

1                                   A bill to be entitled  
2           An act relating to statutory accounting  
3           principles; amending s. 624.610, F.S.; updating  
4           a cross-reference; creating s. 625.011, F.S.;  
5           defining the term "statutory accounting  
6           principles"; amending s. 625.012, F.S.;  
7           providing for what constitutes an asset of an  
8           insurer; amending s. 625.031, F.S.; providing  
9           for assets not allowed in determining the  
10          financial condition of an insurer; amending s.  
11          625.041, F.S.; revising a provision concerning  
12          liability; amending s. 625.141, F.S.; providing  
13          for the valuation of bonds; amending s.  
14          625.161, F.S.; revising requirements for new  
15          appraisals in the valuation of real property;  
16          amending s. 625.322, F.S.; revising  
17          requirements for collateral loans; creating s.  
18          641.183, F.S.; providing a transition selection  
19          for statutory accounting principles; amending  
20          s. 641.19, F.S.; redefining the terms  
21          "reporting period," "statutory accounting  
22          principles," "surplus," and "surplus notes" for  
23          purposes of the Health Maintenance Organization  
24          Act; amending s. 641.35, F.S.; redefining  
25          certain assets or liabilities in the  
26          determination of the financial condition of a  
27          health maintenance organization; providing  
28          applicability; providing a retroactive  
29          effective date.

30  
31 Be It Enacted by the Legislature of the State of Florida:

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

3           624.610 Reinsurance.--

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

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

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

15           (c) The National Association of Insurance  
16 Commissioners model regulation for Credit for Reinsurance and  
17 Life and Health Reinsurance Agreements.

18  
19 The department may further adopt rules to provide for  
20 transition from existing requirements for the approval of  
21 reinsurers to the accreditation of reinsurers pursuant to this  
22 section.

23           Section 2. Section 625.011, Florida Statutes, is  
24 created to read:

25           625.011 Definitions.--As used in this chapter, the  
26 term "statutory accounting principles" means accounting  
27 principles as defined in the National Association of Insurance  
28 Commissioners Accounting Practices and Procedures Manual  
29 effective January 1, 2001.

30           Section 3. Subsections (1) and (11) of section  
31 625.012, Florida Statutes, are amended, present subsection

1 (12) of that section is redesignated as subsection (16), and  
2 new subsections (12), (13), (14), and (15) are added to that  
3 section to read:

4           625.012 "Assets" defined.--In any determination of the  
5 financial condition of an insurer, there shall be allowed as  
6 "assets" only such assets as are owned by the insurer and  
7 which consist of:

8           (1) Cash or cash equivalents, in the possession of the  
9 insurer, or in transit under its control, and including the  
10 true balance of any deposit in a solvent bank, savings and  
11 loan association, or trust company. Cash equivalents are  
12 short-term, highly liquid investments, with original  
13 maturities of 3 months or less, which are both readily  
14 convertible to known amounts of cash and so near their  
15 maturity that they present insignificant risk of changes in  
16 value because of changes in interest rates.

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

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

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

1           (14) Current income tax recoverables.

2           (15) Capitalized interest.

3           (16)~~(12)~~ Other assets, not inconsistent with the  
4 provisions of this section, deemed by the department to be  
5 available for the payment of losses and claims, at values to  
6 be determined by it.

7           Section 4. Section 625.031, Florida Statutes, is  
8 amended to read:

9           625.031 Assets not allowed.--In addition to assets  
10 impliedly excluded by the provisions of s. 625.012, the  
11 following expressly shall not be allowed as assets in any  
12 determination of the financial condition of an insurer:

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

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

19           (3) Stock of such insurer, owned by it, or any  
20 material equity therein or loans secured thereby, or any  
21 material proportionate interest in such stock acquired or held  
22 through the ownership by such insurer of an interest in  
23 another firm, corporation, or business unit.

24           (4) Furniture, fixtures, furnishings, safes, vehicles,  
25 libraries, stationery, literature, and supplies, other than  
26 data processing and accounting systems authorized under s.  
27 625.012(11), except in the case of title insurers such  
28 materials and plants as the insurer is expressly authorized to  
29 invest in under s. 625.330 and except, in the case of any  
30 insurer, such personal property as the insurer is permitted to  
31 hold pursuant to part II of this chapter, or which is acquired

1 through foreclosure of chattel mortgages acquired pursuant to  
2 s. 625.329, or which is reasonably necessary for the  
3 maintenance and operation of real estate lawfully acquired and  
4 held by the insurer other than real estate used by it for home  
5 office, branch office, and similar purposes.

6 (5) The amount, if any, by which the aggregate book  
7 value of investments as carried in the ledger assets of the  
8 insurer exceeds the aggregate value thereof as determined  
9 under this code.

10 (6) Bonds, notes, or other evidences of indebtedness  
11 which are secured by mortgages or deeds of trust which are in  
12 default.

13 (7) Prepaid and deferred expenses.

14 ~~(8) Federal income tax refunds when a refund is not~~  
15 ~~assured.~~

16 Section 5. Paragraph (d) of subsection (2) of section  
17 625.041, Florida Statutes, is amended to read:

18 625.041 Liabilities, in general.--In any determination  
19 of the financial condition of an insurer, liabilities to be  
20 charged against its assets shall include:

21 (2) With reference to life and health insurance and  
22 annuity contracts:

23 (d) Any additional reserves that ~~which~~ may be required  
24 by the department consistent with practice formulated or  
25 approved by the National Association of Insurance  
26 Commissioners or its successor organization, on account of  
27 such insurance, including contract and premium deficiency  
28 reserves.

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

31 625.141 Valuation of bonds.--

1           (2) The department shall have full discretion in  
2 determining the method of calculating values according to the  
3 rules set forth in this section, but no such method or  
4 valuation shall be inconsistent with the method formulated or  
5 approved by the National Association of Insurance  
6 Commissioners or its successor organization and set forth in  
7 the latest edition of its publication "Valuation of  
8 Securities"; provided that such valuation methodology is  
9 substantially similar to the methodology used by the National  
10 Association of Insurance Commissioners in its 2001 ~~1988~~  
11 edition of such publication. Amortization of bond premium or  
12 discount must be calculated using the scientific (constant  
13 yield) interest method taking into consideration specified  
14 interest and principal provisions over the life of the bond.  
15 Bonds containing call provisions shall be amortized to the  
16 call or maturity value or date that produces the lowest asset  
17 value.

18           Section 7. Section 625.161, Florida Statutes, is  
19 amended to read:

20           625.161 Valuation of property.--

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

25           ~~(2)~~ ~~(1)~~ Real property acquired pursuant to a mortgage  
26 loan or contract for sale, in the absence of a recent  
27 appraisal deemed by the department to be reliable, shall not  
28 be valued at an amount greater than the unpaid principal and  
29 accrued interest of the defaulted loan or contract at the date  
30 of such acquisition, together with any taxes and expenses paid  
31 or incurred in connection with such acquisition, and the cost

1 of improvements thereafter made by the insurer and any amounts  
2 thereafter paid by the insurer on assessments levied for  
3 improvements in connection with the property.

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

10 ~~(4)(3)~~ Personal property acquired pursuant to chattel  
11 mortgages made in accordance with s. 625.329 shall not be  
12 valued at an amount greater than the unpaid balance of  
13 principal and accrued interest on the defaulted loan at the  
14 date of acquisition, together with taxes and expenses incurred  
15 in connection with such acquisition, or the fair value of such  
16 property, whichever amount is the lesser.

17 ~~(5)(4)~~ In carrying out its responsibilities under this  
18 section, in the event that the department and the insurer do  
19 not agree on the value of real or personal property of such  
20 insurer, the department may retain the services of a qualified  
21 real or personal property appraiser. In the event it is  
22 subsequently determined that the insurer has overvalued  
23 assets, the department shall be reimbursed for the costs of  
24 the services of any such appraiser incurred with respect to  
25 its responsibilities under this section regarding an insurer  
26 by said insurer and any reimbursement shall be deposited in  
27 the Insurance Commissioner's Regulatory Trust Fund.

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

1           Section 8. Section 625.322, Florida Statutes, is  
2 amended to read:

3           625.322 Collateral loans.--An insurer may invest in  
4 loans with a maturity not in excess of 12 years from the date  
5 thereof which are secured by the pledge of assets permitted by  
6 part I of this chapter ~~securities eligible for investment~~  
7 ~~under this chapter or by the pledge or assignment of life~~  
8 ~~insurance policies issued by other insurers authorized to~~  
9 ~~transact insurance in this state. On the date made, no such~~  
10 ~~loan shall exceed in amount 80 percent of the market value of~~  
11 ~~the collateral pledged, except that loans upon pledge of~~  
12 ~~United States Government bonds and loans upon the pledge or~~  
13 ~~assignment of life insurance policies shall not exceed 95~~  
14 ~~percent of the market value of the bonds or the cash surrender~~  
15 ~~value of the policies pledged. Loans made pursuant to this~~  
16 section shall not be admitted as an asset when it is  
17 considered probable that any portion of the amounts due under  
18 the contractual terms of the loan will not be collected  
19 ~~renewable beyond a period of 12 years from the date of the~~  
20 ~~loan. Collateral loans reported in financial statements filed~~  
21 with the department shall not exceed the value of the  
22 collateral held by the company.

23           Section 9. Section 641.183, Florida Statutes, is  
24 created to read:

25           641.183 Statutory accounting procedures; transition  
26 provisions.--All health maintenance organizations, authorized  
27 to do business under this chapter on January 1, 2001, shall  
28 elect a transition method for compliance with statutory  
29 accounting principles as follows:

30           (1) Report assets acquired prior to June 30, 2001 in  
31 accordance with s. 641.35, Florida Statutes (2000), through



1 December 31, 2005. Assets acquired on or after June 30, 2001  
2 shall be accounted for in accordance with the National  
3 Association of Insurance Commissioners Accounting Practices  
4 and Procedures Manual effective January 1, 2001. A health  
5 maintenance organization electing to report assets pursuant to  
6 this subsection shall maintain complete and detailed records  
7 reflecting such accounting treatment; or

8 (2) Report all assets in accordance with the NAIC  
9 Accounting Practices and Procedures Manual effective January  
10 1, 2001.

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

13 641.19 Definitions.--As used in this part, the term:

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

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

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

26 Section 11. Subsections (1), (2), and (3) of section  
27 641.35, Florida Statutes, are amended to read:

28 641.35 Assets, liabilities, and investments.--

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

1 health maintenance organization and that ~~which assets~~ consist  
2 of:

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

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

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

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

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

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

30 5. Interest due or accrued on current mortgage loans,  
31 in an amount not exceeding in any event the amount, if any, of

1 the excess of the value of the property less delinquent taxes  
2 thereon over the unpaid principal; but in no event shall  
3 interest accrued for a period in excess of 90 days be allowed  
4 as an asset.

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

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

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

16 (d) The full amount of reinsurance recoverable from a  
17 solvent reinsurer, which reinsurance is authorized under s.  
18 624.610.

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

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

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

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

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

31

1 (h) Other assets, not inconsistent with the provisions  
2 of this section, deemed by the department to be available for  
3 the payment of losses and claims, at values to be determined  
4 by it.

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

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

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

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

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

31

1 (d) Leasehold improvements, nonmedical libraries,  
2 stationery, literature, and nonmedical supply inventories,  
3 except that leasehold improvements made prior to October 1,  
4 1985, shall be allowed as an asset and shall be amortized over  
5 the shortest of the following periods:

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

9 (e) Furniture, fixtures, furnishings, vehicles,  
10 medical libraries, and equipment, ~~other than those items~~  
11 ~~authorized under paragraph (1)(e).~~

12 (f) Notes or other evidences of indebtedness which are  
13 secured by mortgages or deeds of trust which are in default  
14 and beyond the express period specified in the instrument for  
15 curing the default.

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

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

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

- 21 1. The parent of the health maintenance organization;
- 22 2. Any entity directly or indirectly controlled by the  
23 health maintenance organization parent; or
- 24 3. An affiliate of the parent or the health  
25 maintenance organization,

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

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

4           (a) The amount, estimated consistently with the  
5 provisions of this part, necessary to pay all of its unpaid  
6 losses and claims incurred for or on behalf of a subscriber,  
7 on or prior to the end of the reporting period, whether  
8 reported or unreported, including contract and premium  
9 deficiency reserves.

10           (b) The amount equal to the unearned portions of the  
11 gross premiums charged on health maintenance contracts in  
12 force.

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

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

22           Section 12. Any quarterly or annual statement that is  
23 required to be filed after the effective date of this act  
24 shall be prepared in accordance with the provisions of this  
25 act.

26           Section 13. This act shall take effect upon becoming a  
27 law and shall apply retroactively to January 1, 2001.