

1 A bill to be entitled
2 An act relating to insurance; amending s.
3 624.610, F.S.; updating a cross-reference;
4 creating s. 625.011, F.S.; defining the term
5 "statutory accounting principles"; amending s.
6 625.012, F.S.; providing for what constitutes
7 an asset of an insurer; amending s. 625.031,
8 F.S.; providing for assets not allowed in
9 determining the financial condition of an
10 insurer; amending s. 625.041, F.S.; revising a
11 provision concerning liability; amending s.
12 625.141, F.S.; providing for the valuation of
13 bonds; amending s. 625.161, F.S.; revising
14 requirements for new appraisals in the
15 valuation of real property; amending s.
16 625.322, F.S.; revising requirements for
17 collateral loans; creating s. 641.183, F.S.;
18 providing a transition selection for statutory
19 accounting principles; amending s. 641.19,
20 F.S.; redefining the terms "reporting period,"
21 "statutory accounting principles," "surplus,"
22 and "surplus notes" for purposes of the Health
23 Maintenance Organization Act; amending s.
24 641.35, F.S.; redefining certain assets or
25 liabilities in the determination of the
26 financial condition of a health maintenance
27 organization; providing applicability; amending
28 ss. 626.916, 626.918, 626.921, 626.923,
29 626.930, 626.931, 626.932, 626.933, 626.935,
30 626.936, 626.9361, 626.938, F.S.; revising
31 certain requirements for surplus lines

1 insurance to provide the Florida Surplus Lines
2 Service Office with the same authority granted
3 to the Department of Insurance; revising limits
4 on fees that may be charged with respect to
5 certain policies certified for export; revising
6 certain quarterly reporting requirements;
7 providing for collection of a service fee;
8 providing a penalty for failure to make certain
9 reports and pay service fees; providing for an
10 administrative fine for such failure; providing
11 for disposition of surplus lines taxes and
12 service fees; providing a retroactive effective
13 date.

14

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

16

17 Section 1. Subsection (4) of section 626.916, Florida
18 Statutes, is amended to read:

19 626.916 Eligibility for export.--

20 (4) A reasonable per-policy fee, not to exceed \$35
21 ~~\$25~~, may be charged by the filing surplus lines agent for each
22 policy certified for export.23 Section 2. Subsection (2) of section 626.918, Florida
24 Statutes, is amended to read:

25 626.918 Eligible surplus lines insurers.--

26 (2) No unauthorized insurer shall be or become an
27 eligible surplus lines insurer unless made eligible by the
28 department in accordance with the following conditions:29 (a) Eligibility of the insurer must be requested in
30 writing by the Florida Surplus Lines Service Office ~~a~~
31 ~~Florida-licensed surplus lines agent~~;

1 (b) The insurer must be currently an authorized
2 insurer in the state or country of its domicile as to the kind
3 or kinds of insurance proposed to be so placed and must have
4 been such an insurer for not less than the 3 years next
5 preceding or must be the wholly owned subsidiary of such
6 authorized insurer or must be the wholly owned subsidiary of
7 an already eligible surplus lines insurer as to the kind or
8 kinds of insurance proposed for a period of not less than the
9 3 years next preceding. However, the department may waive the
10 3-year requirement if the insurer provides a product or
11 service not readily available to the consumers of this state
12 or has operated successfully for a period of at least 1 year
13 next preceding and has capital and surplus of not less than
14 \$25 million;

15 (c) Before granting eligibility, the requesting
16 surplus lines agent or the insurer shall furnish the
17 department with a duly authenticated copy of its current
18 annual financial statement in the English language and with
19 all monetary values therein expressed in United States
20 dollars, at an exchange rate (in the case of statements
21 originally made in the currencies of other countries)
22 then-current and shown in the statement, and with such
23 additional information relative to the insurer as the
24 department may request;

25 (d)1. The insurer must have and maintain surplus as to
26 policyholders of not less than \$15 million; in addition, an
27 alien insurer must also have and maintain in the United States
28 a trust fund for the protection of all its policyholders in
29 the United States under terms deemed by the department to be
30 reasonably adequate, in an amount not less than \$5.4 million.
31 Any such surplus as to policyholders or trust fund shall be

1 represented by investments consisting of eligible investments
2 for like funds of like domestic insurers under part II of
3 chapter 625 provided, however, that in the case of an alien
4 insurance company, any such surplus as to policyholders may be
5 represented by investments permitted by the domestic regulator
6 of such alien insurance company if such investments are
7 substantially similar in terms of quality, liquidity, and
8 security to eligible investments for like funds of like
9 domestic insurers under part II of chapter 625;

10 2. For those surplus lines insurers that were eligible
11 on January 1, 1994, and that maintained their eligibility
12 thereafter, the required surplus as to policyholders shall be:

13 a. On December 31, 1994, and until December 30, 1995,
14 \$2.5 million.

15 b. On December 31, 1995, and until December 30, 1996,
16 \$3.5 million.

17 c. On December 31, 1996, and until December 30, 1997,
18 \$4.5 million.

19 d. On December 31, 1997, and until December 30, 1998,
20 \$5.5 million.

21 e. On December 31, 1998, and until December 30, 1999,
22 \$6.5 million.

23 f. On December 31, 1999, and until December 30, 2000,
24 \$8 million.

25 g. On December 31, 2000, and until December 30, 2001,
26 \$9.5 million.

27 h. On December 31, 2001, and until December 30, 2002,
28 \$11 million.

29 i. On December 31, 2002, and until December 30, 2003,
30 \$13 million.

31 j. On December 31, 2003, and thereafter, \$15 million.

1 3. The capital and surplus requirements as set forth
2 in subparagraph 2. do not apply in the case of an insurance
3 exchange created by the laws of individual states, where the
4 exchange maintains capital and surplus pursuant to the
5 requirements of that state, or maintains capital and surplus
6 in an amount not less than \$50 million in the aggregate. For
7 an insurance exchange which maintains funds in the amount of
8 at least \$12 million for the protection of all insurance
9 exchange policyholders, each individual syndicate shall
10 maintain minimum capital and surplus in an amount not less
11 than \$3 million. If the insurance exchange does not maintain
12 funds in the amount of at least \$12 million for the protection
13 of all insurance exchange policyholders, each individual
14 syndicate shall meet the minimum capital and surplus
15 requirements set forth in subparagraph 2.;

16 4. A surplus lines insurer which is a member of an
17 insurance holding company that includes a member which is a
18 Florida domestic insurer as set forth in its holding company
19 registration statement, as set forth in s. 628.801 and rules
20 adopted thereunder, may elect to maintain surplus as to
21 policyholders in an amount equal to the requirements of s.
22 624.408, subject to the requirement that the surplus lines
23 insurer shall at all times be in compliance with the
24 requirements of chapter 625.

25
26 The election shall be submitted to the department and shall be
27 effective upon the department's being satisfied that the
28 requirements of subparagraph 4. have been met. The initial
29 date of election shall be the date of department approval. The
30 election approval application shall be on a form adopted by
31 department rule. The department may approve an election form

1 submitted pursuant to subparagraph 4. only if it was on file
2 with the department before February 28, 1998;

3 (e) The insurer must be of good reputation as to the
4 providing of service to its policyholders and the payment of
5 losses and claims;

6 (f) The insurer must be eligible, as for authority to
7 transact insurance in this state, under s. 624.404(3); and

8 (g) This subsection does not apply as to unauthorized
9 insurers made eligible under s. 626.917 as to wet marine and
10 aviation risks.

11 Section 3. Subsection (2) of section 626.921, Florida
12 Statutes, is amended to read:

13 626.921 Florida Surplus Lines Service Office.--

14 (2) All surplus lines agents shall, as a condition of
15 holding a license as a surplus lines agent in this state, be
16 deemed to be members of this association and shall report to
17 and file with the service office a copy of or information on
18 each surplus lines insurance policy or document as provided in
19 the plan of operation adopted under subsection (5). ~~Upon~~
20 ~~receipt of any claim notice reported under a surplus lines~~
21 ~~policy which is subject to the filing requirements of this~~
22 ~~section, the insurer, or an adjuster representing the insurer,~~
23 ~~must advise the service office of such claim, identifying the~~
24 ~~policy under which coverage is claimed, and the service office~~
25 ~~shall determine whether the policy has been filed as required~~
26 ~~by this section.~~The service office shall immediately report
27 the particulars of any unfiled policy to the department for
28 enforcement of compliance with the Florida Surplus Lines Law.

29 Section 4. Section 626.923, Florida Statutes, is
30 amended to read:

31

1 626.923 Filing copy of policy or certificate.--A
2 surplus lines agent shall, within 30 days after the date of a
3 request by the department or the Florida Surplus Lines Service
4 Office, furnish ~~the department~~ an exact copy of any and all
5 requested policies, including applications, certificates,
6 cover notes, or other forms of confirmation of insurance
7 coverage or any substitutions thereof or endorsements thereto.
8 The department or the Florida Surplus Lines Service Office may
9 also request and the agent shall furnish, within 30 days after
10 the date of the request, the agent's memorandum as to the
11 substance of any change represented by a substitute
12 certificate, cover note, other form of confirmation of
13 insurance coverage, or endorsement as compared with the
14 coverage as originally placed or issued.

15 Section 5. Subsection (2) of section 626.930, Florida
16 Statutes, is amended to read:

17 626.930 Records of surplus lines agent.--

18 (2) The record shall at all times be open to
19 examination by the department or the Florida Surplus Lines
20 Service Office without notice and shall be so kept available
21 and open ~~to the department~~ for 5 years next following
22 expiration or cancellation of the contract.

23 Section 6. Section 626.931, Florida Statutes, is
24 amended to read:

25 626.931 Agent affidavit and insurer reporting
26 requirements ~~Quarterly report~~--

27 (1) Each surplus lines agent shall on or before the
28 end of the month next following each calendar quarter file
29 with the Florida Surplus Lines Service Office an affidavit, on
30 forms as prescribed and furnished by the Florida Surplus Lines
31 Service Office, stating that ~~a verified report of~~ all surplus

1 lines insurance transacted by him or her during such calendar
2 quarter has been submitted to the Florida Surplus Lines
3 Service Office as required.

4 ~~(2) The reports and supporting information shall be in~~
5 ~~a computer-readable format as determined by the department or~~
6 ~~shall be submitted on forms prescribed by the department and~~
7 ~~shall show:~~

8 ~~(a) Aggregate gross premiums charged;~~

9 ~~(b) Aggregate of returned premiums and taxes paid to~~
10 ~~insureds;~~

11 ~~(c) Aggregate of net premiums;~~

12 ~~(d) A listing of all policies, certificates, cover~~
13 ~~notes, or other forms of confirmation of insurance coverage or~~
14 ~~any substitutions thereof or endorsements thereto; and~~

15 ~~(e) Additional information as required by the~~
16 ~~department.~~

17 ~~(2)(3) The report shall include~~ The affidavit of the
18 surplus lines agent shall include, ~~on forms as prescribed and~~
19 ~~furnished by the department, as to~~ efforts made to place
20 coverages with authorized insurers and the results thereof.

21 ~~(3)(4) Each foreign insurer accepting premiums which~~
22 ~~are subject to taxes and which are described in this section~~
23 shall, on or before the end of the month following each
24 calendar quarter, file with the Florida Surplus Lines Service
25 Office a verified report of all surplus lines insurance
26 transacted by such insurer for insurance risks located in this
27 state during such calendar quarter.

28 ~~(4)(5) Each alien insurer accepting premiums which are~~
29 ~~subject to taxes and which are described in this section~~
30 shall, on or before June 30 of each year, file with the
31 Florida Surplus Lines Service Office a verified report of all

1 surplus lines insurance transacted by such insurer for
2 insurance risks located in this state during the preceding
3 calendar year, ~~provided the first such report shall be with~~
4 ~~respect to calendar year 1994.~~

5 (5)~~(6)~~ The Insurance Commissioner shall have the
6 authority to waive the filing requirements described in
7 subsections (3)~~(4)~~ and (4)~~(5)~~.

8 (6)~~(7)~~ Each insurer's report and supporting
9 information shall be in a computer-readable format as
10 determined by the Florida Surplus Lines Service Office
11 ~~department~~ or shall be submitted on forms prescribed by the
12 Florida Surplus Lines Service Office ~~department~~ and shall show
13 for each applicable agent:

14 ~~(a) The aggregate gross Florida premiums charged;~~

15 ~~(b) The aggregate of returned Florida premiums;~~

16 ~~(c) The aggregate of net Florida premiums;~~

17 (a)~~(d)~~ A listing of all policies, certificates, cover
18 notes, or other forms of confirmation of insurance coverage or
19 any substitutions thereof or endorsements thereto and the
20 identifying number; and

21 (b)~~(e)~~ Any additional information required by the
22 department or Florida Surplus Lines Service Office.

23 Section 7. Paragraph (a) of subsection (2) of section
24 626.932, Florida Statutes, is amended to read:

25 626.932 Surplus lines tax.--

26 (2)(a) The surplus lines agent shall make payable pay
27 to the Department of Insurance ~~Florida Surplus Lines Service~~
28 ~~Office~~ the tax related to each calendar quarter's business as
29 reported to the Florida Surplus Lines Service Office, and
30 remit the tax to the Florida Surplus Lines Service Office at
31 the same time as provided for the filing of the quarterly

1 affidavit ~~report~~, under s. 626.931. The Florida Surplus Lines
2 Service Office shall forward to the department the taxes and
3 any interest collected pursuant to paragraph (b), within 10
4 days of receipt, ~~along with a copy of the quarterly reports~~
5 ~~received~~.

6 Section 8. Section 626.933, Florida Statutes, is
7 amended to read:

8 626.933 Collection of tax and service fee.--If the tax
9 or service fee payable by a surplus lines agent under this
10 Surplus Lines Law is not so paid within the time prescribed,
11 the same shall be recoverable in a suit brought by the
12 department against the surplus lines agent and the surety or
13 sureties on the bond filed by the surplus lines agent under s.
14 626.928.

15 Section 9. Paragraphs (d) and (e) of subsection (1) of
16 section 626.935, Florida Statutes, are amended to read:

17 626.935 Suspension, revocation, or refusal of surplus
18 lines agent's license.--

19 (1) The department shall deny an application for,
20 suspend, revoke, or refuse to renew the appointment of a
21 surplus lines agent and all other licenses and appointments
22 held by the licensee under this code, upon any of the
23 following grounds:

24 (d) Failure to make and file his or her affidavit or
25 ~~quarterly~~ reports when due as required by s. 626.931.

26 (e) Failure to pay the tax or service fee on surplus
27 lines premiums, as provided for in this Surplus Lines Law.

28 Section 10. Section 626.936, Florida Statutes, is
29 amended to read:

30 626.936 Failure to file reports ~~report~~ or pay tax or
31 service fee; administrative penalty.--

1 (1) Any licensed surplus lines agent who neglects to
2 file a ~~quarterly~~ report or an affidavit in the form and within
3 the time required or provided for in the Surplus Lines Law may
4 be fined up to \$50 per day for each day the neglect continues,
5 beginning the day after the ~~quarterly~~ report or affidavit was
6 due until the date the report or affidavit is received ~~by the~~
7 ~~department~~. ~~The department shall deposit~~ All sums collected
8 ~~by it~~ under this section shall be deposited into the Insurance
9 Commissioner's Regulatory Trust Fund.

10 (2) Any licensed surplus lines agent who neglects to
11 pay the taxes or service fees as required under the Surplus
12 Lines Law and within the time required may be fined up to \$500
13 per day for each day the failure to pay continues, beginning
14 the day after the tax or service fees were ~~was~~ due. The agent
15 shall pay interest on the amount of any delinquent tax due, at
16 the rate of 9 percent per year, compounded annually, beginning
17 the day the amount becomes delinquent. The department shall
18 deposit all sums collected ~~by it~~ under this section into the
19 Insurance Commissioner's Regulatory Trust Fund.

20 Section 11. Section 626.9361, Florida Statutes, is
21 amended to read:

22 626.9361 Failure to file report; administrative
23 penalty.--Any eligible surplus lines insurer who fails to file
24 a ~~quarterly~~ report in the form and within the time required or
25 provided for in the Surplus Lines Law may be fined up to \$500
26 per day for each day such failure continues, beginning the day
27 after the report was due, until the date the report is
28 received ~~by the department~~. Failure to file a ~~quarterly~~
29 report may also result in withdrawal of eligibility as a
30 surplus lines insurer in this state. All sums collected by the
31

1 department under this section shall be deposited into the
2 Insurance Commissioner's Regulatory Trust Fund.

3 Section 12. Subsections (1), (3), (4), and (10) of
4 section 626.938, Florida Statutes, are amended to read:

5 626.938 Report and tax of independently procured
6 coverages.--

7 (1) Every insured who in this state procures or causes
8 to be procured or continues or renews insurance with an
9 unauthorized foreign or alien insurer, or any self-insurer who
10 in this state so procures or continues excess loss,
11 catastrophe, or other insurance, upon a subject of insurance
12 resident, located, or to be performed within this state, other
13 than insurance procured through a surplus lines agent pursuant
14 to the Surplus Lines Law of this state or exempted from tax
15 under s. 626.932(4), shall, within 30 days after the date such
16 insurance was so procured, continued, or renewed, file a
17 report of the same with the Florida Surplus Lines Service
18 Office ~~department~~ in writing and upon forms designated by the
19 Florida Surplus Lines Service Office ~~department~~ and furnished
20 to such an insured upon request, or in a computer readable
21 format as determined by the Florida Surplus Lines Service
22 Office. The report shall show the name and address of the
23 insured or insureds, the name and address of the insurer, the
24 subject of the insurance, a general description of the
25 coverage, the amount of premium currently charged therefor,
26 and such additional pertinent information as is reasonably
27 requested by the Florida Surplus Lines Service Office
28 ~~department~~.

29 (3) For the general support of the government of this
30 state, there is levied upon the obligation, chose in action,
31 or right represented by the premium charged for such insurance

1 a tax at the rate of 5 percent of the gross amount of such
2 premium and a 0.3 percent service fee pursuant to s. 626.9325.
3 The insured shall withhold the amount of the tax and service
4 fee from the amount of premium charged by and otherwise
5 payable to the insurer for such insurance, ~~and,~~ Within 30
6 days after the insurance is ~~was so~~ procured, continued, or
7 renewed, and simultaneously ~~coincidentally~~ with the filing of
8 the report provided for in subsection (1) with the Florida
9 Surplus Lines Service Office ~~department of the report provided~~
10 ~~for in subsection (1)~~, the insured shall make payable to the
11 Department of Insurance ~~pay~~ the amount of the tax and make
12 payable to the Florida Surplus Lines Service Office the amount
13 of the service fee. The insured shall remit the tax and the
14 service fee to the Florida Surplus Lines Service Office
15 ~~department.~~ The Florida Surplus Lines Service Office shall
16 forward to the department the taxes, and any interest
17 collected pursuant to subsection (5), within 10 days after
18 receipt.

19 (4) If the insured fails to withhold from the premium
20 the amount of tax and the service fee herein levied, the
21 insured shall be liable for the amount thereof and shall pay
22 that amount ~~the same~~ to the Florida Surplus Lines Service
23 Office ~~department~~ within the time stated in subsection (3).

24 (10) Each report and supporting information shall be
25 in a computer-readable format as determined by the Florida
26 Surplus Lines Service Office ~~department~~ or shall be submitted
27 on forms prescribed by the Florida Surplus Lines Service
28 Office ~~department~~.

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

31 624.610 Reinsurance.--

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

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

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

12 (c) The National Association of Insurance
13 Commissioners model regulation for Credit for Reinsurance and
14 Life and Health Reinsurance Agreements.

15
16 The department may further adopt rules to provide for
17 transition from existing requirements for the approval of
18 reinsurers to the accreditation of reinsurers pursuant to this
19 section.

20 Section 14. Section 625.011, Florida Statutes, is
21 created to read:

22 625.011 Definitions.--As used in this chapter, the
23 term "statutory accounting principles" means accounting
24 principles as defined in the National Association of Insurance
25 Commissioners Accounting Practices and Procedures Manual
26 effective January 1, 2001.

27 Section 15. Subsections (1) and (11) of section
28 625.012, Florida Statutes, are amended, present subsection
29 (12) of that section is redesignated as subsection (16), and
30 new subsections (12), (13), (14), and (15) are added to that
31 section to read:

1 625.012 "Assets" defined.--In any determination of the
2 financial condition of an insurer, there shall be allowed as
3 "assets" only such assets as are owned by the insurer and
4 which consist of:

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

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

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

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

29 (14) Current income tax recoverables.

30 (15) Capitalized interest.

31

1 ~~(16)~~~~(12)~~ Other assets, not inconsistent with the
2 provisions of this section, deemed by the department to be
3 available for the payment of losses and claims, at values to
4 be determined by it.

5 Section 16. Section 625.031, Florida Statutes, is
6 amended to read:

7 625.031 Assets not allowed.--In addition to assets
8 impliedly excluded by the provisions of s. 625.012, the
9 following expressly shall not be allowed as assets in any
10 determination of the financial condition of an insurer:

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

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

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

22 (4) Furniture, fixtures, furnishings, safes, vehicles,
23 libraries, stationery, literature, and supplies, other than
24 data processing and accounting systems authorized under s.
25 625.012(11), except in the case of title insurers such
26 materials and plants as the insurer is expressly authorized to
27 invest in under s. 625.330 and except, in the case of any
28 insurer, such personal property as the insurer is permitted to
29 hold pursuant to part II of this chapter, or which is acquired
30 through foreclosure of chattel mortgages acquired pursuant to
31 s. 625.329, or which is reasonably necessary for the

1 maintenance and operation of real estate lawfully acquired and
2 held by the insurer other than real estate used by it for home
3 office, branch office, and similar purposes.

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

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

11 (7) Prepaid and deferred expenses.

12 ~~(8) Federal income tax refunds when a refund is not~~
13 ~~assured.~~

14 Section 17. Paragraph (d) of subsection (2) of section
15 625.041, Florida Statutes, is amended to read:

16 625.041 Liabilities, in general.--In any determination
17 of the financial condition of an insurer, liabilities to be
18 charged against its assets shall include:

19 (2) With reference to life and health insurance and
20 annuity contracts:

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

27 Section 18. Subsection (2) of section 625.141, Florida
28 Statutes, is amended to read:

29 625.141 Valuation of bonds.--

30 (2) The department shall have full discretion in
31 determining the method of calculating values according to the

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

16 Section 19. Section 625.161, Florida Statutes, is
17 amended to read:

18 625.161 Valuation of property.--

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

23 (2)~~(1)~~ Real property acquired pursuant to a mortgage
24 loan or contract for sale, in the absence of a recent
25 appraisal deemed by the department to be reliable, shall not
26 be valued at an amount greater than the unpaid principal and
27 accrued interest of the defaulted loan or contract at the date
28 of such acquisition, together with any taxes and expenses paid
29 or incurred in connection with such acquisition, and the cost
30 of improvements thereafter made by the insurer and any amounts
31

1 thereafter paid by the insurer on assessments levied for
2 improvements in connection with the property.

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

9 ~~(4)(3)~~ Personal property acquired pursuant to chattel
10 mortgages made in accordance with s. 625.329 shall not be
11 valued at an amount greater than the unpaid balance of
12 principal and accrued interest on the defaulted loan at the
13 date of acquisition, together with taxes and expenses incurred
14 in connection with such acquisition, or the fair value of such
15 property, whichever amount is the lesser.

16 ~~(5)(4)~~ In carrying out its responsibilities under this
17 section, in the event that the department and the insurer do
18 not agree on the value of real or personal property of such
19 insurer, the department may retain the services of a qualified
20 real or personal property appraiser. In the event it is
21 subsequently determined that the insurer has overvalued
22 assets, the department shall be reimbursed for the costs of
23 the services of any such appraiser incurred with respect to
24 its responsibilities under this section regarding an insurer
25 by said insurer and any reimbursement shall be deposited in
26 the Insurance Commissioner's Regulatory Trust Fund.

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

31

1 Section 20. 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 21. 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, through December

1 31, 2005. Assets acquired on or after June 30, 2001 shall be
2 accounted for in accordance with the National Association of
3 Insurance Commissioners Accounting Practices and Procedures
4 Manual effective January 1, 2001. A health maintenance
5 organization electing to report assets pursuant to this
6 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 22. 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 23. 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 ~~(g) The liquidation value of prepaid expenses.~~

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

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

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 24. 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 25. This act shall take effect upon becoming a
27 law and section 24 of this act shall apply retroactively to
28 January 1, 2001.