

By the Committee on Banking and Insurance

597-1386-05

1                                   A bill to be entitled  
 2           An act relating to the solvency of insurers;  
 3           amending s. 624.316, F.S.; revising  
 4           requirements for the periodic examination of  
 5           insurers by the Office of Insurance Regulation  
 6           of the Financial Services Commission;  
 7           increasing the period between examinations for  
 8           insurers that maintain a risk-based capital  
 9           level of a specified percentage; creating s.  
 10          624.4087, F.S.; requiring property insurers to  
 11          maintain surplus and reinsurance adequate to  
 12          cover the 100-year probable maximum loss from  
 13          hurricanes; providing requirements for  
 14          determining the probable maximum loss; amending  
 15          s. 624.424, F.S.; authorizing the office to  
 16          require that an insurer submit an actuarial  
 17          certification by an independent actuary;  
 18          amending s. 628.801, F.S.; revising a reference  
 19          with respect to registration requirements for  
 20          insurance holding companies; providing an  
 21          effective date.

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

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 25           Section 1. Paragraph (a) of subsection (2) of section  
 26   624.316, Florida Statutes, is amended to read:

27           624.316 Examination of insurers.--

28           (2)(a) Except as provided in paragraph (f), the office  
 29   may examine each insurer as often as may be warranted for the  
 30   protection of the policyholders and in the public interest,  
 31   and shall examine each domestic insurer not less frequently

1 than once every 3 years, or once every 5 years if the office  
2 determines in accordance with s. 624.4085 that the insurer has  
3 maintained a risk-based capital level of 250 percent or higher  
4 for each completed fiscal year since the most recent previous  
5 examination of the insurer. The examination shall cover the  
6 ~~preceding 3~~ fiscal years of the insurer since the most recent  
7 examination and shall be commenced within 12 months after the  
8 end of the most recent fiscal year being covered by the  
9 examination. The examination may cover any period of the  
10 insurer's operations since the last previous examination. The  
11 examination may include examination of events subsequent to  
12 the end of the most recent fiscal year and the events of any  
13 prior period that affect the present financial condition of  
14 the insurer. In lieu of making its own examination, the office  
15 may accept an independent certified public accountant's audit  
16 report prepared on a statutory basis consistent with the  
17 Florida Insurance Code on that specific company. The office  
18 may not accept the report in lieu of the requirement imposed  
19 by paragraph (1)(b). When an examination is conducted by the  
20 office for the sole purpose of examining the ~~3~~ preceding  
21 fiscal years of the insurer since the most recent examination  
22 within 12 months after the opinion date of an independent  
23 certified public accountant's audit report prepared on a  
24 statutory basis on that specific company consistent with the  
25 Florida Insurance Code, the cost of the examination as charged  
26 to the insurer pursuant to s. 624.320 shall be reduced by the  
27 cost to the insurer of the independent certified public  
28 accountant's audit reports. Requests for the reduction in cost  
29 of examination must be submitted to the office in writing no  
30 later than 90 days after the conclusion of the examination and  
31 shall include sufficient documentation to support the charges

1 incurred for the statutory audit performed by the independent  
2 certified public accountant.

3 Section 2. Section 624.4087, Florida Statutes, is  
4 created to read:

5 624.4087 Surplus and reinsurance requirements.--An  
6 authorized property insurer must maintain surplus and  
7 reinsurance adequate to cover its 100-year probable maximum  
8 loss from hurricanes. The determination of the 100-year  
9 probable maximum loss is presumed to be accurate if the  
10 insurer uses actuarial methods, principles, standards, models,  
11 and output ranges that are in conformance with the standards  
12 adopted by the Florida Commission on Hurricane Loss Projection  
13 Methodology pursuant to s. 627.0628.

14 Section 3. Paragraph (b) of subsection (1) of section  
15 624.424, Florida Statutes, is amended to read:

16 624.424 Annual statement and other information.--

17 (1)

18 (b) Each insurer's annual statement must contain a  
19 statement of opinion on loss and loss adjustment expense  
20 reserves made by a member of the American Academy of Actuaries  
21 or by a qualified loss reserve specialist, under criteria  
22 established by rule of the commission. In adopting the rule,  
23 the commission must consider any criteria established by the  
24 National Association of Insurance Commissioners. The office  
25 may require an insurer to submit an actuarial certification  
26 prepared by an independent actuary and semiannual updates of  
27 the annual statement of opinion as to a particular insurer if  
28 the office has reasonable cause to believe that such reserves  
29 are understated to the extent of materially misstating the  
30 financial position of the insurer. Workpapers in support of  
31 the statement of opinion must be provided to the office upon

1 request. This paragraph does not apply to life insurance or  
2 title insurance.

3 Section 4. Section 628.801, Florida Statutes, is  
4 amended to read:

5 628.801 Insurance holding companies; registration;  
6 regulation.--Every insurer which is authorized to do business  
7 in this state and which is a member of an insurance holding  
8 company shall register with the office and be subject to  
9 regulation with respect to its relationship to such holding  
10 company as provided by rule or statute. The commission shall  
11 adopt rules establishing the information and form required for  
12 registration and the manner in which registered insurers and  
13 their affiliates shall be regulated. The rules shall apply to  
14 domestic insurers, foreign insurers, and commercially  
15 domiciled insurers, except a foreign insurer domiciled in  
16 states that are accredited by the National Association of  
17 Insurance Commissioners by December 31, 1995. Except to the  
18 extent of any conflict with this code, the rules must include  
19 all requirements and standards of ~~ss. 4 and 5~~ of the Insurance  
20 Holding Company System Regulatory Act and the Insurance  
21 Holding Company System Model Regulation of the National  
22 Association of Insurance Commissioners, as the Regulatory Act  
23 and the Model Regulation existed on January 1, 2005 ~~1997~~, and  
24 may include a prohibition on oral contracts between affiliated  
25 entities. Upon request, the office may waive filing  
26 requirements under this section for a domestic insurer that is  
27 the subsidiary of an insurer that is in full compliance with  
28 the insurance holding company registration laws of its state  
29 of domicile, which state is accredited by the National  
30 Association of Insurance Commissioners.

31 Section 5. This act shall take effect January 1, 2006.

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SENATE SUMMARY

Provides for 5-year rather than 3-year examinations by the Office of Insurance Regulation for insurers that maintain a risk-based capital level of 250 percent. Requires property insurers to maintain surplus and reinsurance adequate to cover the 100-year probable maximum loss from hurricanes. Authorizes the office to require that an insurer submit an actuarial certification by an independent actuary. (See bill for details.)