the term:

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

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

20 ~~(20) "Surplus notes" means debt which has been~~
 21 ~~guaranteed by the United States Government or its agencies, or~~
 22 ~~debt which has been subordinated to all claims of subscribers~~
 23 ~~and general creditors of the organization.~~

24 Section 10. Subsections (1), (2), and (3) of section
 25 641.35, Florida Statutes, are amended to read:

26 641.35 Assets, liabilities, and investments.--

27 (1) ASSETS.--In any determination of the financial
 28 condition of a health maintenance organization, there shall be
 29 allowed as "assets" only those assets that are owned by the
 30 health maintenance organization and that ~~which assets~~ consist
 31 of:

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1 (a) Cash or cash equivalents in the possession of the
2 health maintenance organization, or in transit under its
3 control, including the true balance of any deposit in a
4 solvent bank, savings and loan association, or trust company
5 which is domiciled in the United States. Cash equivalents are
6 short-term, highly liquid investments, with original
7 maturities of 3 months or less, which are both readily
8 convertible to known amounts of cash and so near their
9 maturity that they present insignificant risk of changes in
10 value because of changes in interest rates.

11 (b) Investments, securities, properties, and loans
12 acquired or held in accordance with this part, and in
13 connection therewith the following items:

14 1. Interest due or accrued on any bond or evidence of
15 indebtedness which is not in default and which is not valued
16 on a basis including accrued interest.

17 2. Declared and unpaid dividends on stock and shares,
18 unless the amount of the dividends has otherwise been allowed
19 as an asset.

20 3. Interest due or accrued upon a collateral loan
21 which is not in default in an amount not to exceed 1 year's
22 interest thereon.

23 4. Interest due or accrued on deposits or certificates
24 of deposit in solvent banks, savings and loan associations,
25 and trust companies domiciled in the United States, and
26 interest due or accrued on other assets, if such interest is
27 in the judgment of the department a collectible asset.

28 5. Interest due or accrued on current mortgage loans,
29 in an amount not exceeding in any event the amount, if any, of
30 the excess of the value of the property less delinquent taxes
31 thereon over the unpaid principal; but in no event shall

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1 interest accrued for a period in excess of 90 days be allowed
2 as an asset.

3 ~~6. Rent due or accrued on real property if such rent~~
4 ~~is not in arrears for more than 3 months. However, in no~~
5 ~~event shall rent accrued for a period in excess of 90 days be~~
6 ~~allowed as an asset.~~

7 ~~7. The unaccrued portion of taxes paid prior to the~~
8 ~~due date on real property.~~

9 (c) Premiums in the course of collection, not more
10 than 3 months past due, less commissions payable thereon. The
11 foregoing limitation shall not apply to premiums payable
12 directly or indirectly by any governmental body in the United
13 States or by any of their instrumentalities.

14 (d) The full amount of reinsurance recoverable from a
15 solvent reinsurer, which reinsurance is authorized under s.
16 624.610.

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

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

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

24 (f) Goodwill created by acquisitions and mergers
25 occurring on or after January 1, 2001.

26 (g) Loans or advances by a health maintenance
27 organization to its parent or principal owner if approved by
28 the department.

29 (h) Other assets, not inconsistent with the provisions
30 of this section, deemed by the department to be available for
31 the payment of losses and claims, at values to be determined

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1 by it.

2
3 The department, upon determining that a health maintenance
4 organization's asset has not been evaluated according to
5 applicable law or that it does not qualify as an asset, shall
6 require the health maintenance organization to properly
7 reevaluate the asset or replace the asset with an asset
8 suitable to the department within 30 days of receipt of
9 written notification by the department of this determination,
10 if the removal of the asset from the organization's assets
11 would impair the organization's solvency.

12 (2) ASSETS NOT ALLOWED.--In addition to assets
13 impliedly excluded by the provisions of subsection (1), the
14 following assets expressly shall not be allowed as assets in
15 any determination of the financial condition of a health
16 maintenance organization:

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

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

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

28 (d) Leasehold improvements, nonmedical libraries,
29 stationery, literature, and nonmedical supply inventories,
30 except that leasehold improvements made prior to October 1,
31 1985, shall be allowed as an asset and shall be amortized over

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1 the shortest of the following periods:

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

5 (e) Furniture, fixtures, furnishings, vehicles,
 6 medical libraries, and equipment, ~~other than those items~~
 7 ~~authorized under paragraph (1)(e).~~

8 (f) Notes or other evidences of indebtedness which are
 9 secured by mortgages or deeds of trust which are in default
 10 and beyond the express period specified in the instrument for
 11 curing the default.

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

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

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

- 17 1. The parent of the health maintenance organization;
- 18 2. Any entity directly or indirectly controlled by the
 19 health maintenance organization parent; or
- 20 3. An affiliate of the parent or the health
 21 maintenance organization,

22
 23 except as allowed in subsections (1), (11), and (12). The
 24 department may, however, allow all or a portion of such asset,
 25 at values to be determined by the department, if deemed by the
 26 department to be available for the payment of losses and
 27 claims.

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

31 (a) The amount, estimated consistently with the

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1 provisions of this part, necessary to pay all of its unpaid
2 losses and claims incurred for or on behalf of a subscriber,
3 on or prior to the end of the reporting period, whether
4 reported or unreported, including contract and premium
5 deficiency reserves.

6 (b) The amount equal to the unearned portions of the
7 gross premiums charged on health maintenance contracts in
8 force.

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

11

12 The department, upon determining that a health maintenance
13 organization has failed to report liabilities that should have
14 been reported, shall require a corrected report which reflects
15 the proper liabilities to be submitted by the organization to
16 the department within 10 working days of receipt of written
17 notification.

18 Section 11. Any quarterly or annual statement that is
19 required to be filed after the effective date of this act
20 shall be prepared in accordance with the provisions of this
21 act.

22 Section 12. This act shall take effect upon becoming a
23 law and shall apply retroactively to January 1, 2001, except
24 that sections 9 and 10 shall take effect January 1, 2003.

25

26

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

28 And the title is amended as follows:

29 Delete everything before the enacting clause

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31 and insert:

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A bill to be entitled
An act relating to statutory accounting principles; amending s. 624.610, F.S.; updating a cross-reference; creating s. 625.011, F.S.; defining the term "statutory accounting principles"; amending s. 625.012, F.S.; providing for what constitutes an asset of an insurer; amending s. 625.031, F.S.; providing for assets not allowed in determining the financial condition of an insurer; amending s. 625.041, F.S.; revising a provision concerning liability; amending s. 625.141, F.S.; providing for the valuation of bonds; amending s. 625.161, F.S.; revising requirements for new appraisals in the valuation of real property; amending s. 625.322, F.S.; revising requirements for collateral loans; amending s. 641.19, F.S.; redefining the terms "reporting period," "statutory accounting principles," "surplus," and "surplus notes" for purposes of the Health Maintenance Organization Act; amending s. 641.35, F.S.; redefining certain assets or liabilities in the determination of the financial condition of a health maintenance organization; providing applicability; providing multiple effective dates, including a retroactive effective date.