

By the Committee on Banking and Insurance; and Senator Smith

311-2556-04

1 A bill to be entitled
2 An act relating to insurers; amending s.
3 626.321, F.S.; limiting the types of business
4 that may be transacted by personal lines
5 agents; amending s. 626.854, F.S.; specifying
6 duties of a public adjuster relating to
7 contractors; prohibiting a public adjuster from
8 restricting certain access and communications;
9 amending s. 631.021, F.S.; authorizing certain
10 domiciliary courts to exercise exclusive
11 jurisdiction over certain persons under certain
12 circumstances; specifying the Circuit Court of
13 Leon County as having exclusive jurisdiction
14 over certain proceedings and claims; amending
15 s. 631.041, F.S.; entitling the estates of
16 certain injured insurers to actual damages;
17 authorizing a receivership court to impose
18 additional sanctions; amending s. 631.0515,
19 F.S.; subjecting certain managing general
20 agents or holding companies to court
21 jurisdiction under certain circumstances;
22 amending s. 631.141, F.S.; specifying certain
23 expenses as administrative and recoverable by a
24 receiver in certain proceedings; amending s.
25 631.205, F.S.; specifying that entry of certain
26 orders does not constitute anticipatory breach
27 of certain contracts or serve as grounds for
28 certain adverse contract actions by a
29 reinsurer; creating s. 631.206, F.S.; voiding
30 certain contractual arbitration provisions by
31 insurers in receivership; specifying a

1 replacement arbitration provision; amending s.
2 631.261, F.S.; voiding certain transfers or
3 liens made by certain persons prior to certain
4 delinquency proceedings; specifying a criterion
5 for making certain transfers; amending ss.
6 631.262 and 631.263, F.S.; specifying a
7 criterion for making certain transfers;
8 amending s. 625.081, F.S.; excepting credit
9 disability insurance from certain active life
10 reserve requirements for health insurance;
11 amending s. 625.121, F.S.; providing for
12 additional minimum standards for valuation of
13 certain policies and contracts; providing
14 minimum reserve requirements for credit life
15 and disability policies; amending s. 627.476,
16 F.S.; providing additional mortality tables to
17 be used under the Standard Nonforfeiture Law
18 for Life Insurance; repealing s. 625.131, F.S.,
19 relating to special reserve bases for credit
20 life and disability policies; amending ss.
21 651.026 and 651.0261, F.S.; providing that the
22 Financial Services Commission may require that
23 certain reports and statements filed by
24 continuing care providers and facilities be
25 filed electronically; amending s. 651.033,
26 F.S.; prescribing additional facilities in
27 which escrow accounts may be deposited;
28 amending s. 651.118, F.S.; prescribing
29 circumstances under which sheltered nursing
30 home beds may be used for persons not residents
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1 of a continuing care facility; providing an
2 effective date.

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

5

6 Section 1. Paragraph (d) of subsection (1) of section
7 626.321, Florida Statutes, is amended to read:

8 626.321 Limited licenses.--

9 (1) The department shall issue to a qualified
10 individual, or a qualified individual or entity under
11 paragraphs (c), (d), (e), and (i), a license as agent
12 authorized to transact a limited class of business in any of
13 the following categories:

14 (d) Baggage and motor vehicle excess liability
15 insurance.--

16 1. License covering only insurance of personal effects
17 except as provided in subparagraph 2. The license may be
18 issued only:

19 a. To a full-time salaried employee of a common
20 carrier or a full-time salaried employee or owner of a
21 transportation ticket agency, which person is engaged in the
22 sale or handling of transportation of baggage and personal
23 effects of travelers, and may authorize the sale of such
24 insurance only in connection with such transportation; or

25 b. To the full-time salaried employee of a licensed
26 general lines agent or to, ~~a full-time salaried employee of a~~
27 ~~business which offers motor vehicles for rent or lease, or to~~
28 ~~a business office of a business entity that~~ which offers motor
29 vehicles for rent or lease if insurance sales activities
30 authorized by the license are in connection with and
31 incidental to the rental of a motor vehicle limited to

1 ~~full-time salaried employees.~~ An entity applying for a license
2 under this subsection:

3 (I) Is required to submit only one application for a
4 license under s. 626.171. The requirements of s. 626.171(5)
5 shall apply only to the officers and directors of the entity
6 submitting the application.

7 (II) Is required to obtain a license for each office,
8 branch office, or place of business making use of the entity's
9 business name by applying to the department for the license on
10 a simplified application form developed by rule of the
11 department for this purpose.

12 (III) Is required to pay the applicable fees for a
13 license as prescribed in s. 624.501, be appointed under s.
14 626.112, and pay the prescribed appointment fee under s.
15 624.501. A licensed and appointed entity shall be directly
16 responsible and accountable for all acts of the licensee's
17 employees.

18
19 The purchaser of baggage insurance shall be provided written
20 information disclosing that the insured's homeowner's policy
21 may provide coverage for loss of personal effects and that the
22 purchase of such insurance is not required in connection with
23 the purchase of tickets or in connection with the lease or
24 rental of a motor vehicle.

25 2. A business entity that ~~office licensed pursuant to~~
26 ~~subparagraph 1., or a person licensed pursuant to subparagraph~~
27 ~~1. who is a full-time salaried employee of a business which~~
28 offers motor vehicles for rent or lease, may include lessees
29 under a master contract providing coverage to the lessor or
30 may transact excess motor vehicle liability insurance
31 providing coverage in excess of the standard liability limits

1 provided by the lessor in its lease to a person renting or
2 leasing a motor vehicle from the licensee's employer for
3 liability arising in connection with the negligent operation
4 of the leased or rented motor vehicle, provided that the lease
5 or rental agreement is for not more than 30 days; that the
6 lessee is not provided coverage for more than 30 consecutive
7 days per lease period, and, if the lease is extended beyond 30
8 days, the coverage may be extended one time only for a period
9 not to exceed an additional 30 days; that the lessee is given
10 written notice that his or her personal insurance policy
11 providing coverage on an owned motor vehicle may provide
12 additional excess coverage; and that the purchase of the
13 insurance is not required in connection with the lease or
14 rental of a motor vehicle. The excess liability insurance may
15 be provided to the lessee as an additional insured on a policy
16 issued to the licensee's employer.

17 3. A business entity that ~~office licensed pursuant to~~
18 ~~subparagraph 1., or a person licensed pursuant to subparagraph~~
19 ~~1. who is a full-time salaried employee of a business which~~
20 offers motor vehicles for rent or lease, may, as an agent of
21 an insurer, transact insurance that provides coverage for the
22 liability of the lessee to the lessor for damage to the leased
23 or rented motor vehicle if:

24 a. The lease or rental agreement is for not more than
25 30 days; or the lessee is not provided coverage for more than
26 30 consecutive days per lease period, but, if the lease is
27 extended beyond 30 days, the coverage may be extended one time
28 only for a period not to exceed an additional 30 days;

29 b. The lessee is given written notice that his or her
30 personal insurance policy that provides coverage on an owned
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1 motor vehicle may provide such coverage with or without a
2 deductible; and

3 c. The purchase of the insurance is not required in
4 connection with the lease or rental of a motor vehicle.

5 Section 2. Subsections (1) and (3) of section 626.854,
6 Florida Statutes, are amended to read:

7 626.854 "Public adjuster" defined; prohibitions.--The
8 Legislature finds that it is necessary for the protection of
9 the public to regulate public insurance adjusters and to
10 prevent the unauthorized practice of law.

11 (1) A "public adjuster" is any person, except a duly
12 licensed attorney at law as hereinafter in s. 626.860
13 provided, or an employee of such an attorney under the
14 attorney's supervision, who, for money, commission, or any
15 other thing of value, prepares, completes, or files an
16 insurance claim form for an insured ~~or third-party claimant~~ or
17 who, for money, commission, or any other thing of value, acts
18 or aids in any manner on behalf of an insured ~~or third-party~~
19 ~~claimant~~ in negotiating for or effecting the settlement of a
20 claim or claims for loss or damage covered by an insurance
21 contract or who advertises for employment as an adjuster of
22 such claims, and also includes any person who, for money,
23 commission, or any other thing of value, solicits,
24 investigates, or adjusts such claims on behalf of any such
25 public adjuster.

26 (3)(a) A public adjuster may not give legal advice. A
27 public adjuster may not act on behalf of or aid any person in
28 negotiating or settling a claim relating to bodily injury,
29 death, or noneconomic damages, extra-contractual damages
30 unrelated to the damages under the policy, unfair claims
31 practices violations, tort claims, or statutory interest,

1 costs, and attorney's fees. Nothing in this paragraph shall be
2 construed to prohibit a public adjuster from testifying or
3 consulting with an attorney in pursuing claims for
4 extra-contractual damages or unfair claims settlement
5 practices.

6 (b) A public adjuster shall ensure that if a
7 contractor, architect, engineer, or other licensed
8 professional is used in formulating estimates or otherwise
9 participates in the adjustment of the claim, the professional
10 must be licensed by the Florida Department of Business and
11 Professional Regulation.

12 (c) A public adjuster shall not restrict or prevent an
13 insurer, company or independent adjuster, attorney, or any
14 other person acting on behalf of the insurer from having
15 reasonable access at reasonable times to an insured or
16 claimant or to the insured property which is the subject of a
17 claim.

18 Section 3. Subsection (6) is added to section 631.021,
19 Florida Statutes, to read:

20 631.021 Jurisdiction of delinquency proceeding; venue;
21 change of venue; exclusiveness of remedy; appeal.--

22 (6) The domiciliary court acquiring jurisdiction over
23 persons subject to this section may exercise exclusive
24 jurisdiction to the exclusion of all other courts, except as
25 limited by the provisions of this section. Upon the issuance
26 of an order of conservation, rehabilitation, or liquidation,
27 the Circuit Court of Leon County shall have exclusive
28 jurisdiction with respect to assets or property of any insurer
29 subject to such proceedings and claims against said insurer's
30 assets or property.

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1 Section 4. Subsection (6) is added to section 631.041,
2 Florida Statutes, to read:

3 631.041 Automatic stay; relief from stay;
4 injunctions.--

5 (6) The estate of an insurer in rehabilitation or
6 liquidation which is injured by any willful violation of an
7 applicable stay or injunction shall be entitled to actual
8 damages, including costs and attorney's fees, and, in
9 appropriate circumstances, the receivership court may impose
10 additional sanctions.

11 Section 5. Section 631.0515, Florida Statutes, is
12 amended to read:

13 631.0515 Appointment of receiver; insurance holding
14 company.--A delinquency proceeding pursuant to this chapter
15 constitutes the sole and exclusive method of dissolving,
16 liquidating, rehabilitating, reorganizing, conserving, or
17 appointing a receiver of a Florida corporation which is not
18 insolvent as defined by s. 607.01401(16); which through its
19 shareholders, board of directors, or governing body is
20 deadlocked in the management of its affairs; and which
21 directly or indirectly owns all of the stock of a Florida
22 domestic insurer. The department may petition for an order
23 directing it to rehabilitate such corporation if the interests
24 of policyholders or the public will be harmed as a result of
25 the deadlock. The department shall use due diligence to
26 resolve the deadlock. Whether or not the department petitions
27 for an order, the circuit court shall not have jurisdiction
28 pursuant to s. 607.271, s. 607.274, or s. 607.277 to dissolve,
29 liquidate, or appoint receivers with respect to, a Florida
30 corporation which directly or indirectly owns all of the stock
31 of a Florida domestic insurer and which is not insolvent as

1 defined by s. 607.01401(16). However, a managing general agent
2 or holding company with a controlling interest in a domestic
3 insurer in this state is subject to jurisdiction of the court
4 under the provisions of s. 631.025.

5 Section 6. Paragraph (a) of subsection (7) of section
6 631.141, Florida Statutes, is amended to read:

7 631.141 Conduct of delinquency proceeding; domestic
8 and alien insurers.--

9 (7)(a) In connection with a delinquency proceeding,
10 the department may appoint one or more special agents to act
11 for it, and it may employ such counsel, clerks, and assistants
12 as it deems necessary. The compensation of the special agents,
13 counsel, clerks, or assistants and all expenses of taking
14 possession of the insurer and of conducting the proceeding
15 shall be fixed by the receiver, subject to the approval of the
16 court, and shall be paid out of the funds or assets of the
17 insurer. Such expenses are administrative expenses and are
18 recoverable by the receiver in any actions in which the
19 receiver is authorized or entitled to recover its
20 administrative expenses. Within the limits of duties imposed
21 upon them, special agents shall possess all the powers given
22 to and, in the exercise of those powers, shall be subject to
23 all duties imposed upon the receiver with respect to such
24 proceeding.

25 Section 7. Section 631.205, Florida Statutes, is
26 amended to read:

27 631.205 Reinsurance proceeds.--All reinsurance
28 proceeds payable under a contract of reinsurance to which the
29 insolvent insurer is a party are to be paid directly to the
30 domiciliary receiver as general assets of the receivership
31 estate unless the reinsurance contract contains a clause which

1 specifically names the insolvent insurer's insured as a direct
2 beneficiary of the reinsurance contract. The entry of an order
3 of conservation, rehabilitation, or liquidation shall not be
4 deemed an anticipatory breach of any reinsurance contract, nor
5 shall insolvency or notice of insolvency be grounds for
6 retroactive revocation or retroactive cancellation of any
7 reinsurance contracts by the reinsurer.

8 Section 8. Section 631.206, Florida Statutes, is
9 created to read:

10 631.206 Arbitration.--If an insurer in receivership
11 has entered into an agreement containing an arbitration
12 provision for resolution of disputes, that provision is void
13 and shall be replaced by operation of law with the following
14 provision:

15
16 Any controversy or claim arising out of or
17 relating to this contract, or the breach
18 thereof, shall be settled by arbitration
19 pursuant to the American Arbitration
20 Association Commercial Arbitration Rules and
21 chapter 682, Florida Statutes, and judgment on
22 the award rendered by the arbitrators shall be
23 entered by the receivership court. Venue shall
24 be in Leon County, Florida. Disputes shall be
25 submitted to a panel of three arbitrators, one
26 to be chosen by each party and the third by the
27 two so chosen. Arbitrators shall be selected
28 from a list of potential qualified arbitrators
29 with 10 years' experience involving the
30 insurance industry. If the parties do not agree
31 upon the qualifications of a mediator, each

1 party shall select its mediator from a list of
2 potential mediators approved by the
3 receivership court.

4
5 Section 9. Subsection (1) of section 631.261, Florida
6 Statutes, is amended, and subsection (4) is added to that
7 section, to read:

8 631.261 Voidable transfers.--

9 (1)(a) Any transfer of, or lien upon, the property of
10 an insurer or affiliate which is made or created within 4
11 months prior to the commencement of any delinquency proceeding
12 under this chapter ~~which gives with the intent of giving to~~
13 any creditor of the insurer a preference or enables of
14 ~~enabling~~ the creditor to obtain a greater percentage of her or
15 his debt than any other creditor of the same class, ~~and which~~
16 ~~is accepted by such creditor having reasonable cause to~~
17 ~~believe that such preference will occur,~~ shall be voidable.

18 (b) Any transfer of, or lien upon, the property of an
19 insurer or affiliate which is made or created between 4 months
20 and 1 year prior to the commencement of any delinquency
21 proceeding under this chapter is void if such transfer or lien
22 inured to the benefit of a director, officer, employee,
23 stockholder, member, subscriber, affiliate, managing general
24 agent, or insider or any relative of any director, officer,
25 employee, stockholder, member, subscriber, affiliate, managing
26 general agent, or insider.

27 (4) For purposes of this section, a transfer is not
28 made or created until the insurer or affiliate has acquired
29 rights in the property transferred.

30 Section 10. Subsection (2) of section 631.262, Florida
31 Statutes, is amended to read:

1 631.262 Transfers prior to petition.--

2 (2) Transfers shall be deemed to have been made or
3 suffered, or obligations incurred, when perfected according to
4 the following criteria:

5 (a) A transfer of property other than real property
6 shall be deemed to be made or suffered when it becomes so far
7 perfected that no subsequent lien obtainable by legal or
8 equitable proceedings on a simple contract could become
9 superior to the rights of the transferee.†

10 (b) A transfer of real property shall be deemed to be
11 made or suffered when it becomes so far perfected that no
12 subsequent bona fide purchaser from the insurer could obtain
13 rights superior to the rights of the transferee.†

14 (c) A transfer which creates an equitable lien shall
15 not be deemed to be perfected if there are available means by
16 which a legal lien could be created.†

17 (d) Any transfer not perfected prior to the filing of
18 a petition in a delinquency proceeding shall be deemed to be
19 made immediately before the filing of a successful petition.†

20 (e) For the purposes of this section, a transfer is
21 not made until the insurer or affiliate has acquired rights in
22 the property transferred.

23 ~~(f)(e)~~ Paragraphs (a)-(e)~~(d)~~ apply whether or not
24 there are or were creditors who might have obtained any liens
25 or persons who might have become bona fide purchasers.

26 Section 11. Subsection (6) is added to section
27 631.263, Florida Statutes, to read:

28 631.263 Transfers after petition.--

29 (6) For the purposes of this section, a transfer is
30 not made until the insurer or affiliate has acquired rights in
31 the property transferred.

1 Section 12. Section 625.081, Florida Statutes, is
2 amended to read:

3 625.081 Reserve for health insurance.--For all health
4 insurance policies, the insurer shall maintain an active life
5 reserve which places a sound value on the insurer's
6 liabilities under such policies; is not less than the reserve
7 according to appropriate standards set forth in rules issued
8 by the commission; and, with the exception of credit
9 disability insurance, in no event, is less in the aggregate
10 than the pro rata gross unearned premiums for such policies.

11 Section 13. Paragraphs (a), (e), and (f) of subsection
12 (5) and subsection (13) of section 625.121, Florida Statutes,
13 are amended, and paragraphs (k) and (l) are added to
14 subsection (5) of that section, to read:

15 625.121 Standard Valuation Law; life insurance.--
16 (5) MINIMUM STANDARD FOR VALUATION OF POLICIES AND
17 CONTRACTS ISSUED ON OR AFTER OPERATIVE DATE OF STANDARD
18 NONFORFEITURE LAW.--Except as otherwise provided in paragraph
19 (h) and subsections (6), (11), and (14), the minimum standard
20 for the valuation of all such policies and contracts issued on
21 or after the operative date of s. 627.476 (Standard
22 Nonforfeiture Law for Life Insurance) shall be the
23 commissioners' reserve valuation method defined in subsections
24 (7), (11), and (14); 5 percent interest for group annuity and
25 pure endowment contracts and 3.5 percent interest for all
26 other such policies and contracts, or in the case of life
27 insurance policies and contracts, other than annuity and pure
28 endowment contracts, issued on or after July 1, 1973, 4
29 percent interest for such policies issued prior to October 1,
30 1979, and 4.5 percent interest for such policies issued on or
31 after October 1, 1979; and the following tables:

1 (a) For all ordinary policies of life insurance issued
2 on the standard basis, excluding any disability and accidental
3 death benefits in such policies:

4 1. For policies issued prior to the operative date of
5 s. 627.476(9), the commissioners' 1958 Standard Ordinary
6 Mortality Table; except that, for any category of such
7 policies issued on female risks, modified net premiums and
8 present values, referred to in subsection (7), may be
9 calculated according to an age not more than 6 years younger
10 than the actual age of the insured. ~~†~~ and

11 2. For policies issued on or after the operative date
12 of s. 627.476(9), the commissioners' 1980 Standard Ordinary
13 Mortality Table or, at the election of the insurer for any one
14 or more specified plans of life insurance, the commissioners'
15 1980 Standard Ordinary Mortality Table with Ten-Year Select
16 Mortality Factors.

17 3. For policies issued on or after July 1, 2004,
18 ordinary mortality tables, adopted after 1980 by the National
19 Association of Insurance Commissioners, adopted by rule by the
20 commission for use in determining the minimum standard of
21 valuation for those policies.

22 (e) For total and permanent disability benefits in or
23 supplementary to ordinary policies or contracts:

24 1. For policies or contracts issued on or after
25 January 1, 1966, the tables of period 2 disablement rates and
26 the 1930 to 1950 termination rates of the 1952 disability
27 study of the Society of Actuaries, with due regard to the type
28 of benefit. ~~†~~

29 2. For policies or contracts issued on or after
30 January 1, 1961, and prior to January 1, 1966, either those
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1 tables or, at the option of the insurer, the class three
2 disability table (1926).~~†~~and

3 3. For policies issued prior to January 1, 1961, the
4 class three disability table (1926).

5 4. For policies or contracts issued on or after July
6 1, 2004, tables of disablement rates and termination rates
7 adopted after 1980 by the National Association of Insurance
8 Commissioners, adopted by rule by the commission for use in
9 determining the minimum standard of valuation for those
10 policies or contracts.

11
12 Any such table for active lives shall be combined with a
13 mortality table permitted for calculating the reserves for
14 life insurance policies.

15 (f) For accidental death benefits in or supplementary
16 to policies:

17 1. For policies issued on or after January 1, 1966,
18 the 1959 Accidental Death Benefits Table.~~†~~

19 2. For policies issued on or after January 1, 1961,
20 and prior to January 1, 1966, either that table or, at the
21 option of the insurer, the Intercompany Double Indemnity
22 Mortality Table.~~†~~and

23 3. For policies issued prior to January 1, 1961, the
24 Intercompany Double Indemnity Mortality Table.

25 4. For policies issued on or after July 1, 2004,
26 tables of accidental death benefits adopted after 1980 by the
27 National Association of Insurance Commissioners, adopted by
28 rule by the commission for use in determining the minimum
29 standard of valuation for those policies.

1 Either table shall be combined with a mortality table
2 permitted for calculating the reserves for life insurance
3 policies.

4 (k) For individual annuity and pure endowment
5 contracts issued on or after July 1, 2004, excluding any
6 disability and accidental death benefits purchased under those
7 contracts, individual annuity mortality tables adopted after
8 1980 by the National Association of Insurance Commissioners,
9 adopted by rule by the commission for use in determining the
10 minimum standard of valuation for those contracts.

11 (l) For all annuities and pure endowments purchased on
12 or after July 1, 2004, under group annuity and pure endowment
13 contracts, excluding any disability and accidental death
14 benefits purchased under those contracts, group annuity
15 mortality tables adopted after 1980 by the National
16 Association of Insurance Commissioners, adopted by rule by the
17 commission for use in determining the minimum standard of
18 valuation for those contracts.

19 (13) ~~APPLICABILITY TO CREDIT LIFE AND DISABILITY~~
20 ~~INSURANCE POLICIES.--~~

21 (a) For policies issued prior to January 1, 2004:

22 1. The minimum reserve for single-premium credit
23 disability insurance, monthly premium credit life insurance,
24 and monthly premium credit disability insurance shall be the
25 unearned gross premium.

26 2. As to single-premium credit life insurance
27 policies, the insurer shall establish and maintain reserves
28 which are not less than the value, at the valuation date, of
29 the risk for the unexpired portion of the period for which the
30 premium has been paid as computed on the basis of the
31 commissioners' 1980 Standard Ordinary Mortality Table, plus

1 3.5 percent interest. At the discretion of the office, the
2 insurer may make a reasonable assumption as to the ages at
3 which net premiums are to be determined. In lieu of such
4 basis, reserves based upon unearned gross premiums may be used
5 at the option of the insurer.

6 (b) For policies issued on or after January 1, 2004:

7 1. The minimum reserve for single-premium credit
8 disability insurance shall be:

9 a. The unearned gross premium; or

10 b. Based upon a morbidity table that is adopted by the
11 National Association of Insurance Commissioners and is
12 specified in a rule the commission shall adopt pursuant to s.
13 625.121(14).

14 2. The minimum reserve for monthly premium credit
15 disability insurance shall be the unearned gross premium.

16 3. The minimum reserve for monthly premium credit life
17 insurance shall be the unearned gross premium.

18 4. As to single-premium credit life insurance
19 policies, the insurer shall establish and maintain reserves
20 which are not less than the value, at the valuation date, of
21 the risk for the unexpired portion of the period for which the
22 premium has been paid as computed on the basis of the
23 commissioners' 1980 Standard Ordinary Mortality Table or any
24 ordinary mortality table, adopted after 1980 by the National
25 Association of Insurance Commissioners, that is approved by
26 rule adopted by the commission for use in determining the
27 minimum standard of valuation for such policies, plus an
28 interest rate determined in accordance with s. 625.121(6). At
29 the discretion of the office, the insurer may make a
30 reasonable assumption as to the ages at which net premiums are
31 to be determined. In lieu of such basis, reserves based upon

1 unearned gross premiums may be used at the option of the
2 insurer.~~This section does not apply as to those credit life~~
3 ~~insurance policies for which reserves are computed and~~
4 ~~maintained as required under s. 625.131.~~

5 Section 14. Section 625.131, Florida Statutes, is
6 repealed.

7 Section 15. Paragraph (h) of subsection (9) of section
8 627.476, Florida Statutes, is amended to read:

9 627.476 Standard Nonforfeiture Law for Life
10 Insurance.--

11 (9) CALCULATION OF ADJUSTED PREMIUMS AND PRESENT
12 VALUES FOR POLICIES ISSUED AFTER OPERATIVE DATE OF THIS
13 SUBSECTION.--

14 (h) All adjusted premiums and present values referred
15 to in this section shall for all policies of ordinary
16 insurance be calculated on the basis of the commissioners'
17 1980 Standard Ordinary Mortality Table or, at the election of
18 the insurer for any one or more specified plans of life
19 insurance, the commissioners' 1980 Standard Ordinary Mortality
20 Table with Ten-Year Select Mortality Factors; shall for all
21 policies of industrial insurance be calculated on the basis of
22 the Commissioners' 1961 Standard Industrial Mortality Table;
23 and shall for all policies issued in a particular calendar
24 year be calculated on the basis of a rate of interest not
25 exceeding the nonforfeiture interest rate as defined in this
26 subsection for policies issued in that calendar year. However:

27 1. At the option of the insurer, calculations for all
28 policies issued in a particular calendar year may be made on
29 the basis of a rate of interest not exceeding the
30 nonforfeiture interest rate, as defined in this subsection,
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1 for policies issued in the immediately preceding calendar
2 year.

3 2. Under any paid-up nonforfeiture benefit, including
4 any paid-up dividend additions, any cash surrender value
5 available, whether or not required by subsection (2), shall be
6 calculated on the basis of the mortality table and rate of
7 interest used in determining the amount of such paid-up
8 nonforfeiture benefit and paid-up dividend additions, if any.

9 3. An insurer may calculate the amount of any
10 guaranteed paid-up nonforfeiture benefit, including any
11 paid-up additions under the policy, on the basis of an
12 interest rate no lower than that specified in the policy for
13 calculating cash surrender values.

14 4. In calculating the present value of any paid-up
15 term insurance with accompanying pure endowment, if any,
16 offered as a nonforfeiture benefit, the rates of mortality
17 assumed may be not more than those shown in the Commissioners'
18 1980 Extended Term Insurance Table for policies of ordinary
19 insurance and not more than the Commissioners' 1961 Industrial
20 Extended Term Insurance Table for policies of industrial
21 insurance.

22 5. In lieu of the mortality tables specified in this
23 section, at the option of the insurance company and subject to
24 rules adopted by the commission, the insurance company may
25 substitute:

26 a. The 1958 CSO or CET Smoker and Nonsmoker Mortality
27 Tables, whichever is applicable, for policies issued on or
28 after the operative date of this subsection and before January
29 1, 1989;

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1 b. The 1980 CSO or CET Smoker and Nonsmoker Mortality
2 Tables, whichever is applicable, for policies issued on or
3 after the operative date of this subsection;

4 c. A mortality table that is a blend of the
5 sex-distinct 1980 CSO or CET mortality table standard,
6 whichever is applicable, or a mortality table that is a blend
7 of the sex-distinct 1980 CSO or CET smoker and nonsmoker
8 mortality table standards, whichever is applicable, for
9 policies that are subject to the United States Supreme Court
10 decision in Arizona Governing Committee v. Norris to prevent
11 unfair discrimination in employment situations.

12 6. Ordinary mortality tables, adopted after 1980 by
13 the National Association of Insurance Commissioners, adopted
14 by rule by the commission for use in determining the minimum
15 nonforfeiture standard may be substituted for the
16 commissioners' 1980 Standard Ordinary Mortality Table with or
17 without Ten-Year Select Mortality Factors or for the
18 commissioners' 1980 Extended Term Insurance Table.

19 ~~7.6.~~ For insurance issued on a substandard basis, the
20 calculation of any such adjusted premiums and present values
21 may be based on appropriate modifications of the
22 aforementioned tables.

23 Section 16. Subsection (9) is added to section
24 651.026, Florida Statutes, to read:

25 651.026 Annual reports.--

26 (9) The commission may by rule require all or part of
27 the report or filings required under this section to be
28 submitted by electronic means in a computer-readable form
29 compatible with the electronic data format specified by the
30 commission.

31

1 Section 17. Section 651.0261, Florida Statutes, is
2 amended to read:

3 651.0261 Quarterly statements.--If the office finds,
4 pursuant to rules of the commission, that such information is
5 needed to properly monitor the financial condition of a
6 provider or facility or is otherwise needed to protect the
7 public interest, the office may require the provider to file,
8 within 45 days after the end of each fiscal quarter, a
9 quarterly unaudited financial statement of the provider or of
10 the facility in the form prescribed by the commission by rule.
11 The commission may by rule require all or part of the reports
12 or filings required under this section to be submitted by
13 electronic means in a computer-readable form compatible with
14 the electronic data format specified by the commission.

15 Section 18. Paragraph (a) of subsection (1) of section
16 651.033, Florida Statutes, is amended to read:

17 651.033 Escrow accounts.--

18 (1) When funds are required to be deposited in an
19 escrow account pursuant to s. 651.022, s. 651.023, s. 651.035,
20 or s. 651.055:

21 (a) The escrow account shall be established in a
22 federal or state chartered ~~Florida~~ bank, ~~Florida~~ savings and
23 loan association, or ~~Florida~~ trust company having a physical
24 presence and doing business in this state and otherwise
25 acceptable to the office or on deposit with the department;
26 and the funds deposited therein shall be kept and maintained
27 in an account separate and apart from the provider's business
28 accounts.

29 Section 19. Subsection (7) of section 651.118, Florida
30 Statutes, is amended to read:

31

1 651.118 Agency for Health Care Administration;
2 certificates of need; sheltered beds; community beds.--

3 (7) Notwithstanding the provisions of subsection (2),
4 at the discretion of the continuing care provider, sheltered
5 nursing home beds may be used for persons who are not
6 residents of the continuing care facility and who are not
7 parties to a continuing care contract for a period of up to 5
8 years after the date of issuance of the initial nursing home
9 license. A provider whose 5-year period has expired or is
10 expiring may request the Agency for Health Care Administration
11 for an extension, not to exceed 30 percent of the total
12 sheltered nursing home beds, if the utilization by residents
13 of the nursing home facility in the sheltered beds will not
14 generate sufficient income to cover nursing home facility
15 expenses, as evidenced by one of the following:

16 (a) The nursing home facility has a net loss for the
17 most recent fiscal year as determined under generally accepted
18 accounting principles, excluding the effects of extraordinary
19 or unusual items, as demonstrated in the most recently audited
20 financial statement; or

21 (b) The nursing home facility would have had a pro
22 forma loss for the most recent fiscal year, excluding the
23 effects of extraordinary or unusual items, if revenues were
24 reduced by the amount of revenues from persons in sheltered
25 beds who were not residents, as reported on by a certified
26 public accountant.

27
28 The agency shall be authorized to grant an extension to the
29 provider based on the evidence required in this subsection.
30 The agency may request a continuing care facility to use up to
31 25 percent of the patient days generated by new admissions of

1 nonresidents during the extension period to serve Medicaid
2 recipients for those beds authorized for extended use if there
3 is a demonstrated need in the respective service area and if
4 funds are available. A provider who obtains an extension is
5 prohibited from applying for additional sheltered beds under
6 the provision of subsection (2), unless additional residential
7 units are built or the provider can demonstrate need by
8 continuing care facility residents to the Agency for Health
9 Care Administration. The 5-year limit does not apply to up to
10 five sheltered beds designated for inpatient hospice care as
11 part of a contractual arrangement with a hospice licensed
12 under part VI of chapter 400. A continuing care facility that
13 uses such beds after the 5-year period shall report such use
14 to the Agency for Health Care Administration. For purposes of
15 this subsection, "resident" means a person who, upon admission
16 to the continuing care facility, initially resides in a part
17 of the continuing care facility not licensed under part II of
18 chapter 400.

19 Section 20. This act shall take effect upon becoming a
20 law.

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1 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
2 COMMITTEE SUBSTITUTE FOR
3 Senate Bill 3024

4 Provides that an applicant for a limited license for baggage
5 and motor vehicle excess liability insurance: 1) need only
6 submit one application; 2) must obtain a license for each
7 office; and 3) is required to pay applicable license fees.
8 Permits a business entity offering this type of insurance to
9 use part time employees to sell the product.

10 Excludes supervised employees of attorneys from definition of
11 public adjuster. Requires a public adjuster to ensure licensed
12 professionals used in adjusting a claim are licensed by the
13 Florida Department of Business and Professional Regulation.

14 Permits the Financial Services Commission to require by rule
15 that a continuing care provider submit electronically annual
16 or quarterly statements to the Office of Insurance Regulation.
17 Allows a continuing care retirement community to deposit
18 required escrow accounts in state or federal chartered banks,
19 saving and loan associations, and trust companies having a
20 physical presence and doing business in Florida. Distinguishes
21 the application of the term "facility" to a continuing care
22 retirement community's entire facility and the application of
23 the term to its nursing home facility with regard to standards
24 for the use of sheltered nursing home beds.

25 Exempts credit disability insurance from the requirement of
26 maintaining an active reserve that is less in the aggregate
27 than the pro-rata gross unearned premiums for such policies.

28 Allows credit life and disability insurers to use newly
29 adopted disability and mortality tables to set reserves, and
30 repeals the previous requirement that the minimum reserve for
31 credit life and disability policies be the unearned gross
premium.

The bill allows the Financial Services Commission to adopt the
National Association of Insurance Commissioner's (NAIC)
mortality and disability tables by rule for use in determining
the minimum non-forfeiture standard for life insurance.