

ENROLLED
 HB 1549, Engrossed 2

2007 Legislature

1 A bill to be entitled
 2 An act relating to examination of insurers; amending s.
 3 624.316, F.S.; extending the interval at which insurers
 4 must be examined by the Office of Insurance Regulation;
 5 deleting provisions allowing the office to accept an audit
 6 report from a certified public accountant in lieu of
 7 conducting its own examination; revising guidelines for
 8 conducting such examinations; providing an effective date.

9
 10 Be It Enacted by the Legislature of the State of Florida:

11
 12 Section 1. Subsection (2) of section 624.316, Florida
 13 Statutes, is amended to read:

14 624.316 Examination of insurers.--

15 (2)(a) Except as provided in paragraph (f), the office may
 16 examine each insurer as often as may be warranted for the
 17 protection of the policyholders and in the public interest, and
 18 shall examine each domestic insurer not less frequently than
 19 once every 5 ~~3~~ years. The examination shall cover the preceding
 20 5 ~~3~~ fiscal years of the insurer and shall be commenced within 12
 21 months after the end of the most recent fiscal year being
 22 covered by the examination. The examination may cover any period
 23 of the insurer's operations since the last previous examination.
 24 The examination may include examination of events subsequent to
 25 the end of the most recent fiscal year and the events of any
 26 prior period that affect the present financial condition of the
 27 insurer. ~~In lieu of making its own examination, the office may~~
 28 ~~accept an independent certified public accountant's audit report~~

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29 ~~prepared on a statutory basis consistent with the Florida~~
30 ~~Insurance Code on that specific company. The office may not~~
31 ~~accept the report in lieu of the requirement imposed by~~
32 ~~paragraph (1) (b). When an examination is conducted by the office~~
33 ~~for the sole purpose of examining the 3 preceding fiscal years~~
34 ~~of the insurer within 12 months after the opinion date of an~~
35 ~~independent certified public accountant's audit report prepared~~
36 ~~on a statutory basis on that specific company consistent with~~
37 ~~the Florida Insurance Code, the cost of the examination as~~
38 ~~charged to the insurer pursuant to s. 624.320 shall be reduced~~
39 ~~by the cost to the insurer of the independent certified public~~
40 ~~accountant's audit reports. Requests for the reduction in cost~~
41 ~~of examination must be submitted to the office in writing no~~
42 ~~later than 90 days after the conclusion of the examination and~~
43 ~~shall include sufficient documentation to support the charges~~
44 ~~incurred for the statutory audit performed by the independent~~
45 ~~certified public accountant.~~

46 (b) The office shall examine each insurer applying for an
47 initial certificate of authority to transact insurance in this
48 state before granting the initial certificate.

49 (c) In lieu of making its own examination, the office may
50 accept a full report of the last recent examination of a foreign
51 insurer, certified to by the insurance supervisory official of
52 another state.

53 (d) The examination by the office of an alien insurer
54 shall be limited to the alien insurer's insurance transactions
55 and affairs in the United States, except as otherwise required
56 by the office.

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57 (e) The commission shall adopt rules providing that, ~~upon~~
58 ~~agreement between the office and the insurer,~~ an examination
59 under this section may be conducted by independent certified
60 public accountants, actuaries, investment specialists,
61 information technology specialists ~~meeting criteria specified by~~
62 ~~rule,~~ and reinsurance specialists meeting criteria specified by
63 rule. The rules shall provide:

64 1. That the rates charged to the insurer being examined
65 are consistent with rates charged by other firms in a similar
66 profession and are comparable with the rates charged for
67 comparable examinations ~~agreement of the insurer is not required~~
68 ~~if the office reasonably suspects criminal misconduct on the~~
69 ~~part of the insurer.~~

70 2. That the firm selected by the office to perform the
71 examination has no conflicts of interest that might affect its
72 ability to independently perform its responsibilities on the
73 examination ~~office shall provide the insurer with a list of~~
74 ~~three firms acceptable to the office, and that the insurer shall~~
75 ~~select the firm to conduct the examination from the list~~
76 ~~provided by the office.~~

77 3. That the insurer being examined must make payment for
78 the examination pursuant to s. 624.320(2) ~~directly to the firm~~
79 ~~performing the examination~~ in accordance with the rates and
80 terms established ~~agreed to~~ by the office, ~~the insurer,~~ and the
81 firm performing the examination.

82 4. ~~That if the examination is conducted without the~~
83 ~~consent of the insurer, the insurer must pay all reasonable~~
84 ~~charges of the examining firm if the examination finds~~

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85 ~~impairment, insolvency, or criminal misconduct on the part of~~
 86 ~~the insurer.~~

87 (f) ~~1.a.~~ An examination under this section must be
 88 conducted at least once every year with respect to a domestic
 89 insurer that has continuously held a certificate of authority
 90 for less than 3 years. The examination must cover the preceding
 91 fiscal year or the period since the last examination of the
 92 insurer. The office may limit the scope of the examination.

93 ~~b.~~ ~~The office may not accept an independent certified~~
 94 ~~public accountant's audit report in lieu of an examination~~
 95 ~~required by this subparagraph.~~

96 ~~e.~~ ~~An insurer may not be required to pay more than \$25,000~~
 97 ~~to cover the costs of any one examination under this~~
 98 ~~subparagraph.~~

99 ~~2.~~ ~~An examination under this section must be conducted not~~
 100 ~~less frequently than once every 5 years with respect to an~~
 101 ~~insurer that has continuously held a certificate of authority,~~
 102 ~~without a change in ownership subject to s. 624.4245 or s.~~
 103 ~~628.461, for more than 15 years. The examination must cover the~~
 104 ~~preceding 5 fiscal years of the insurer or the period since the~~
 105 ~~last examination of the insurer. This subparagraph does not~~
 106 ~~limit the ability of the office to conduct more frequent~~
 107 ~~examinations.~~

108 Section 2. This act shall take effect July 1, 2007.