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LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
04/07/2010	.	
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The Committee on Banking and Insurance (Fasano) recommended the following:

**Senate Amendment (with title amendment)**

Between lines 186 and 187  
insert:

Section 3. Subsections (1) and (3) of section 628.371,  
Florida Statutes, are amended to read:

628.371 Dividends to stockholders.—

(1) A domestic stock insurer or any affiliated company  
shall not pay any dividend or distribute cash or other property  
to stockholders except out of that part of the ~~its~~ available and  
accumulated surplus funds which is derived from realized net  
operating profits on insurer ~~its~~ business and net realized



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13 capital gains. For the purposes of this section, "affiliated  
14 company" means any affiliated company within the holding company  
15 system having a contractual relation or any other financial  
16 arrangement whereby a portion of the premium from the insurer is  
17 paid to the affiliate.

18 (3) In lieu of the provisions in subsection (2), an insurer  
19 or affiliated company may pay a dividend or make a distribution  
20 without the prior written approval of the office when:

21 (a) The dividend is equal to or less than the greater of:

22 1. Ten percent of the insurer's surplus as to policyholders  
23 derived from realized net operating profits on its business and  
24 net realized capital gains; or

25 2. The insurer's entire net operating profits and realized  
26 net capital gains derived during the immediately preceding  
27 calendar year; and

28 (b) The insurer will have surplus as to policyholders equal  
29 to or exceeding 115 percent of the minimum required statutory  
30 surplus as to policyholders after the dividend or distribution  
31 is made; and

32 (c) The insurer or affiliated company has filed notice with  
33 the office at least 10 business days prior to the dividend  
34 payment or distribution, or such shorter period of time as  
35 approved by the office on a case-by-case basis. Such notice  
36 shall not create a right in the office to approve or disapprove  
37 a dividend otherwise properly payable hereunder; and

38 (d) The notice includes a certification by an officer of  
39 the insurer or affiliated company attesting that after payment  
40 of the dividend or distribution the insurer will have at least  
41 115 percent of required statutory surplus as to policyholders.



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

44 628.801 Insurance holding companies; registration;  
45 regulation.—

46 (1) Every insurer that is authorized to do business in this  
47 state and that is a member of an insurance holding company shall  
48 register with the office and be subject to regulation with  
49 respect to its relationship to the holding company as provided  
50 by rule or statute. The commission shall adopt rules  
51 establishing the information and form required for registration  
52 and the manner in which registered insurers and their affiliates  
53 are regulated. The rules apply to domestic insurers, foreign  
54 insurers, and commercially domiciled insurers, except for a  
55 foreign insurer domiciled in states that are accredited by the  
56 National Association of Insurance Commissioners by December 31,  
57 1995. Except to the extent of any conflict with this code, the  
58 rules must include all requirements and standards of ss. 4 and 5  
59 of the Insurance Holding Company System Regulatory Act and the  
60 Insurance Holding Company System Model Regulation of the  
61 National Association of Insurance Commissioners, as the  
62 Regulatory Act and the Model Regulation existed on November 30,  
63 2001, and may include a prohibition on oral contracts between  
64 affiliated entities. Upon request, the office may waive filing  
65 requirements under this section for a domestic insurer that is  
66 the subsidiary of an insurer that is in full compliance with the  
67 insurance holding company registration laws of its state of  
68 domicile, which state is accredited by the National Association  
69 of Insurance Commissioners.

70 (2) Domestic insurers and commercially domiciled insurers



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71 that are members of a holding company system shall annually file  
72 a group financial statement of a holding company system which  
73 includes financial information regarding all affiliates. To  
74 facilitate uniformity in the group statements as well as office  
75 analysis, the commission may by rule adopt the format and  
76 require each insurer to submit to the office, or such  
77 organization as the office may designate, all or part of the  
78 information contained in the group statement in a computer-  
79 readable form compatible with an electronic data processing  
80 system specified by the office.

81 (3) For the purposes of this section, an "affiliate" of, or  
82 person "affiliated" with, a specific person is a person that  
83 directly, or indirectly through one or more intermediaries,  
84 controls, is controlled by, or is under common control with, the  
85 person specified.

86 (4) The following transactions involving a domestic insurer  
87 and any person in such domestic insurer's holding company system  
88 may not be entered into, amended, or terminated unless the  
89 insurer has notified the office in writing at least 60 days  
90 before such transaction is entered into, amended, or terminated,  
91 and the office has not disapproved it within 30 days after  
92 receiving notice of the transaction:

93 (a) Sales, purchases, exchanges, loans, or extensions of  
94 credit, guarantees, or investments;

95 (b) Loans or extensions of credit to any person who is not  
96 an affiliate;

97 (c) Reinsurance agreements or modifications thereto;

98 (d) All management agreements, service contracts, and cost-  
99 sharing arrangements; or



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100           (e) Any transactions that the office determines may  
101 adversely affect the interests of the insurer's policyholders.

102  
103 ===== T I T L E   A M E N D M E N T =====

104 And the title is amended as follows:

105           Delete line 15

106 and insert:

107           automobile insurance rates; amending s. 628.371, F.S.;

108           extending to affiliated companies certain limitations

109           on the payment of dividends; defining the term

110           "affiliated company" for specified purposes; providing

111           circumstances under which an affiliated company may

112           pay a dividend or make a distribution without the

113           prior written approval of the office; amending s.

114           628.801, F.S.; requiring that certain insurers file a

115           group financial statement including all affiliates;

116           authorizing the Financial Services Commission to adopt

117           rules; defining the terms "affiliate" and "affiliated"

118           for specified purposes; prohibiting an insurer or any

119           person in that insurer's holding company system from

120           entering into, amending, or terminating certain

121           transactions unless certain conditions are met;

122           providing an effective