

Bill No. CS for SB 658

Amendment No. Barcode 360272

	CHAMBER ACTION	
<u>Senate</u>		<u>House</u>

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11 Senators Holzendorf and Pruitt moved the following amendment:

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

14 On page 13, lines 6 and 7, delete those lines

15

16 and insert:

17 Section 13. Subsection (14) of section 624.610,
18 Florida Statutes, is amended to read:

19 624.610 Reinsurance.--

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

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

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

31 (c) The National Association of Insurance

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1 Commissioners model regulation for Credit for Reinsurance and
2 Life and Health Reinsurance Agreements.

3
4 The department may further adopt rules to provide for
5 transition from existing requirements for the approval of
6 reinsurers to the accreditation of reinsurers pursuant to this
7 section.

8 Section 14. Section 625.011, Florida Statutes, is
9 created to read:

10 625.011 Definitions.--As used in this chapter, the
11 term "statutory accounting principles" means accounting
12 principles as defined in the National Association of Insurance
13 Commissioners Accounting Practices and Procedures Manual
14 effective January 1, 2001.

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

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

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

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1 value because of changes in interest rates.

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

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

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

17 (14) Current income tax recoverables.

18 (15) Capitalized interest.

19 (16)(12) Other assets, not inconsistent with the
20 provisions of this section, deemed by the department to be
21 available for the payment of losses and claims, at values to
22 be determined by it.

23 Section 16. Section 625.031, Florida Statutes, is
24 amended to read:

25 625.031 Assets not allowed.--In addition to assets
26 impliedly excluded by the provisions of s. 625.012, the
27 following expressly shall not be allowed as assets in any
28 determination of the financial condition of an insurer:

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

31 (2) Advances (other than policy loans) to officers

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1 ~~and, directors, and controlling stockholders,~~ whether secured
2 or not, and advances to employees, agents, and other persons
3 on personal security only.

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

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

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

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

29 (7) Prepaid and deferred expenses.

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

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

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

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

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

14 Section 18. 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 2001 ~~1988~~
27 edition of such publication. Amortization of bond premium or
28 discount must be calculated using the scientific (constant
29 yield) interest method taking into consideration specified
30 interest and principal provisions over the life of the bond.
31 Bonds containing call provisions shall be amortized to the

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1 call or maturity value or date that produces the lowest asset
2 value.

3 Section 19. Section 625.161, Florida Statutes, is
4 amended to read:

5 625.161 Valuation of property.--

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

10 (2)(1) Real property acquired pursuant to a mortgage
11 loan or contract for sale, in the absence of a recent
12 appraisal deemed by the department to be reliable, shall not
13 be valued at an amount greater than the unpaid principal and
14 accrued interest of the defaulted loan or contract at the date
15 of such acquisition, together with any taxes and expenses paid
16 or incurred in connection with such acquisition, and the cost
17 of improvements thereafter made by the insurer and any amounts
18 thereafter paid by the insurer on assessments levied for
19 improvements in connection with the property.

20 (3)(2) Other real property held by an insurer shall
21 not be valued at an amount in excess of fair value as
22 determined by recent appraisal. If the valuation of real
23 property is based on an appraisal more than 5 ~~3~~ years old, the
24 department may, at its discretion, call for and require a new
25 appraisal in order to determine fair market value.

26 (4)(3) Personal property acquired pursuant to chattel
27 mortgages made in accordance with s. 625.329 shall not be
28 valued at an amount greater than the unpaid balance of
29 principal and accrued interest on the defaulted loan at the
30 date of acquisition, together with taxes and expenses incurred
31 in connection with such acquisition, or the fair value of such

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1 property, whichever amount is the lesser.

2 (5)~~(4)~~ In carrying out its responsibilities under this
3 section, in the event that the department and the insurer do
4 not agree on the value of real or personal property of such
5 insurer, the department may retain the services of a qualified
6 real or personal property appraiser. In the event it is
7 subsequently determined that the insurer has overvalued
8 assets, the department shall be reimbursed for the costs of
9 the services of any such appraiser incurred with respect to
10 its responsibilities under this section regarding an insurer
11 by said insurer and any reimbursement shall be deposited in
12 the Insurance Commissioner's Regulatory Trust Fund.

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

17 Section 20. Section 625.322, Florida Statutes, is
18 amended to read:

19 625.322 Collateral loans.--An insurer may invest in
20 loans with a maturity not in excess of 12 years from the date
21 thereof which are secured by the pledge of assets permitted by
22 part I of this chapter ~~securities eligible for investment~~
23 ~~under this chapter or by the pledge or assignment of life~~
24 ~~insurance policies issued by other insurers authorized to~~
25 ~~transact insurance in this state. On the date made, no such~~
26 ~~loan shall exceed in amount 80 percent of the market value of~~
27 ~~the collateral pledged, except that loans upon pledge of~~
28 ~~United States Government bonds and loans upon the pledge or~~
29 ~~assignment of life insurance policies shall not exceed 95~~
30 ~~percent of the market value of the bonds or the cash surrender~~
31 ~~value of the policies pledged.~~ Loans made pursuant to this

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

8 Section 21. Section 641.183, Florida Statutes, is
9 created to read:

10 641.183 Statutory accounting procedures; transition
11 provisions.--All health maintenance organizations, authorized
12 to do business under this chapter on January 1, 2001, shall
13 elect a transition method for compliance with statutory
14 accounting principles as follows:

15 (1) Report assets acquired prior to June 30, 2001 in
16 accordance with s. 641.35, Florida Statutes until December 31,
17 2002. Assets acquired on or after June 30, 2001 shall be
18 accounted for in accordance with the NAIC Accounting Practices
19 and Procedures Manual effective January 1, 2001. A health
20 maintenance organization electing to report assets pursuant to
21 this subsection shall maintain complete and detailed records
22 reflecting such accounting treatment.

23 (2) Report all assets in accordance with the NAIC
24 Accounting Practices and Procedures Manual effective January
25 1, 2001.

26 Section 22. Subsections (16), (17), and (20) of
27 section 641.19, Florida Statutes, are amended to read:

28 641.19 Definitions.--As used in this part, the term:

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

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

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

10 Section 23. Subsections (1), (2), and (3) of section
 11 641.35, Florida Statutes, are amended to read:

12 641.35 Assets, liabilities, and investments.--

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

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

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

31 1. Interest due or accrued on any bond or evidence of

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1 indebtedness which is not in default and which is not valued
2 on a basis including accrued interest.

3 2. Declared and unpaid dividends on stock and shares,
4 unless the amount of the dividends has otherwise been allowed
5 as an asset.

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

9 4. Interest due or accrued on deposits or certificates
10 of deposit in solvent banks, savings and loan associations,
11 and trust companies domiciled in the United States, and
12 interest due or accrued on other assets, if such interest is
13 in the judgment of the department a collectible asset.

14 5. Interest due or accrued on current mortgage loans,
15 in an amount not exceeding in any event the amount, if any, of
16 the excess of the value of the property less delinquent taxes
17 thereon over the unpaid principal; but in no event shall
18 interest accrued for a period in excess of 90 days be allowed
19 as an asset.

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

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

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

31 (d) The full amount of reinsurance recoverable from a

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1 solvent reinsurer, which reinsurance is authorized under s.
2 624.610.

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

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

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

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

12 (g) Loans or advances by a health maintenance
13 organization to its parent or principal owner if approved by
14 the department.

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

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

29 (2) ASSETS NOT ALLOWED.--In addition to assets
30 impliedly excluded by the provisions of subsection (1), the
31 following assets expressly shall not be allowed as assets in

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1 any determination of the financial condition of a health
 2 maintenance organization:
 3 (a) ~~Goodwill~~, Subscriber lists, patents, trade names,
 4 agreements not to compete, and other like intangible assets.
 5 (b) Any note or account receivable from or advances to
 6 officers, directors, or controlling stockholders, whether
 7 secured or not, and advances to employees, agents, or other
 8 persons on personal security only, other than those
 9 transactions authorized under paragraph (1)(g).
 10 (c) Stock of the health maintenance organization owned
 11 by it directly or owned by it through any entity in which the
 12 organization owns or controls, directly or indirectly, more
 13 than 25 percent of the ownership interest.
 14 (d) Leasehold improvements, nonmedical libraries,
 15 stationery, literature, and nonmedical supply inventories,
 16 except that leasehold improvements made prior to October 1,
 17 1985, shall be allowed as an asset and shall be amortized over
 18 the shortest of the following periods:
 19 1. The life of the lease.
 20 2. The useful life of the improvements.
 21 3. The 3-year period following October 1, 1985.
 22 (e) Furniture, fixtures, furnishings, vehicles,
 23 medical libraries, and equipment, ~~other than those items~~
 24 ~~authorized under paragraph (1)(e)~~.
 25 (f) Notes or other evidences of indebtedness which are
 26 secured by mortgages or deeds of trust which are in default
 27 and beyond the express period specified in the instrument for
 28 curing the default.
 29 (g) Bonds in default for more than 60 days.
 30 (h) ~~Deferred costs other than the liquidation value of~~
 31 Prepaid and deferred expenses.

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1 (i) Any note, account receivable, advance, or other
2 evidence of indebtedness, or investment in:
3 1. The parent of the health maintenance organization;
4 2. Any entity directly or indirectly controlled by the
5 health maintenance organization parent; or
6 3. An affiliate of the parent or the health
7 maintenance organization,
8
9 except as allowed in subsections(1),(11),and (12). The
10 department may, however, allow all or a portion of such asset,
11 at values to be determined by the department, if deemed by the
12 department to be available for the payment of losses and
13 claims.

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

17 (a) The amount, estimated consistently with the
18 provisions of this part, necessary to pay all of its unpaid
19 losses and claims incurred for or on behalf of a subscriber,
20 on or prior to the end of the reporting period, whether
21 reported or unreported, including contract and premium
22 deficiency reserves.

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

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

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

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1 the proper liabilities to be submitted by the organization to
2 the department within 10 working days of receipt of written
3 notification.

4 Section 24. Any quarterly or annual statement that is
5 required to be filed after the effective date of this act
6 shall be prepared in accordance with the provisions of this
7 act.

8 Section 25. This act shall take effect upon becoming a
9 law and section 24 of this act shall apply retroactively to
10 January 1, 2001.

11
12

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

14 And the title is amended as follows:

15 On page 1, lines 1 and 2 delete those lines

16

17 and insert:

18

A bill to be entitled

19

An act relating to insurance; amending s.

20

624.610, F.S.; updating a cross-reference;

21

creating s. 625.011, F.S.; defining the term

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"statutory accounting principles"; amending s.

23

625.012, F.S.; providing for what constitutes

24

an asset of an insurer; amending s. 625.031,

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F.S.; providing for assets not allowed in

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determining the financial condition of an

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insurer; amending s. 625.041, F.S.; revising a

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provision concerning liability; amending s.

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625.141, F.S.; providing for the valuation of

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bonds; amending s. 625.161, F.S.; revising

31

requirements for new appraisals in the

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1 valuation of real property; amending s.
2 625.322, F.S.; revising requirements for
3 collateral loans; creating s. 641.183, F.S.;
4 providing a transition selection for statutory
5 accounting principles; amending s. 641.19,
6 F.S.; redefining the terms "reporting period,"
7 "statutory accounting principles," "surplus,"
8 and "surplus notes" for purposes of the Health
9 Maintenance Organization Act; amending s.
10 641.35, F.S.; redefining certain assets or
11 liabilities in the determination of the
12 financial condition of a health maintenance
13 organization; providing applicability;
14 providing a retroactive effective date.

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