

1 A bill to be entitled

2 An act relating to insurer solvency; amending s.
3 624.10, F.S.; providing additional definitions
4 applicable to the Florida Insurance Code; amending s.
5 624.319, F.S.; clarifying that production of documents
6 does not waive the attorney-client or work-product
7 privilege; amending s. 624.402, F.S.; conforming a
8 cross-reference; amending s. 624.4085, F.S.; revising
9 a definition; providing additional calculations for
10 determining whether an insurer has a company action
11 level event; revising provisions relating to mandatory
12 control level events; amending s. 624.424, F.S.;
13 requiring an insurer's annual statement to include an
14 actuarial opinion summary; providing criteria for such
15 summary; providing an exception for life and health
16 insurers; updating provisions; requiring insurers
17 reinsuring through a captive insurance company to file
18 a report containing certain information; amending s.
19 625.121, F.S.; revising the Standard Valuation Law;
20 distinguishing the provisions from valuations done
21 pursuant to the NAIC's valuation manual and
22 incorporating certain provisions included in the
23 manual; exempting certain documents from civil
24 proceedings; revising the methods for evaluating the
25 valuation of industrial life insurance policies;
26 revising provisions relating to calculating additional

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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27 premium; updating provisions relating to reserve
28 calculations for indeterminate premium plans; creating
29 s. 625.1212, F.S.; providing for the valuation of
30 policies and contracts after the adoption of the
31 NAIC's valuation manual; providing applicability;
32 defining terms; requiring the Office of Insurance
33 Regulation to value insurer reserves; requiring
34 actuarial opinions of the reserves and a supporting
35 memorandum to the opinions; requiring the insurer to
36 apply the standard prescribed in the valuation manual;
37 providing exceptions; providing requirements for a
38 principle-based valuation of reserves; requiring an
39 insurer to submit certain data to the office;
40 directing the Financial Services Commission to adopt
41 rules; creating s. 625.1214, F.S.; providing for the
42 use of confidential information; prohibiting the use
43 of such information in private civil actions; amending
44 s. 627.476, F.S.; revising the Standard Nonforfeiture
45 Law; distinguishing provisions subject to the
46 valuation manual and providing for the application of
47 tables founds in the manual; amending s. 628.461,
48 F.S.; revising the amount of outstanding voting
49 securities of a domestic stock insurer or a
50 controlling company which a person is prohibited from
51 acquiring unless certain requirements have been met;
52 deleting a provision authorizing an insurer to file a

53 disclaimer of affiliation and control in lieu of a
54 letter notifying the office of the acquisition of the
55 voting securities of a domestic stock company under
56 certain circumstances; requiring the statement
57 notifying the office to include additional
58 information; conforming a provision to changes made by
59 the act; providing that control is presumed to exist
60 under certain conditions; specifying how control may
61 be rebutted and how a controlling interest may be
62 divested; deleting definitions; amending s. 628.801,
63 F.S.; requiring an insurer to annually file a
64 registration statement by a specified date; revising
65 the requirements and standards for the rules
66 establishing the information and statement form for
67 the registration; requiring an insurer to file an
68 annual enterprise risk report; authorizing the office
69 to conduct examinations to determine the financial
70 condition of registrants; providing that failure to
71 file a registration or report is a violation of the
72 section; providing additional grounds, requirements,
73 and conditions with respect to a waiver from the
74 registration requirements; amending s. 628.803, F.S.;
75 providing sanctions for persons who violate certain
76 provisions relating to the acquisition of controlling
77 stock; creating s. 628.804, F.S.; providing for the
78 groupwide supervision of international insurance

79 groups; defining terms; providing for the selection of
 80 a groupwide supervisor; authorizing the commission to
 81 adopt rules; creating s. 628.805, F.S.; authorizing
 82 the office to participate in supervisory colleges;
 83 authorizing the office to assess fees on insurers for
 84 participation; amending ss. 636.045 and 641.225, F.S.;
 85 applying certain statutes related to solvency to
 86 prepaid limited health service organizations and
 87 health maintenance organizations; amending s. 641.255,
 88 F.S.; providing for applicability of specified
 89 provisions to a health maintenance organization that
 90 is a member of a holding company; providing effective
 91 dates and a contingent effective date.

92
 93 Be It Enacted by the Legislature of the State of Florida:

94
 95 Section 1. Section 624.10, Florida Statutes, is amended to
 96 read:

97 624.10 Other definitions ~~Transacting insurance.~~ As used in
 98 the Florida Insurance Code, the term:

99 (1) "Affiliate" means an entity that exercises control
 100 over or is directly or indirectly controlled by the insurer
 101 through:

- 102 (a) Equity ownership of voting securities;
- 103 (b) Common managerial control; or
- 104 (c) Collusive participation by the management of the

105 insurer and affiliate in the management of the insurer or the
 106 affiliate.

107 (2) "Affiliated person" of another person means:

108 (a) The spouse of the other person;

109 (b) The parents of the other person and their lineal
 110 descendants, or the parents of the other person's spouse and
 111 their lineal descendants;

112 (c) A person who directly or indirectly owns or controls,
 113 or holds with the power to vote, 10 percent or more of the
 114 outstanding voting securities of the other person;

115 (d) A person, 10 percent or more of whose outstanding
 116 voting securities are directly or indirectly owned or
 117 controlled, or held with power to vote, by the other person;

118 (e) A person or group of persons who directly or
 119 indirectly control, are controlled by, or are under common
 120 control with the other person;

121 (f) An officer, director, partner, copartner, or employee
 122 of the other person;

123 (g) If the other person is an investment company, an
 124 investment adviser of such company, or a member of an advisory
 125 board of such company;

126 (h) If the other person is an unincorporated investment
 127 company not having a board of directors, the depositor of such
 128 company; or

129 (i) A person who has entered into a written or unwritten
 130 agreement to act in concert with the other person in acquiring

131 or limiting the disposition of securities of a domestic stock
 132 insurer or controlling company.

133 (3) "Control," including the terms "controlling,"
 134 "controlled by," and "under common control with," means the
 135 direct or indirect possession of the power to direct or cause
 136 the direction of the management and policies of a person,
 137 whether through the ownership of voting securities, by contract
 138 other than a commercial contract for goods or nonmanagement
 139 services, or otherwise. Control is presumed to exist if a
 140 person, directly or indirectly, owns, controls, holds with the
 141 power to vote, or holds proxies representing 10 percent or more
 142 of the voting securities of another person.

143 (4) "NAIC" means the National Association of Insurance
 144 Commissioners.

145 (5) "Transact" with respect to insurance includes any of
 146 the following, in addition to other applicable provisions of
 147 this code:

- 148 (a) ~~(1)~~ Solicitation or inducement.
- 149 (b) ~~(2)~~ Preliminary negotiations.
- 150 (c) ~~(3)~~ Effectuation of a contract of insurance.
- 151 (d) ~~(4)~~ Transaction of matters subsequent to effectuation
 152 of a contract of insurance and arising out of it.

153 Section 2. Subsection (2) of section 624.319, Florida
 154 Statutes, is amended to read:

155 624.319 Examination and investigation reports.-

156 (2) The examination report ~~when~~ so filed is ~~shall be~~

157 | admissible in evidence in any action or proceeding brought by
158 | the department or office against the person examined, or against
159 | its officers, employees, or agents. In all other proceedings,
160 | the admissibility of the examination report is governed by the
161 | evidence code. The department or office or its examiners may ~~at~~
162 | ~~any time~~ testify and offer other proper evidence as to
163 | information secured or matters discovered during the course of
164 | an examination, regardless of whether ~~or not~~ a written report of
165 | the examination has been ~~either~~ made, furnished, or filed in the
166 | department or office. The production of documents during the
167 | course of an examination or investigation does not constitute a
168 | waiver of the attorney-client or work-product privilege.

169 | Section 3. Paragraph (c) of subsection (8) of section
170 | 624.402, Florida Statutes, is amended to read:

171 | 624.402 Exceptions, certificate of authority required.—A
172 | certificate of authority shall not be required of an insurer
173 | with respect to:

174 | (8)

175 | (c) Subject to the limitations provided in this
176 | subsection, services, including those listed in the definition
177 | of the term "transact" in s. 624.10, may be provided by the
178 | insurer or an affiliated person as defined in s. 624.04 under
179 | common ownership or control with the insurer.

180 | Section 4. Paragraph (g) of subsection (1), paragraph (a)
181 | of subsection (3), and paragraph (b) of subsection (6) of
182 | section 624.4085, Florida Statutes, are amended to read:

183 624.4085 Risk-based capital requirements for insurers.—

184 (1) As used in this section, the term:

185 (g) "Life and health insurer" means an ~~any~~ insurer
 186 authorized or eligible under the Florida Insurance Code to
 187 underwrite life or health insurance. The term includes a
 188 property and casualty insurer that writes accident and health
 189 insurance only. Effective January 1, 2015, the term also
 190 includes a health maintenance organization that is authorized in
 191 this state and one or more other states, jurisdictions, or
 192 countries; and a prepaid limited health service organization
 193 that is authorized in this state and one or more other states,
 194 jurisdictions, or countries.

195 (3) (a) A company action level event includes:

196 1. The filing of a risk-based capital report by an insurer
 197 which indicates that:

198 a. The insurer's total adjusted capital is greater than or
 199 equal to its regulatory action level risk-based capital but less
 200 than its company action level risk-based capital; ~~or~~

201 b. If a life and health insurer reports using the life and
 202 health annual statement instructions, the insurer has total
 203 adjusted capital that is greater than or equal to its company
 204 action level risk-based capital, but is less than the product of
 205 its authorized control level risk-based capital and 3.0 ~~2.5~~, and
 206 has a negative trend;

207 c. Effective January, 1, 2015, if a life and health or
 208 property and casualty insurer reports using the health annual

209 statement instructions, the insurer or organization has total
210 adjusted capital that is greater than or equal to its company
211 action level risk-based capital, but is less than the product of
212 its authorized control level risk-based capital and 3.0, and
213 triggers the trend test determined in accordance with the trend
214 test calculation included in the Risk-Based Capital Forecasting
215 and Instructions, Health, updated annually by the NAIC; or

216 d. If a property and casualty insurer reports using the
217 property and casualty annual statement instructions, the insurer
218 has total adjusted capital that is greater than or equal to its
219 company action level risk-based capital, but less than the
220 product of its authorized control level risk-based capital and
221 3.0, and triggers the trend test determined in accordance with
222 the trend test calculation included in the Risk-Based Capital
223 Forecasting and Instructions, Property/Casualty, updated
224 annually by the NAIC;

225 2. The notification by the office to the insurer of an
226 adjusted risk-based capital report that indicates an event in
227 subparagraph 1., unless the insurer challenges the adjusted
228 risk-based capital report under subsection (7); or

229 3. If, under subsection (7), an insurer challenges an
230 adjusted risk-based capital report that indicates an event in
231 subparagraph 1., the notification by the office to the insurer
232 that the office has, after a hearing, rejected the insurer's
233 challenge.

234 (6)

235 (b) If a mandatory control level event occurs:

236 1. With respect to a life and health insurer, the office
 237 shall, after due consideration of s. 624.408, and effective
 238 January 1, 2015, ss. 636.045 and 641.225, take any action
 239 necessary to place the insurer under regulatory control,
 240 including any remedy available under chapter 631. A mandatory
 241 control level event is sufficient ground for the department to
 242 be appointed as receiver as provided in chapter 631. The office
 243 may forego taking action for up to 90 days after the mandatory
 244 control level event if the office finds there is a reasonable
 245 expectation that the ~~mandatory control level~~ event may be
 246 eliminated within the 90-day period.

247 2. With respect to a property and casualty insurer, the
 248 office shall, after due consideration of s. 624.408, take any
 249 action necessary to place the insurer under regulatory control,
 250 including any remedy available under chapter 631, or, in the
 251 case of an insurer that is not writing new business, may allow
 252 the insurer to continue to operate under the supervision of the
 253 office. In either case, the mandatory control level event is
 254 sufficient ground for the department to be appointed as receiver
 255 as provided in chapter 631. The office may forego taking action
 256 for up to 90 days after the mandatory control level event if the
 257 office finds there is a reasonable expectation that the
 258 ~~mandatory control level~~ event may ~~will~~ be eliminated within the
 259 90-day period.

260 Section 5. Subsection (1) and paragraph (e) of subsection

261 (8) of section 624.424, Florida Statutes, are amended, and
 262 subsection (11) is added to that section, to read:
 263 624.424 Annual statement and other information.—
 264 (1) (a) Each authorized insurer shall file with the office
 265 full and true statements of its financial condition,
 266 transactions, and affairs. An annual statement covering the
 267 preceding calendar year shall be filed on or before March 1, and
 268 quarterly statements covering the periods ending on March 31,
 269 June 30, and September 30 shall be filed within 45 days after
 270 each such date. The office may, for good cause, grant an
 271 extension of time for filing ~~of~~ an annual or quarterly
 272 statement. The statements must ~~shall~~ contain information
 273 generally included in insurers' financial statements prepared in
 274 accordance with generally accepted insurance accounting
 275 principles and practices and in a form generally used ~~utilized~~
 276 by insurers for financial statements, sworn to by at least two
 277 executive officers of the insurer or, if a reciprocal insurer,
 278 by ~~the~~ oath of the attorney in fact or its like officer if a
 279 corporation. To facilitate uniformity in financial statements
 280 and to facilitate office analysis, the commission may by rule
 281 adopt the form and instructions for financial statements
 282 approved by the NAIC in 2014 ~~National Association of Insurance~~
 283 ~~Commissioners in 2002~~, and ~~may adopt~~ subsequent amendments
 284 thereto if the methodology remains substantially consistent, and
 285 may by rule require each insurer to submit to the office, or
 286 such organization as the office may designate, all or part of

287 the information contained in the financial statement in a
288 computer-readable form compatible with the electronic data
289 processing system specified by the office.

290 (b) Each insurer's annual statement must contain:

291 1. A statement of opinion on loss and loss adjustment
292 expense reserves made by a member of the American Academy of
293 Actuaries or by a qualified loss reserve specialist, pursuant to
294 ~~under~~ criteria established by rule of the commission. In
295 adopting the rule, the commission shall ~~must~~ consider any
296 criteria established by the NAIC ~~National Association of~~
297 ~~Insurance Commissioners~~. The office may require semiannual
298 updates of the annual statement of opinion for ~~as to~~ a
299 particular insurer if the office has reasonable cause to believe
300 that such reserves are understated to the extent of materially
301 misstating the financial position of the insurer. Workpapers in
302 support of the statement of opinion must be provided to the
303 office upon request. This paragraph does not apply to life
304 insurance, health insurance, or title insurance.

305 2. An actuarial opinion summary written by the insurer's
306 appointed actuary. The summary must be filed in accordance with
307 the appropriate NAIC property and casualty annual statement
308 instructions. Proprietary business information contained in the
309 summary is confidential and exempt under s. 624.4212, and the
310 summary and related information are not subject to subpoena or
311 discovery directly from the office. Neither the office nor any
312 person who received documents, materials, or other information

313 while acting under the authority of the office, or with whom
314 such information is shared pursuant to s. 624.4212, may testify
315 in a private civil action concerning such confidential
316 information. However, the department or office may use the
317 confidential and exempt information in the furtherance of any
318 regulatory or legal action brought against an insurer as a part
319 of the official duties of the department or office. No waiver of
320 any other applicable claim of confidentiality or privilege may
321 occur as a result of a disclosure to the office under this
322 section or any other section of the insurance code. This
323 paragraph does not apply to life and health insurers subject to
324 s. 625.121(3) before the operative date of the valuation manual
325 as defined in s. 625.1212(2) and does not apply to life and
326 health insurers subject to s. 625.1212(4) on or after such
327 operative date.

328 (c) The commission may by rule require reports or filings
329 required under the insurance code to be submitted by electronic
330 means in a computer-readable form compatible with the electronic
331 data processing equipment specified by the commission.

332 (8)

333 (e) The commission shall adopt rules to administer
334 ~~implement~~ this subsection, ~~which rules~~ must be in substantial
335 conformity with the 2006 Annual Financial Reporting Model
336 Regulation ~~1998 Model Rule~~ requiring annual audited financial
337 ~~reports~~ adopted by the NAIC ~~National Association of Insurance~~
338 ~~Commissioners~~ or subsequent amendments, except where

339 inconsistent with the requirements of this subsection. Any
340 exception to, waiver of, or interpretation of accounting
341 requirements of the commission must be in writing and signed by
342 an authorized representative of the office. An ~~No~~ insurer may
343 not raise an as a defense in any action, any exception to,
344 waiver of, or interpretation of accounting requirements as a
345 defense in an action, unless previously issued in writing by an
346 authorized representative of the office.

347 (11) Each insurer doing business in this state which
348 reinsures through a captive insurance company as defined in s.
349 628.901, but without regard to domiciliary status, shall, in
350 conjunction with the annual financial statement required under
351 paragraph (1) (a), file a report with the office containing
352 financial information specific to reinsurance assumed by each
353 captive.

354 (a) The report shall be filed as a separate schedule
355 designed to avoid duplication of disclosures required by the
356 NAIC's annual statement and instructions.

357 (b) Insurers must:

358 1. Identify the products ceded to the captive and whether
359 the products are subject to rule 690-164.020, Florida
360 Administrative Code, the NAIC Valuation of Life Insurance
361 Policies Regulation (Model #830), or the NAIC Actuarial
362 Guideline XXXVIII (AG 38).

363 2. Disclose the assets of the captive in the format
364 prescribed in the NAIC annual statement schedules.

365 3. Include a stand-alone actuarial opinion or
 366 certification identifying the differences between the assets the
 367 ceding company would be required to hold and the assets held by
 368 the captive.

369 Section 6. Subsection (2), paragraphs (a) and (b) of
 370 subsection (3), subsection (5), paragraph (e) of subsection (6),
 371 and subsections (10), (11), and (12) of section 625.121, Florida
 372 Statutes, are amended to read:

373 625.121 Standard Valuation Law; life insurance.—

374 (2) ANNUAL VALUATION.—The office shall annually value, or
 375 cause to be valued, the reserves ~~reserve liabilities,~~
 376 ~~hereinafter called "reserves,"~~ for all outstanding life
 377 insurance policies and annuity and pure endowment contracts of
 378 each ~~every~~ life insurer doing business in this state, ~~and may~~
 379 ~~certify the amount of any such reserves, specifying the~~
 380 ~~mortality table or tables, rate or rates of interest, and~~
 381 ~~methods, net-level premium method or others, used in the~~
 382 ~~calculation of such reserves.~~ In the case of an alien insurer,
 383 such valuation is ~~shall be~~ limited to its insurance transactions
 384 in the United States. In calculating ~~such~~ reserves, the office
 385 may use group methods and approximate averages for fractions of
 386 a year or otherwise, and. ~~It may accept in its discretion the~~
 387 insurer's calculation of such reserves. In lieu of the valuation
 388 of the reserves ~~herein~~ required of a ~~any~~ foreign or alien
 389 insurer, the office ~~it~~ may accept any valuation made or caused
 390 to be made by the insurance supervisory official of any state or

391 other jurisdiction if the ~~when such~~ valuation complies with the
 392 minimum standard ~~herein~~ provided under this section ~~and if the~~
 393 ~~official of such state or jurisdiction accepts as sufficient and~~
 394 ~~valid for all legal purposes the certificate of valuation of the~~
 395 ~~office when such certificate states the valuation to have been~~
 396 ~~made in a specified manner according to which the aggregate~~
 397 ~~reserves would be at least as large as if they had been computed~~
 398 ~~in the manner prescribed by the law of that state or~~
 399 ~~jurisdiction.~~ If a ~~When any~~ such valuation is made by the
 400 office, the office ~~it~~ may use its ~~the~~ actuary ~~of the office~~ or
 401 employ an actuary for that ~~the~~ purpose; and the reasonable
 402 compensation of the actuary, at a rate approved by the office,
 403 plus ~~and~~ reimbursement of travel expenses pursuant to s. 624.320
 404 ~~upon demand by the office,~~ supported by an itemized statement of
 405 such compensation and expenses, shall be paid by the insurer
 406 upon demand of the office. If ~~When~~ a domestic insurer furnishes
 407 the office with a valuation of its outstanding policies as
 408 computed by its own actuary or by an actuary deemed satisfactory
 409 for that ~~the~~ purpose by the office, the valuation shall be
 410 verified by the actuary of the office without cost to the
 411 insurer. This subsection applies to the calculation of reserves
 412 for policies and contracts not subject to s. 625.1212.

413 (3) ACTUARIAL OPINION OF RESERVES.—

414 (a) ~~1.~~ Each life insurer ~~insurance company~~ doing business
 415 in this state shall annually submit the opinion of a qualified
 416 actuary as to whether the reserves and related actuarial items

417 held in support of the policies and contracts specified by the
 418 commission by rule are computed appropriately, are based on
 419 assumptions that ~~which~~ satisfy contractual provisions, are
 420 consistent with prior reported amounts, and comply with
 421 applicable laws of this state. The commission by rule shall
 422 define the specifics of this opinion and add any other items
 423 determined ~~to be~~ necessary to its scope.

424 ~~1.2.~~ The opinion shall be submitted with the annual
 425 statement and must reflect ~~reflecting~~ the valuation of such
 426 reserve liabilities for each year ending on or before ~~after~~
 427 December 31 of the year before the operative date of the
 428 valuation manual as defined in s. 625.1212(2), and in accordance
 429 with s. 625.1212(4) for each year thereafter, ~~1992.~~

430 ~~2.3.~~ The opinion applies ~~shall apply~~ to all business in
 431 force, including individual and group health insurance plans, in
 432 the form and substance acceptable to the office as specified by
 433 rule of the commission.

434 ~~3.4.~~ The commission may adopt rules providing the
 435 standards of the actuarial opinion consistent with standards
 436 adopted by the Actuarial Standards Board on December 31, 2013
 437 ~~2002~~, and subsequent revisions thereto if, ~~provided that~~ the
 438 standards remain substantially consistent.

439 ~~4.5.~~ ~~In the case of an opinion required to be submitted by~~
 440 ~~a foreign or alien company,~~ The office may accept an ~~the~~ opinion
 441 filed by a foreign or alien insurer ~~that company~~ with the
 442 insurance supervisory official of another state if the office

443 determines that the opinion reasonably meets the requirements
444 applicable to an insurer ~~a company~~ domiciled in this state.

445 ~~5.6.~~ As used in ~~For the purposes of~~ this subsection, the
446 term "qualified actuary" means a member in good standing of the
447 American Academy of Actuaries who also meets the requirements
448 specified by rule of the commission.

449 ~~6.7.~~ Disciplinary action by the office against the insurer
450 ~~company~~ or the qualified actuary shall be in accordance with the
451 insurance code and related rules adopted by the commission.

452 ~~7.8.~~ A memorandum in the form and substance specified by
453 rule shall be prepared to support each actuarial opinion.

454 ~~8.9.~~ If the insurer ~~insurance company~~ fails to provide a
455 supporting memorandum at the request of the office within a
456 period specified by rule of the commission, or if the office
457 determines that the supporting memorandum provided by the
458 insurer ~~insurance company~~ fails to meet the standards prescribed
459 by rule of the commission, the office may engage a qualified
460 actuary at the expense of the insurer ~~company~~ to review the
461 opinion and the basis for the opinion and prepare such
462 supporting memorandum as ~~is~~ required by the office.

463 ~~9.10.~~ Except as otherwise provided in this subparagraph
464 ~~paragraph~~, any memorandum or other material in support of the
465 opinion is confidential and exempt from ~~the provisions of~~ s.
466 119.07(1) and is not subject to subpoena or discovery directly
467 from the office; however, the memorandum or other material may
468 be released by the office with the written consent of the

469 insurer company, or to the American Academy of Actuaries upon
470 request stating that the memorandum or other material is
471 required for the purpose of professional disciplinary
472 proceedings and setting forth procedures satisfactory to the
473 office for preserving the confidentiality of the memorandum or
474 other material. If any portion of the confidential memorandum is
475 cited by the insurer company in its marketing, ~~or~~ is cited
476 before any governmental agency other than a state insurance
477 department, or is released by the insurer company to the news
478 media, no portion of the memorandum is confidential. Neither the
479 office nor any person who receives documents, materials, or
480 other information while acting under the authority of the office
481 or with whom such information is shared pursuant to this
482 paragraph may testify in a private civil action concerning the
483 confidential documents, materials, or information. However, the
484 department or office may use the confidential and exempt
485 information in the furtherance of any regulatory or legal action
486 brought against an insurer as a part of the official duties of
487 the department or office. A waiver of an applicable privilege or
488 claim of confidentiality in the documents, materials, or
489 information may not occur as a result of disclosure to the
490 office under this section or any other section of the insurance
491 code, or as a result of sharing as authorized under s. 624.4212.

492 (b) In addition to the opinion required by paragraph (a)
493 ~~subparagraph (a)1.~~, the office may, pursuant to commission rule,
494 require an opinion of the same qualified actuary as to whether

495 the reserves and related actuarial items held in support of the
496 policies and contracts specified by the commission by rule, when
497 considered in light of the assets held by the insurer ~~company~~
498 with respect to the reserves and related actuarial items,
499 including, but not limited to, the investment earnings on the
500 assets and considerations anticipated to be received and
501 retained under the policies and contracts, make adequate
502 provision for the insurer's ~~company's~~ obligations under the
503 policies and contracts, including, but not limited to, the
504 benefits under, and expenses associated with, the policies and
505 contracts.

506 (5) MINIMUM STANDARD FOR VALUATION OF POLICIES AND
507 CONTRACTS ISSUED ON OR AFTER OPERATIVE DATE OF THE STANDARD
508 NONFORFEITURE LAW.—Except as otherwise provided in paragraph (h)
509 and subsections (6), (13) ~~(11)~~, and (14), the minimum standard
510 for the valuation of all such policies and contracts issued on
511 or after the operative date of s. 627.476 ~~(Standard~~
512 ~~Nonforfeiture Law for Life Insurance)~~ shall be the
513 commissioners' reserve valuation method defined in subsections
514 (7), (11), and (14); 5 percent interest for group annuity and
515 pure endowment contracts and 3.5 percent interest for all other
516 such policies and contracts, or in the case of life insurance
517 policies and contracts, other than annuity and pure endowment
518 contracts, issued on or after July 1, 1973, 4 percent interest
519 for such policies issued prior to October 1, 1979, and 4.5
520 percent interest for such policies issued on or after October 1,

521 1979; and the following tables:

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

525 1. For policies issued before ~~prior to~~ the operative date
 526 of s. 627.476(9), the ~~commissioners'~~ 1958 Commissioners Standard
 527 Ordinary (CSO) Mortality Table; except that, for any category of
 528 such policies issued on female risks, modified net premiums and
 529 present values, referred to in subsection (7), may be calculated
 530 according to an age up to ~~not more than~~ 6 years younger than the
 531 actual age of the insured.

532 2. For policies issued on or after the operative date of
 533 s. 627.476(9), the ~~commissioners'~~ 1980 Commissioners Standard
 534 Ordinary (CSO) Mortality Table or, at the election of the
 535 insurer for any one or more specified plans of life insurance,
 536 the ~~commissioners'~~ 1980 Commissioners Standard Ordinary
 537 Mortality Table with Ten-Year Select Mortality Factors.

538 3. For policies issued on or after July 1, 2004, ordinary
 539 mortality tables, adopted after 1980 by the NAIC ~~National~~
 540 ~~Association of Insurance Commissioners~~, adopted by rule by the
 541 commission for use in determining the minimum standard of
 542 valuation for such policies.

543 (b) For all industrial life insurance policies issued on
 544 the standard basis, excluding any disability and accidental
 545 death benefits in such policies:

546 1. For policies issued before ~~prior to~~ the first date ~~to~~

547 ~~which the commissioners'~~ 1961 Commissioners Standard Industrial
 548 Mortality Table is applicable according to s. 627.476, the 1941
 549 Standard Industrial Mortality Table; ~~and~~

550 2. For ~~such~~ policies issued on or after that date, the
 551 ~~commissioners'~~ 1961 Commissioners Standard Industrial Mortality
 552 Table; and

553 3. For policies issued on or after October 1, 2014, a
 554 Commissioners Standard Industrial Mortality Table adopted by the
 555 NAIC after 1980 which is adopted by rule of the commission for
 556 use in determining the minimum standard of valuation for such
 557 policies.

558 (c) For individual annuity and pure endowment contracts,
 559 excluding any disability and accidental death benefits in such
 560 policies, the 1937 Standard Annuity Mortality Table or, at the
 561 option of the insurer, the Annuity Mortality Table for 1949,
 562 Ultimate, or any modification of ~~either of~~ these tables approved
 563 by the office.

564 (d) For group annuity and pure endowment contracts,
 565 excluding any disability and accidental death benefits in such
 566 policies, the Group Annuity Mortality Table for 1951; any
 567 modification of such table approved by the office; or, at the
 568 option of the insurer, any of the tables or modifications of
 569 tables specified for individual annuity and pure endowment
 570 contracts.

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

573 1. For policies or contracts issued on or after January 1,
 574 1966, the tables of period 2 disablement rates and the 1930 to
 575 1950 termination rates of the 1952 disability study of the
 576 Society of Actuaries, with due regard to the type of benefit;

577 2. For policies or contracts issued on or after January 1,
 578 1961, and before ~~prior to~~ January 1, 1966, either of the tables
 579 specified in subparagraph 1. ~~those tables~~ or, at the option of
 580 the insurer, the class three disability table (1926);

581 3. For policies issued before ~~prior to~~ January 1, 1961,
 582 the class three disability table (1926); and

583 4. For policies or contracts issued on or after July 1,
 584 2004, tables of disablement rates and termination rates adopted
 585 after 1980 by the NAIC ~~National Association of Insurance~~
 586 ~~Commissioners~~, adopted by rule by the commission for use in
 587 determining the minimum standard of valuation for those policies
 588 or contracts.

589
 590 Any such table for active lives shall be combined with a
 591 mortality table permitted for calculating the reserves for life
 592 insurance policies.

593 (f) For accidental death benefits in or supplementary to
 594 policies:

595 1. For policies issued on or after January 1, 1966, the
 596 1959 Accidental Death Benefits Table;

597 2. For policies issued on or after January 1, 1961, and
 598 before ~~prior to~~ January 1, 1966, the 1959 Accidental Death

599 Benefits ~~either that~~ Table or, at the option of the insurer, the
 600 Intercompany Double Indemnity Mortality Table;

601 3. For policies issued before ~~prior to~~ January 1, 1961,
 602 the Intercompany Double Indemnity Mortality Table; and

603 4. For policies issued on or after July 1, 2004, tables of
 604 accidental death benefits adopted after 1980 by the NAIC
 605 ~~National Association of Insurance Commissioners~~, adopted by rule
 606 by the commission for use in determining the minimum standard of
 607 valuation for those policies.

608
 609 Either table shall be combined with a mortality table permitted
 610 for calculating the reserves for life insurance policies.

611 (g) For group life insurance, life insurance issued on the
 612 substandard basis, and other special benefits, such tables as
 613 may be approved by the office as being sufficient with relation
 614 to the benefits provided by such policies.

615 (h) Except as provided in subsection (6), the minimum
 616 standard for the valuation of all individual annuity and pure
 617 endowment contracts issued on or after the operative date of
 618 this paragraph and for all annuities and pure endowments
 619 purchased on or after such operative date under group annuity
 620 and pure endowment contracts shall be the commissioners' reserve
 621 valuation method defined in subsection (7) and the following
 622 tables and interest rates:

623 1. For individual annuity and pure endowment contracts
 624 issued before ~~prior to~~ October 1, 1979, excluding any disability

625 and accidental death benefits in such contracts, the 1971
626 Individual Annuity Mortality Table, or any modification of this
627 table approved by the office, and 6 percent interest for single-
628 premium immediate annuity contracts and 4 percent interest for
629 all other individual annuity and pure endowment contracts.

630 2. For individual single-premium immediate annuity
631 contracts issued on or after October 1, 1979, and before ~~prior~~
632 ~~to~~ October 1, 1986, excluding any disability and accidental
633 death benefits in such contracts, the 1971 Individual Annuity
634 Mortality Table, or any modification of this table approved by
635 the office, and 7.5 percent interest. For such contracts issued
636 on or after October 1, 1986, the 1983 Individual Annual
637 Mortality Table, or any modification of such table approved by
638 the office, and the applicable calendar year statutory valuation
639 interest rate as described in subsection (6).

640 3. For individual annuity and pure endowment contracts
641 issued on or after October 1, 1979, and before ~~prior~~ ~~to~~ October
642 1, 1986, other than single-premium immediate annuity contracts,
643 excluding any disability and accidental death benefits in such
644 contracts, the 1971 Individual Annuity Mortality Table, or any
645 modification of this table approved by the office, and 5.5
646 percent interest for single-premium deferred annuity and pure
647 endowment contracts and 4.5 percent interest for all other such
648 individual annuity and pure endowment contracts. For such
649 contracts issued on or after October 1, 1986, the 1983
650 Individual Annual Mortality Table, or any modification of such

651 table approved by the office, and the applicable calendar year
652 statutory valuation interest rate as described in subsection
653 (6).

654 4. For all annuities and pure endowments purchased before
655 ~~prior to~~ October 1, 1979, under group annuity and pure endowment
656 contracts, excluding any disability and accidental death
657 benefits purchased under such contracts, the 1971 Group Annuity
658 Mortality Table, or any modification of this table approved by
659 the office, and 6 percent interest.

660 5. For all annuities and pure endowments purchased on or
661 after October 1, 1979, and before ~~prior to~~ October 1, 1986,
662 under group annuity and pure endowment contracts, excluding ~~any~~
663 disability and accidental death benefits purchased under such
664 contracts, the 1971 Group Annuity Mortality Table, or any
665 modification of this table approved by the office, and 7.5
666 percent interest. For such contracts purchased on or after
667 October 1, 1986, the 1983 Group Annuity Mortality Table, or any
668 modification of such table approved by the office, and the
669 applicable calendar year statutory valuation interest rate as
670 described in subsection (6).

671
672 After July 1, 1973, an ~~any~~ insurer may have filed with the
673 former Department of Insurance a written notice of its election
674 to comply with ~~the provisions of~~ this paragraph after a
675 specified date before January 1, 1979, which shall be the
676 operative date of this paragraph for such insurer. However, an

677 insurer may elect a different operative date for individual
 678 annuity and pure endowment contracts from that elected for group
 679 annuity and pure endowment contracts. If an insurer does not
 680 make ~~makes~~ no such election, the operative date of this
 681 paragraph for such insurer is ~~shall be~~ January 1, 1979.

682 (i) In lieu of the mortality tables specified in this
 683 subsection, and subject to rules previously adopted by the
 684 former Department of Insurance, the insurance company may, at
 685 its option:

686 1. Substitute the applicable 1958 CSO or CET Smoker and
 687 Nonsmoker Mortality Tables, in lieu of the 1980 CSO or CET
 688 mortality table standard, for policies issued on or after the
 689 operative date of s. 627.476(9) and before January 1, 1989.

690 2. Substitute the applicable 1980 CSO or CET Smoker and
 691 Nonsmoker Mortality Tables in lieu of the 1980 CSO or CET
 692 mortality table standard.†

693 3. Use the Annuity 2000 Mortality Table for determining
 694 the minimum standard of valuation for individual annuity and
 695 pure endowment contracts issued on or after January 1, 1998, and
 696 before July 1, 1998.

697 4. Use the 1994 GAR Table for determining the minimum
 698 standard of valuation for annuities and pure endowments
 699 purchased on or after January 1, 1998, and before July 1, 1998,
 700 under group annuity and pure endowment contracts.

701 (j) The commission may adopt by rule the model regulation
 702 for valuation of life insurance policies as approved by the NAIC

703 ~~National Association of Insurance Commissioners~~ in March 1999,
704 including tables of select mortality factors, and may make the
705 regulation effective for policies issued on or after January 1,
706 2000.

707 (k) For individual annuity and pure endowment contracts
708 issued on or after July 1, 2004, excluding ~~any~~ disability and
709 accidental death benefits purchased under those contracts,
710 individual annuity mortality tables adopted after 1980 by the
711 NAIC ~~National Association of Insurance Commissioners~~, adopted by
712 rule by the commission for use in determining the minimum
713 standard of valuation for those contracts.

714 (l) For all annuities and pure endowments purchased on or
715 after July 1, 2004, under group annuity and pure endowment
716 contracts, excluding ~~any~~ disability and accidental death
717 benefits purchased under those contracts, group annuity
718 mortality tables adopted after 1980 by the NAIC ~~National~~
719 ~~Association of Insurance Commissioners~~, adopted by rule by the
720 commission for use in determining the minimum standard of
721 valuation for those contracts.

722 (6) MINIMUM STANDARD OF VALUATION.—

723 (e) The interest rate index shall be the Moody's Corporate
724 Bond Yield Average—Monthly Average Corporates as published by
725 Moody's Investors Service, Inc., if the ~~as long as this~~ index is
726 calculated by using substantially the same methodology ~~as~~ used
727 by Moody's ~~it~~ on January 1, 1981. If Moody's corporate bond
728 yield average ceases to be calculated in substantially the same

729 ~~this~~ manner, the interest rate index shall be the index
 730 specified in the valuation manual, as applicable, as provided
 731 under s. 625.1212, or an index adopted by the NAIC and approved
 732 by rule adopted ~~promulgated~~ by the commission. The methodology
 733 used in determining the index approved by rule must ~~shall~~ be
 734 substantially the same as the methodology employed on January 1,
 735 1981, for determining Moody's Corporate Bond Yield Average-
 736 Monthly Average Corporates as published by Moody's Investors
 737 Service, Inc.

738 (10) LOWER VALUATIONS.—An insurer that ~~which at any time~~
 739 ~~had~~ adopted a any standard of valuation producing greater
 740 aggregate reserves than those calculated according to the
 741 minimum standard ~~herein~~ provided under this section shall ~~may~~,
 742 with the approval of the office, adopt a any lower standard of
 743 valuation, but not lower than the minimum herein provided;
 744 however, for the purposes of this subsection, the holding of
 745 additional reserves previously determined by an appointed a
 746 ~~qualified~~ actuary, as defined in s. 625.1212(2), to be necessary
 747 to render the opinion required by subsection (3) may ~~shall~~ not
 748 be deemed to be the adoption of a higher standard of valuation.

749 (11) ADDITIONAL PREMIUM ~~DEFICIENCY~~ RESERVE.—If in any
 750 contract year the gross premium charged by a any life insurer on
 751 a any policy or contract is less than the valuation net premium
 752 for the policy or contract calculated by the method used in
 753 calculating the reserve thereon but using the minimum valuation
 754 standards of mortality and rate of interest, the minimum premium

755 reserve required for the policy or contract shall be the greater
756 of the reserve calculated according to the actual mortality
757 table, rate of interest, and method used for the policy or
758 contract, or the actual method used for the policy or contract
759 but using the minimum valuation standards of mortality and rate
760 of interest and replacing the valuation net premium by the
761 actual gross premium in each contract year for which the
762 valuation net premium exceeds the actual gross premium. The
763 minimum valuation standards of mortality and rate of interest
764 are those standards ~~there shall be maintained on such policy or~~
765 ~~contract a deficiency reserve in addition to the reserve defined~~
766 ~~by subsections (4), (5), and (6) (7) and (12). For each such~~
767 ~~policy or contract, the deficiency reserve shall be the present~~
768 ~~value, according to the minimum valuation standards of mortality~~
769 ~~and rate of interest, of the differences between all such~~
770 ~~valuation net premiums and the corresponding premiums charged~~
771 ~~for such policy or contract during the remainder of the premium-~~
772 ~~paying period. For any category of policies, contracts, or~~
773 ~~benefits specified in subsections (5) and (6), issued on or~~
774 ~~after the operative date of s. 627.476 (the Standard~~
775 ~~Nonforfeiture Law for Life Insurance), the aggregate deficiency~~
776 ~~reserves may be reduced by the amount, if any, by which the~~
777 ~~aggregate reserves actually calculated in accordance with~~
778 ~~subsection (9) exceed the minimum aggregate reserves prescribed~~
779 ~~by subsection (8). The minimum valuation standards of mortality~~
780 ~~and rate of interest referred to in this subsection are those~~

781 ~~standards stated in subsections (5) and (6).~~ However, For any
 782 life insurance policy that ~~which~~ is issued on or after January
 783 1, 1985, for which the gross premium in the first policy year
 784 exceeds that of the second year and for which no comparable
 785 additional benefit is provided in the first year for such
 786 excess, and which provides an endowment benefit, a cash
 787 surrender value, or a combination thereof in an amount greater
 788 than such excess premium, the foregoing provisions of this
 789 subsection shall be applied as if the method actually used in
 790 calculating the reserve for such policy were the method
 791 described in subsection (7), the provisions of subparagraph
 792 (7) (a)2. being ignored. The minimum premium reserve amount ~~of~~
 793 ~~the deficiency reserve~~, if any, at each policy anniversary of
 794 such a policy is ~~shall be~~ the excess, if any, of the amount
 795 determined by the foregoing provisions of this subsection plus
 796 the reserve calculated by the method described in subsection
 797 (7), the provisions of subparagraph (7) (a)2. being ignored, over
 798 the reserve actually calculated by the method described in
 799 subsection (7), the provisions of subparagraph (7) (a)2. being
 800 taken into account.

801 (12) RESERVE CALCULATION FOR INDETERMINATE PREMIUM PLANS
 802 ~~ALTERNATE METHOD FOR DETERMINING RESERVES IN CERTAIN CASES.~~—In
 803 the case of a ~~any~~ plan of life insurance which provides for
 804 future premium determination, the amounts of which are to be
 805 determined by the insurer based on then estimates of future
 806 experience, or in the case of a ~~any~~ plan of life insurance or

807 annuity for which ~~is of such a nature that~~ the minimum reserves
 808 cannot be determined by the methods described in subsections (7)
 809 and (11) subsection (7), the reserves that ~~which~~ are held under
 810 ~~any~~ such plan must ~~shall~~:

811 (a) Be appropriate in relation to the benefits and the
 812 pattern of premiums for that plan; and

813 (b) Be computed by a method that ~~which~~ is consistent with
 814 the principles of this section, as determined by rules adopted
 815 ~~promulgated~~ by the commission.

816 Section 7. Section 625.1212, Florida Statutes, is created
 817 to read:

818 625.1212 Valuation of policies and contracts issued on or
 819 after the operative date of the valuation manual.-

820 (1) APPLICABILITY.-This section applies to life insurance
 821 contracts, accident and health insurance contracts, and deposit-
 822 type contracts issued on or after the operative date of the
 823 valuation manual unless the manual requires or permits an
 824 insurer to determine reserves according to the standards in
 825 effect before the operative date of the manual and rules adopted
 826 by the commission as provided under s. 625.121. Subsections (5)
 827 and (6) do not apply to policies and contracts subject to s.
 828 625.121.

829 (2) DEFINITIONS.-As used in this section, the term:

830 (a) "Accident and health insurance" means contracts that
 831 incorporate morbidity risk and provide protection against
 832 economic loss resulting from accident, sickness, or medical

833 conditions and as may be specified in the valuation manual.

834 (b) "Appointed actuary" means a qualified actuary who is
835 appointed in accordance with the valuation manual to prepare the
836 actuarial opinion required in subsection (4).

837 (c) "Deposit-type contract" means a contract that does not
838 incorporate mortality or morbidity risks and as may be specified
839 in the valuation manual.

840 (d) "Insurer" means a person engaged as an indemnitor,
841 surety, or contractor in the business of entering into contracts
842 of insurance or reinsurance.

843 (e) "Life insurance" means policies or contracts that
844 incorporate mortality risk, including annuity and pure endowment
845 contracts, and as may be specified in the valuation manual.

846 (f) "Operative date of the valuation manual" means the
847 later of January 1, 2017, or the January 1 immediately following
848 the July 1 that the Commissioner of Insurance Regulation
849 certifies to the Financial Services Commission in writing that
850 the following conditions occurred on or before July 1:

851 1. The valuation manual has been adopted by the NAIC by an
852 affirmative vote of at least 42 members of the NAIC or 75
853 percent of members voting, whichever is greater;

854 2. The Standard Valuation Law, as amended by the NAIC in
855 2009, or substantially similar legislation, has been enacted in
856 states representing more than 75 percent of the direct premiums
857 written as reported in the 2008 annual statements for life,
858 accident and health, health, or fraternal society insurance; and

859 3. The Standard Valuation Law as amended by the NAIC in
860 2009, or substantially similar legislation, has been enacted in
861 at least 42 of the following 55 jurisdictions: the 50 states of
862 the United States, the District of Columbia, American Samoa, the
863 American Virgin Islands, Guam, and Puerto Rico.

864 (g) "Policyholder behavior" means an action a
865 policyholder, contract holder, or other person who has the right
866 to elect options, such as a certificateholder, may take under a
867 policy or contract subject to this section including, but not
868 limited to, lapse, withdrawal, transfer, deposit, premium
869 payment, loan, annuitization, or benefit elections prescribed by
870 the policy or contract but excluding events of mortality or
871 morbidity that result in benefits prescribed in their essential
872 aspects by the terms of the policy or contract.

873 (h) "Principle-based valuation" means a reserve valuation
874 that uses one or more methods or assumptions determined by the
875 insurer and must comply with subsection (6) as specified in the
876 valuation manual.

877 (i) "Qualified actuary" means an individual who is
878 qualified to sign the applicable statement of actuarial opinion
879 in accordance with the American Academy of Actuaries
880 qualification standards for actuaries signing such statements
881 and who meets the requirements specified in the valuation
882 manual.

883 (j) "Tail risk" means a risk that occurs when the
884 frequency of low probability events is higher than expected

885 under a normal probability distribution or when there are
886 observed events of very significant size or magnitude.

887 (k) "Valuation manual" means the manual of valuation
888 instructions adopted by the NAIC, or as subsequently amended.

889 (3) RESERVE VALUATION.—The office shall annually value, or
890 cause to be valued, insurer reserves for all outstanding life
891 insurance contracts, accident and health contracts, and deposit-
892 type contracts in this state. Insurers are subject to
893 subsections (5) and (6) when calculating the reserves. In lieu
894 of the reserve valuation for a foreign or alien insurer, the
895 office may accept a valuation made, or caused to be made, by the
896 insurance supervisory official of any state or other
897 jurisdiction if the valuation complies with the minimum standard
898 required in this section.

899 (4) ACTUARIAL OPINION OF RESERVES.—

900 (a) Each insurer that has outstanding life insurance
901 contracts, accident and health insurance contracts, or deposit-
902 type contracts in this state which are subject to regulation by
903 the office must annually submit the opinion of a qualified
904 actuary as to whether the reserves and related actuarial items
905 held in support of the policies and contracts are computed
906 appropriately, are based on assumptions that satisfy contractual
907 provisions, are consistent with prior reported amounts, and
908 comply with applicable state law. The specifics of the opinion,
909 including any items deemed necessary to its scope, must be as
910 prescribed by the valuation manual.

911 (b) Except as exempted in the valuation manual, each
912 insurer that has outstanding life insurance contracts, accident
913 and health insurance contracts, or deposit-type contracts in
914 this state shall also annually include an opinion by the same
915 appointed actuary as to whether the reserves and related
916 actuarial items held in support of the policies and contracts
917 specified in the valuation manual, when considered in light of
918 the assets held by the insurer with respect to the reserves and
919 related actuarial items, including but not limited to, the
920 investment earnings on the assets and the considerations
921 anticipated to be received and retained under the policies and
922 contracts, make adequate provision for the insurer's obligations
923 under the policies and contracts, including, but not limited to,
924 the benefits under and expenses associated with the policies and
925 contracts.

926 (c) The insurer shall prepare a memorandum to support each
927 actuarial opinion in such form and substance as specified in the
928 valuation manual and acceptable to the office. If the insurer
929 fails to provide a supporting memorandum within the period
930 specified in the valuation manual, or if the office determines
931 that the supporting memorandum fails to meet the standards
932 required by the manual or is otherwise unacceptable to the
933 office, the office may engage a qualified actuary at the expense
934 of the insurer to review the opinion and the basis for the
935 opinion and to prepare the supporting memorandum.

936 (d) Each opinion subject to this subsection must be

937 submitted with the annual statement in such form and substance
938 as specified in the valuation manual and acceptable to the
939 office, must reflect the valuation of the reserve liabilities
940 for each year ending on or after the operative date of the
941 valuation manual, and must apply to all policies and contracts
942 subject to paragraph (b), plus other actuarial liabilities as
943 may be specified in the valuation manual. The opinion must be
944 based on standards adopted by the Actuarial Standards Board or
945 its successor, and on such additional standards as may be
946 prescribed in the valuation manual. For a foreign or alien
947 insurer, the office may accept an opinion filed by the insurer
948 with the insurance supervisory official of another state if the
949 office determines that the opinion reasonably meets the
950 requirements applicable to an insurer domiciled in this state.

951 (e) Disciplinary action by the office against the insurer
952 or the appointed actuary shall be in accordance with the laws of
953 this state and related rules adopted by the commission.

954 (5) MINIMUM STANDARD OF VALUATION.—

955 (a) In accordance with this subsection and subsection (6),
956 an insurer must apply the standard prescribed in the valuation
957 manual as the minimum standard of valuation for contracts issued
958 on or after the operative date of the valuation manual, except:

959 1. For specific product forms or product lines exempted
960 pursuant to paragraph (f); or

961 2. That an insurer domiciled in a state that does not
962 require the insurer to apply the standards prescribed in the

963 valuation manual as the minimum standard of valuation, including
964 the principle-based valuation of reserves, may not apply such
965 standards in this state.

966 (b) If, in the opinion of the office, there is no specific
967 valuation requirement or a specific valuation requirement in the
968 valuation manual is not in compliance with this section, the
969 insurer shall comply with the minimum valuation standards
970 prescribed by the commission by rule.

971 (c) The office may engage a qualified actuary, at the
972 insurer's expense, to perform an actuarial examination of the
973 insurer and to render an opinion as to the appropriateness of
974 any reserve assumption or method, or computer model or modeling
975 software used by the insurer, or to review and provide an
976 opinion on the insurer's compliance with the requirements of
977 this section. In calculating and establishing reserves under
978 this section, the insurer may rely on the modeling software and
979 tools of a third-party vendor only if the vendor contractually
980 agrees to allow the insurer to provide the office with access to
981 the software or tools as necessary to replicate the results of
982 the software or tools for the purpose of evaluating and
983 validating reserve valuations. The office may rely upon the
984 opinion of a qualified actuary employed by or under contract
985 with the commissioner of another state, district, or territory
986 of the United States with respect to this section.

987 (d) The office may require an insurer to change any
988 assumption or method that, in the opinion of the office, is

989 necessary to comply with the valuation manual or this section.
990 The insurer shall adjust the reserves as required by the office.
991 The office may take other disciplinary action pursuant to
992 applicable state law and rules.

993 (e) The commission may adopt subsequent amendments to the
994 valuation manual by rule if the methodology and standards remain
995 substantially consistent with the valuation manual then in
996 effect.

997 (f) A domestic insurer licensed and doing business only in
998 this state may exempt specific product forms or product lines
999 from the requirements of this subsection and subsection (6) if
1000 the insurer computes reserves for the specific product forms or
1001 product lines using assumptions and methods used before the
1002 operative date of the valuation manual, and the amount of
1003 insurance subject to the stochastic or deterministic reserve
1004 requirement is immaterial. The requirements of s. 625.121 apply
1005 to specific product forms and product lines exempted under this
1006 paragraph.

1007 (g) An insurer that adopted a standard of valuation
1008 producing greater aggregate reserves than those calculated
1009 according to the minimum standard provided under this section
1010 may, with the approval of the office, adopt a lower standard of
1011 valuation, but such standard may not be lower than the minimum
1012 provided in this subsection. For purposes of this subsection,
1013 holding additional reserves previously determined by an
1014 appointed actuary to be necessary to render the opinion required

1015 by subsection (4) may not be deemed to be the adoption of a
 1016 higher standard of valuation.

1017 (6) REQUIREMENTS OF A PRINCIPLE-BASED VALUATION OF
 1018 RESERVES.—

1019 (a) Insurers required to use a principle-based valuation
 1020 of reserves for specified product forms and product lines and
 1021 associated policies and contacts, pursuant to subparagraph
 1022 (5) (a)2., must:

1023 1. Quantify the benefits and guarantees, and the funding
 1024 associated with the policies or contracts and their risks at a
 1025 level of conservatism that reflects conditions that:

1026 a. Include unfavorable events that have a reasonable
 1027 probability of occurring during the lifetime of the policies or
 1028 contracts; and

1029 b. Are appropriately adverse to quantifying the tail risk.

1030 2. Incorporate assumptions, risk analysis methods, and
 1031 financial models and management techniques that are consistent
 1032 with, but not necessarily identical to, those used within the
 1033 insurer's overall risk assessment process while recognizing
 1034 potential differences in financial reporting structures and any
 1035 prescribed assumptions or methods.

1036 3. Incorporate assumptions that are derived in one of the
 1037 following manners:

1038 a. The assumption is prescribed in the valuation manual.

1039 b. For assumptions that are not prescribed, the
 1040 assumptions must:

1041 (I) Be established using the insurer's available
 1042 experience, to the extent that it is relevant and statistically
 1043 credible; or

1044 (II) To the extent that insurer data is not available,
 1045 relevant, or statistically credible, be established using other
 1046 relevant, statistically credible experience.

1047 4. Provide margins for uncertainty including adverse
 1048 deviation and estimation error, such that the greater the
 1049 uncertainty, the larger the margin and resulting reserve.

1050 (b) An insurer using a principle-based valuation for one
 1051 or more policies or contracts subject to this section as
 1052 specified in the valuation manual shall:

1053 1. Establish procedures for corporate governance and
 1054 oversight of the actuarial valuation function consistent with
 1055 those prescribed in the valuation manual.

1056 2. Submit an annual certification to the office and the
 1057 insurer's board of directors of the effectiveness of internal
 1058 controls on the principle-based valuation. The internal controls
 1059 must be designed to assure that all material risks inherent in
 1060 the liabilities and associated assets subject to the valuation
 1061 are included in the valuation, and that valuations are made in
 1062 accordance with the valuation manual. The certification must be
 1063 based on controls in place as of the end of the preceding
 1064 calendar year.

1065 3. Upon request, develop and file with the office a
 1066 principle-based valuation report that complies with standards

1067 prescribed in the valuation manual.

1068 (c) A principle-based valuation may include a prescribed
 1069 formulaic reserve component.

1070 (7) EXPERIENCE REPORTING.—An insurer shall submit
 1071 mortality, morbidity, policyholder behavior, or expense
 1072 experience and other data as prescribed in the valuation manual
 1073 to the office.

1074 (8) RULE ADOPTION.—The commission may adopt rules as
 1075 necessary to administer this section, including rules requiring
 1076 the use of the NAIC 2009 Standard Valuation Law and the NAIC
 1077 2012 Valuation Manual. The adoption of such rules is not subject
 1078 to s. 120.541(3), and the rules do not take effect until the
 1079 operative date of the valuation manual.

1080 Section 8. Section 625.1214, Florida Statutes, is created
 1081 to read:

1082 625.1214 Use of confidential information.—

1083 (1) Documents, reports, materials, and other information
 1084 created, produced, or obtained pursuant to ss. 625.121 and
 1085 625.1212, are privileged, confidential, and exempt as provided
 1086 in s. 624.4212, and are not subject to subpoena or discovery
 1087 directly from the office. However, the department or office may
 1088 use the confidential and exempt information in the furtherance
 1089 of any regulatory or legal action brought against an insurer as
 1090 a part of the official duties of the department or office. A
 1091 waiver of any other applicable claim of confidentiality or
 1092 privilege may not occur as a result of a disclosure to the

1093 office under this section, any other section of the insurance
 1094 code, or as a result of sharing under s. 624.4212.

1095 (2) Neither the office nor any person who received
 1096 confidential and exempt information while acting under the
 1097 authority of the office, or with whom such information is shared
 1098 pursuant to s. 624.4212, may be permitted or required to testify
 1099 in a private civil action concerning any confidential and exempt
 1100 information subject to s. 624.4212. If any portion of the
 1101 confidential memorandum is cited by the insurer in its
 1102 marketing, is cited before a governmental agency other than a
 1103 state insurance department, or is released by the insurer to the
 1104 news media, no portion of the memorandum is confidential.

1105 (3) A privilege established under the law of any state or
 1106 jurisdiction that is substantially similar to the privilege
 1107 established under subsection (1) shall be available and enforced
 1108 in any proceeding in, and in any court of, this state.

1109 Section 9. Paragraphs (h) and (i) of subsection (9) and
 1110 subsection (14) of section 627.476, Florida Statutes, are
 1111 amended to read:

1112 627.476 Standard Nonforfeiture Law for Life Insurance.—

1113 (9) CALCULATION OF ADJUSTED PREMIUMS AND PRESENT VALUES
 1114 FOR POLICIES ISSUED AFTER OPERATIVE DATE OF THIS SUBSECTION.—

1115 (h) All adjusted premiums and present values referred to
 1116 in this section shall, for all policies of ordinary insurance,
 1117 be calculated on the basis of the ~~Commissioners'~~ 1980 Standard
 1118 Ordinary Mortality Table adopted by the NAIC or, at the election

1119 of the insurer for any one or more specified plans of life
1120 insurance, the ~~Commissioners'~~ 1980 Standard Ordinary Mortality
1121 Table with Ten-Year Select Mortality Factors adopted by the
1122 NAIC; ~~shall~~ for all policies of industrial insurance be
1123 calculated on the basis of the ~~Commissioners'~~ 1961 Standard
1124 Industrial Mortality Table adopted by the NAIC; and ~~shall~~ for
1125 all policies issued in a particular calendar year be calculated
1126 on the basis of a rate of interest not exceeding the
1127 nonforfeiture interest rate as defined in this subsection for
1128 policies issued in that calendar year. However:

1129 1. At the option of the insurer, calculations for all
1130 policies issued in a particular calendar year may be made on the
1131 basis of a rate of interest not exceeding the nonforfeiture
1132 interest rate, as defined in this subsection, for policies
1133 issued in the immediately preceding calendar year.

1134 2. Under any paid-up nonforfeiture benefit, including any
1135 paid-up dividend additions, any cash surrender value available,
1136 whether required or not required by subsection (2), shall be
1137 calculated on the basis of the mortality table and rate of
1138 interest used in determining the amount of such paid-up
1139 nonforfeiture benefit and paid-up dividend additions, if any.

1140 3. An insurer may calculate the amount of any guaranteed
1141 paid-up nonforfeiture benefit, including any paid-up additions
1142 under the policy, on the basis of an interest rate no lower than
1143 that specified in the policy for calculating cash surrender
1144 values.

1145 4. In calculating the present value of any paid-up term
1146 insurance with accompanying pure endowment, if any, offered as a
1147 nonforfeiture benefit, the rates of mortality assumed may be not
1148 more than those shown in the ~~Commissioners'~~ 1980 Extended Term
1149 Insurance Table adopted by the NAIC for policies of ordinary
1150 insurance and not more than the ~~Commissioners'~~ 1961 Industrial
1151 Extended Term Insurance Table adopted by the NAIC for policies
1152 of industrial insurance.

1153 5. In lieu of the mortality tables specified in this
1154 section, at the option of the insurance company and subject to
1155 rules adopted by the commission, the insurance company may
1156 substitute:

1157 a. The 1958 CSO or CET Smoker and Nonsmoker Mortality
1158 Tables, whichever is applicable, for policies issued on or after
1159 the operative date of this subsection and before January 1,
1160 1989;

1161 b. The 1980 CSO or CET Smoker and Nonsmoker Mortality
1162 Tables, whichever is applicable, for policies issued on or after
1163 the operative date of this subsection;

1164 c. A mortality table that is a blend of the sex-distinct
1165 1980 CSO or CET mortality table standard, whichever is
1166 applicable, or a mortality table that is a blend of the sex-
1167 distinct 1980 CSO or CET smoker and nonsmoker mortality table
1168 standards, whichever is applicable, for policies that are
1169 subject to the United States Supreme Court decision in *Arizona*
1170 *Governing Committee v. Norris* to prevent unfair discrimination

1171 in employment situations.

1172 6. For policies issued:

1173 a. Before the operative date of the valuation manual,
1174 ordinary mortality tables, adopted after 1980 by the NAIC
1175 ~~National Association of Insurance Commissioners~~, adopted by rule
1176 by the commission for use in determining the minimum
1177 nonforfeiture standard may be substituted for the ~~Commissioners'~~
1178 1980 Standard Ordinary Mortality Table with or without Ten-Year
1179 Select Mortality Factors or ~~for the Commissioners'~~ 1980 Extended
1180 Term Insurance Table adopted by the NAIC.

1181 b. On or after the operative date of the valuation manual,
1182 the valuation manual shall provide the Standard Mortality Table
1183 for use in determining the minimum nonforfeiture standard that
1184 may be substituted for:

1185 (I) The 1980 Standard Ordinary Mortality Table with or
1186 without Ten-Year Select Mortality Factors or the 1980 Extended
1187 Term Insurance Table adopted by the NAIC. If the commission
1188 approves by rule a Standard Ordinary Mortality Table adopted by
1189 the NAIC for use in determining the minimum nonforfeiture
1190 standard for policies issued on or after the operative date of
1191 the valuation manual, the minimum nonforfeiture standard
1192 supersedes the minimum nonforfeiture standard provided by the
1193 valuation manual.

1194 (II) The 1961 Standard Industrial Mortality Table or 1961
1195 Industrial Extended Term Insurance Table adopted by the NAIC. If
1196 the commission approves by rule any Standard Industrial

1197 Mortality Table adopted by the NAIC for use in determining the
 1198 minimum nonforfeiture standard for policies issued on or after
 1199 the operative date of the valuation manual, the minimum
 1200 nonforfeiture standard supersedes the minimum nonforfeiture
 1201 standard provided by the valuation manual.

1202 7. For insurance issued on a substandard basis, the
 1203 calculation of any such adjusted premiums and present values may
 1204 be based on appropriate modifications of the aforementioned
 1205 tables.

1206 (i) The nonforfeiture interest rate per year for a ~~any~~
 1207 policy issued in a particular calendar year for policies issued:

1208 1. Before the operative date of the valuation manual shall
 1209 be equal to 125 percent of the calendar year statutory valuation
 1210 interest rate for such policy as defined in the Standard
 1211 Valuation Law, rounded to the nearest one-fourth of 1 percent;
 1212 however, the nonforfeiture interest rate may not be less than 4
 1213 percent.

1214 2. On or after the operative date of the valuation manual
 1215 shall be as provided by the valuation manual.

1216 (14) OPERATIVE DATE.—

1217 (a) After the effective date of this code, an ~~any~~ insurer
 1218 may file with the office a written notice or notices of its
 1219 election to comply with ~~the provisions of~~ this section on and
 1220 after a specified date or dates before January 1, 1966, as to
 1221 either or both of its policies of ordinary and industrial
 1222 insurance, in which case such specified date or dates shall be

1223 the operative date of this section with respect to such
 1224 policies. The operative date of this section for policies of
 1225 both ordinary and industrial insurance shall be the earlier of
 1226 January 1, 1966, and any prior operative date or dates resulting
 1227 from such previously filed written notices. With respect to
 1228 policies of industrial insurance issued on and after the
 1229 operative date of this section for such policies but before
 1230 January 1, 1968, any insurer may file with the office written
 1231 notice of its election to have the ~~Commissioners'~~ 1961 Standard
 1232 Industrial Mortality Table and ~~the Commissioners'~~ 1961
 1233 Industrial Extended Term Insurance Table adopted by the NAIC
 1234 applicable with respect to subsection (8) for policies issued on
 1235 and after the date specified in such election.

1236 (b) As used in subsection (9), the term "operative date of
 1237 the valuation manual" has the same meaning as provided in s.
 1238 625.1212(2).

1239 Section 10. Subsections (1), (3), (10), (12), and (13) of
 1240 section 628.461, Florida Statutes, are amended to read:

1241 628.461 Acquisition of controlling stock.—

1242 (1) A person may not, individually or in conjunction with
 1243 any affiliated person of such person, acquire directly or
 1244 indirectly, conclude a tender offer or exchange offer for, enter
 1245 into any agreement to exchange securities for, or otherwise
 1246 finally acquire 10 ~~5~~ percent or more of the outstanding voting
 1247 securities of a domestic stock insurer or of a controlling
 1248 company, unless:

1249 (a) The person or affiliated person has filed with the
 1250 office and sent to the insurer and controlling company a letter
 1251 of notification regarding the transaction or proposed
 1252 transaction within ~~no later than~~ 5 days after any form of tender
 1253 offer or exchange offer is proposed, or within ~~no later than~~ 5
 1254 days after the acquisition of the securities if no tender offer
 1255 or exchange offer is involved. The notification must be provided
 1256 on forms prescribed by the commission containing information
 1257 determined necessary to understand the transaction and identify
 1258 all purchasers and owners involved;

1259 (b) The person or affiliated person has filed with the
 1260 office the ~~a~~ statement as specified in subsection (3). The
 1261 statement must be completed and filed within 30 days after:

- 1262 1. Any definitive acquisition agreement is entered;
- 1263 2. Any form of tender offer or exchange offer is proposed;

1264 or

- 1265 3. The acquisition of the securities, if no definitive
 1266 acquisition agreement, tender offer, or exchange offer is
 1267 involved; and

1268 (c) The office has approved the tender or exchange offer,
 1269 or acquisition if no tender offer or exchange offer is involved,
 1270 and approval is in effect.

1271
 1272 ~~In lieu of a filing as required under this subsection, a party~~
 1273 ~~acquiring less than 10 percent of the outstanding voting~~
 1274 ~~securities of an insurer may file a disclaimer of affiliation~~

1275 ~~and control. The disclaimer shall fully disclose all material~~
1276 ~~relationships and basis for affiliation between the person and~~
1277 ~~the insurer as well as the basis for disclaiming the affiliation~~
1278 ~~and control. After a disclaimer has been filed, the insurer~~
1279 ~~shall be relieved of any duty to register or report under this~~
1280 ~~section which may arise out of the insurer's relationship with~~
1281 ~~the person unless and until the office disallows the disclaimer.~~
1282 ~~The office shall disallow a disclaimer only after furnishing all~~
1283 ~~parties in interest with notice and opportunity to be heard and~~
1284 ~~after making specific findings of fact to support the~~
1285 ~~disallowance. A filing as required under this subsection must be~~
1286 ~~made for as to any acquisition that equals or exceeds 10 percent~~
1287 ~~of the outstanding voting securities.~~

1288 (3) The statement to be filed with the office under
1289 subsection (1) and furnished to the insurer and controlling
1290 company must ~~shall~~ contain all the following information and any
1291 additional information that ~~as~~ the office deems necessary to
1292 determine the character, experience, ability, and other
1293 qualifications of the person or affiliated person of such person
1294 for the protection of the policyholders and shareholders of the
1295 insurer and the public:

1296 (a) The identity of, and the background information
1297 specified in subsection (4) on, each natural person by whom, or
1298 on whose behalf, the acquisition is to be made; and, if the
1299 acquisition is to be made by, or on behalf of, a corporation,
1300 association, or trust, as to the corporation, association, or

1301 trust and as to any person who controls, either directly or
1302 indirectly, the corporation, association, or trust, the identity
1303 of, and the background information specified in subsection (4)
1304 on, each director, officer, trustee, or other natural person
1305 performing duties similar to those of a director, officer, or
1306 trustee for the corporation, association, or trust.†

1307 (b) The source and amount of the funds or other
1308 consideration used, or to be used, in making the acquisition.†

1309 (c) Any plans or proposals that ~~which~~ such persons may
1310 have made to liquidate such insurer, to sell any of its assets
1311 or merge or consolidate it with any person, or to make any other
1312 major change in its business or corporate structure or
1313 management; and any plans or proposals that ~~which~~ such persons
1314 may have made to liquidate any controlling company of such
1315 insurer, to sell any of its assets or merge or consolidate it
1316 with any person, or to make any other major change in its
1317 business or corporate structure or management.†

1318 (d) The number of shares or other securities that ~~which~~
1319 the person or affiliated person of such person proposes to
1320 acquire, the terms of the proposed acquisition, and the manner
1321 in which the securities are to be acquired.†~~and~~

1322 (e) Information as to any contract, arrangement, or
1323 understanding with any party with respect to any of the
1324 securities of the insurer or controlling company, including, but
1325 not limited to, information relating to the transfer of any of
1326 the securities, option arrangements, puts or calls, or the

1327 giving or withholding of proxies, which information names the
 1328 party with whom the contract, arrangement, or understanding has
 1329 been entered into and gives the details thereof.

1330 (f) Effective January 1, 2015, an agreement by the person
 1331 required to file the statement that the person will provide the
 1332 annual report specified in s. 628.801(2) if control exists.

1333 (g) Effective January 1, 2015, an acknowledgement by the
 1334 person required to file the statement that the person and all
 1335 subsidiaries within the person's control in the insurance
 1336 holding company system will provide, as necessary, information
 1337 to the office upon request to evaluate enterprise risk to the
 1338 insurer.

1339 (10) Upon notification to the office by the domestic stock
 1340 insurer or a controlling company that any person or any
 1341 affiliated person of such person has acquired 10 ~~5~~ percent or
 1342 more of the outstanding voting securities of the domestic stock
 1343 insurer or controlling company without complying with ~~the~~
 1344 ~~provisions of~~ this section, the office shall order that the
 1345 person and any affiliated person of such person cease
 1346 acquisition of any further securities of the domestic stock
 1347 insurer or controlling company; however, the person or any
 1348 affiliated person of such person may request a proceeding, which
 1349 proceeding shall be convened within 7 days after the rendering
 1350 of the order for the sole purpose of determining whether the
 1351 person, individually or in connection with any affiliated person
 1352 of such person, has acquired 10 ~~5~~ percent or more of the

1353 outstanding voting securities of a domestic stock insurer or
1354 controlling company. Upon the failure of the person or
1355 affiliated person to request a hearing within 7 days, or upon a
1356 determination at a hearing convened pursuant to this subsection
1357 that the person or affiliated person has acquired voting
1358 securities of a domestic stock insurer or controlling company in
1359 violation of this section, the office may order the person and
1360 affiliated person to divest themselves of any voting securities
1361 so acquired.

1362 (12) (a) A person may rebut a presumption of control by
1363 filing a disclaimer of control with the office on a form
1364 prescribed by the office. The disclaimer must fully disclose all
1365 material relationships and bases for affiliation between the
1366 person and the insurer as well as the basis for disclaiming the
1367 affiliation. In lieu of such form, a person or acquiring party
1368 may file with the office a copy of a Schedule 13G filed with the
1369 Securities and Exchange Commission pursuant to rules 13d-1(b) or
1370 13d-1(c) under the Securities Exchange Act of 1934, as amended.
1371 After a disclaimer has been filed, the insurer is relieved of
1372 any duty to register or report under this section which may
1373 arise out of the insurer's relationship with the person unless
1374 the office disallows the disclaimer.

1375 (b) A controlling person of a domestic insurer who seeks
1376 to divest the person's controlling interest in the domestic
1377 insurer in any manner shall file with the office, with a copy
1378 provided to the insurer, confidential notice, not subject to

1379 public inspection as provided under s. 624.4212, of the person's
 1380 proposed divestiture at least 30 days before the cessation of
 1381 control. The office shall determine those instances in which the
 1382 party seeking to divest or to acquire a controlling interest in
 1383 an insurer must file for and obtain approval of the transaction.
 1384 The information remains confidential until the conclusion of the
 1385 transaction unless the office, in its discretion, determines
 1386 that confidential treatment interferes with enforcement of this
 1387 section. If the statement referred to in subsection (1) is
 1388 otherwise filed, this paragraph does not apply ~~For the purpose~~
 1389 ~~of this section, the term "affiliated person" of another person~~
 1390 ~~means:~~

- 1391 ~~1. The spouse of such other person;~~
- 1392 ~~2. The parents of such other person and their lineal~~
 1393 ~~descendants and the parents of such other person's spouse and~~
 1394 ~~their lineal descendants;~~
- 1395 ~~3. Any person who directly or indirectly owns or controls,~~
 1396 ~~or holds with power to vote, 5 percent or more of the~~
 1397 ~~outstanding voting securities of such other person;~~
- 1398 ~~4. Any person 5 percent or more of the outstanding voting~~
 1399 ~~securities of which are directly or indirectly owned or~~
 1400 ~~controlled, or held with power to vote, by such other person;~~
- 1401 ~~5. Any person or group of persons who directly or~~
 1402 ~~indirectly control, are controlled by, or are under common~~
 1403 ~~control with such other person;~~
- 1404 ~~6. Any officer, director, partner, copartner, or employee~~

1405 ~~of such other person;~~

1406 ~~7. If such other person is an investment company, any~~
 1407 ~~investment adviser of such company or any member of an advisory~~
 1408 ~~board of such company;~~

1409 ~~8. If such other person is an unincorporated investment~~
 1410 ~~company not having a board of directors, the depositor of such~~
 1411 ~~company; or~~

1412 ~~9. Any person who has entered into an agreement, written~~
 1413 ~~or unwritten, to act in concert with such other person in~~
 1414 ~~acquiring or limiting the disposition of securities of a~~
 1415 ~~domestic stock insurer or controlling company.~~

1416 ~~(b) For the purposes of this section, the term~~
 1417 ~~"controlling company" means any corporation, trust, or~~
 1418 ~~association owning, directly or indirectly, 25 percent or more~~
 1419 ~~of the voting securities of one or more domestic stock insurance~~
 1420 ~~companies.~~

1421 (13) The commission may adopt, ~~amend, or repeal~~ rules that
 1422 are necessary to administer ~~implement the provisions of this~~
 1423 ~~section, pursuant to chapter 120.~~

1424 Section 11. Section 628.801, Florida Statutes, is amended
 1425 to read:

1426 628.801 Insurance holding companies; registration;
 1427 regulation.—

1428 (1) An ~~Every~~ insurer that is authorized to do business in
 1429 this state and that is a member of an insurance holding company
 1430 shall, on or before April 1 of each year, register with the

1431 office and file a registration statement and be subject to
1432 regulation with respect to its relationship to the holding
1433 company as provided by law or rule ~~or statute~~. The commission
1434 shall adopt rules establishing the information and statement
1435 form required for registration and the manner in which
1436 registered insurers and their affiliates are regulated. The
1437 rules apply to domestic insurers, foreign insurers, and
1438 commercially domiciled insurers, except for ~~a foreign~~ insurers
1439 ~~insurer~~ domiciled in states that are currently accredited by the
1440 ~~NAIC National Association of Insurance Commissioners by December~~
1441 ~~31, 1995~~. Except to the extent of any conflict with this code,
1442 the rules must include all requirements and standards of ss. 4
1443 and 5 of the Insurance Holding Company System Regulatory Act and
1444 the Insurance Holding Company System Model Regulation of the
1445 ~~NAIC National Association of Insurance Commissioners~~, as adopted
1446 in December 2010. The commission may adopt subsequent amendments
1447 thereto if the methodology remains substantially consistent. The
1448 ~~rules Regulatory Act and the Model Regulation existed on~~
1449 ~~November 30, 2001~~, and may include a prohibition on oral
1450 contracts between affiliated entities. Material transactions
1451 between an insurer and its affiliates shall be filed with the
1452 office as provided by rule ~~Upon request, the office may waive~~
1453 ~~filing requirements under this section for a domestic insurer~~
1454 ~~that is the subsidiary of an insurer that is in full compliance~~
1455 ~~with the insurance holding company registration laws of its~~
1456 ~~state of domicile, which state is accredited by the National~~

1457 ~~Association of Insurance Commissioners.~~

1458 (2) Effective January 1, 2015, the ultimate controlling
1459 person of every insurer subject to registration shall also file
1460 an annual enterprise risk report on or before April 1. As used
1461 in this subsection, the term "ultimate controlling person" means
1462 a person who is not controlled by any other person. The report,
1463 to the best of the ultimate controlling person's knowledge and
1464 belief, must identify the material risks within the insurance
1465 holding company system that could pose enterprise risk to the
1466 insurer. The report shall be filed with the lead state office of
1467 the insurance holding company system as determined by the
1468 procedures within the Financial Analysis Handbook adopted by the
1469 NAIC and is confidential and exempt from public disclosure as
1470 provided in s. 624.4212.

1471 (a) An insurer may satisfy this requirement by providing
1472 the office with the most recently filed parent corporation
1473 reports that have been filed with the Securities and Exchange
1474 Commission which provide the appropriate enterprise risk
1475 information.

1476 (b) The term "enterprise risk" means an activity,
1477 circumstance, event, or series of events involving one or more
1478 affiliates of an insurer which, if not remedied promptly, is
1479 likely to have a materially adverse effect upon the financial
1480 condition or liquidity of the insurer or its insurance holding
1481 company system as a whole, including anything that would cause
1482 the insurer's risk-based capital to fall into company action

1483 level as set forth in s. 624.4085 or would cause the insurer to
1484 be in a hazardous financial condition.

1485 (3) Effective January 1, 2015, pursuant to chapter 624
1486 relating to the examination of insurers, the office may examine
1487 any insurer registered under this section and its affiliates to
1488 ascertain the financial condition of the insurer, including the
1489 enterprise risk to the insurer by the ultimate controlling
1490 party, or by any entity or combination of entities within the
1491 insurance holding company system, or by the insurance holding
1492 company system on a consolidated basis.

1493 (4) The filings and related documents filed pursuant to
1494 this section are confidential and exempt as provided in s.
1495 624.4212 and are not subject to subpoena or discovery directly
1496 from the office. A waiver of any applicable privilege or claim
1497 of confidentiality in the filings and related documents may not
1498 occur as a result of any disclosure to the office under this
1499 section or any other section of the insurance code as authorized
1500 under s. 624.4212. Neither the office nor any person who
1501 received the filings and related documents while acting under
1502 the authority of the office or with whom such information is
1503 shared pursuant to s. 624.4212 is permitted or required to
1504 testify in any private civil action concerning any confidential
1505 documents, materials, or information subject to s. 624.4212.
1506 However, the department or office may use the confidential and
1507 exempt information in the furtherance of any regulatory or legal
1508 action brought against an insurer as a part of the official

1509 duties of the department or office.

1510 (5) Effective January 1, 2015, the failure to file a
1511 registration statement, or a summary of the registration
1512 statement, or the enterprise risk filing report required by this
1513 section within the time specified for filing is a violation of
1514 this section.

1515 (6) Upon request, the office may waive the filing
1516 requirements of this section:

1517 (a) If the insurer is a domestic insurer that is the
1518 subsidiary of an insurer that is in full compliance with the
1519 insurance holding company registration laws of its state of
1520 domicile, which state is accredited by the NAIC; or

1521 (b) If the insurer is a domestic insurer that writes only
1522 in this state and has annual direct written and assumed premium
1523 of less than \$300 million, excluding premiums reinsured with the
1524 Federal Crop Insurance Corporation and Federal Flood Program,
1525 and demonstrates that compliance with this section would not
1526 provide substantial regulatory or consumer benefit. In
1527 evaluating a waiver request made under this paragraph, the
1528 office may consider various factors including, but not limited
1529 to, the type of business entity, the volume of business written,
1530 the ownership or organizational structure of the entity, or
1531 whether the company is in run-off.

1532
1533 A waiver granted pursuant to this subsection is valid for 2
1534 years unless sooner withdrawn due to a change in the

1535 circumstances under which the waiver was granted.

1536 Section 12. Effective January 1, 2015, present subsection
1537 (4) of section 628.803, Florida Statutes, is renumbered as
1538 subsection (5), and a new subsection (4) is added to that
1539 section to read:

1540 628.803 Sanctions.—

1541 (4) If the office determines that any person violated s.
1542 628.461 or s. 628.801, the violation may serve as an independent
1543 basis for disapproving dividends or distributions and for
1544 placing the insurer under an order of supervision in accordance
1545 with part VI of chapter 624.

1546 Section 13. Effective January 1, 2015, section 628.804,
1547 Florida Statutes, is created to read:

1548 628.804 Groupwide supervision for international insurance
1549 groups.—

1550 (1) As used in this section:

1551 (a) "Groupwide supervisor" means the chief insurance
1552 regulatory official for the jurisdiction who is determined by
1553 the office to have significant contacts with the international
1554 insurance group sufficient to conduct and coordinate groupwide
1555 supervision activities.

1556 (b) "International insurance group" means an insurance
1557 group operating internationally which includes an insurer.

1558 (2) The office may act as the groupwide supervisor for an
1559 international insurance group in which the ultimate controlling
1560 person of the group is domiciled in this state.

1561 (3) (a) If the ultimate controlling person is domiciled
1562 outside this state, the office, in cooperation with other
1563 groupwide supervisors, may:

1564 1. Determine that the office is the appropriate groupwide
1565 supervisor for an international insurance group with substantial
1566 operations concentrated in this state or in insurance operations
1567 conducted by subsidiary insurance companies domiciled in this
1568 state; or

1569 2. Acknowledge that another chief insurance regulatory
1570 official is the appropriate groupwide supervisor for the
1571 international insurance group.

1572 (b) Before issuing a determination, the office must notify
1573 the insurer and the ultimate controlling person within the
1574 international insurance group and provide the international
1575 insurance group with at least 30 days to submit information
1576 pertinent to the pending determination.

1577 (4) The commission may adopt rules to administer this
1578 section, including rules establishing the criteria for making a
1579 determination under paragraph (3) (a), such as the extent of
1580 insurance operations in this state and nation; the location of
1581 the executive offices, assets and liabilities, and business
1582 operations of the international insurance group; the domicile of
1583 the ultimate controlling person of the international insurance
1584 group; and the similarity of the regulatory systems of other
1585 jurisdictions acting or seeking to act as lead groupwide
1586 supervisor.

1587 Section 14. Effective January 1, 2015, section 628.805,
1588 Florida Statutes, is created to read:

1589 628.805 Supervisory colleges.—In order to assess the
1590 business strategy, financial position, legal and regulatory
1591 position, risk exposure, risk management, and governance
1592 processes, and as part of the examination of individual insurers
1593 in accordance with ss. 628.801 and 624.316, the office may
1594 participate in a supervisory college with other regulators
1595 charged with supervision of the insurer or its affiliates,
1596 including other state, federal, and international regulatory
1597 agencies. In accordance with s. 624.4212 regarding confidential
1598 information sharing, the office may enter into agreements that
1599 provide the basis for cooperation between the office and the
1600 other regulatory agencies and the activities of the supervisory
1601 college. This section does not delegate to the supervisory
1602 college the office's authority to regulate or supervise the
1603 insurer or its affiliates under its jurisdiction.

1604 (1) With respect to participation in a supervisory
1605 college, the office may:

1606 (a) Initiate the establishment of a supervisory college.

1607 (b) Clarify the membership and participation of other
1608 supervisors in the supervisory college.

1609 (c) Clarify the functions of the supervisory college and
1610 the role of other regulators, including the establishment of a
1611 groupwide supervisor.

1612 (d) Coordinate the ongoing activities of the supervisory

1613 college, including planning meetings, supervisory activities,
 1614 and processes for information sharing.

1615 (e) Establish a crisis management plan.

1616 (2) With respect to an insurer registered under s.
 1617 628.801, and in accordance with this section, the office may
 1618 participate in a supervisory college for any domestic insurer
 1619 that is part of an insurance holding company system that has
 1620 international operations in order to determine the insurer's
 1621 compliance with this chapter.

1622 (3) Each registered insurer subject to this section is
 1623 liable for and shall pay reasonable expenses for the office's
 1624 participation in a supervisory college, including reasonable
 1625 travel expenses. A supervisory college may be convened as a
 1626 temporary or permanent forum for communication and cooperation
 1627 between the regulators charged with the supervision of the
 1628 insurer or its affiliates, and the office may impose a regular
 1629 assessment on the insurer for the payment of these expenses.

1630 Section 15. Effective January 1, 2015, subsection (3) is
 1631 added to section 636.045, Florida Statutes, to read:

1632 636.045 Minimum surplus requirements.—

1633 (3) A prepaid limited health service organization that is
 1634 authorized in this state and one or more other states,
 1635 jurisdictions, or countries is subject to ss. 624.4085 and
 1636 624.40851.

1637 Section 16. Effective January 1, 2015, subsection (7) is
 1638 added to section 641.225, Florida Statutes, to read:

1639 641.225 Surplus requirements.—

1640 (7) A health maintenance organization that is authorized
 1641 in this state and one or more other states, jurisdictions, or
 1642 countries is subject to ss. 624.4085 and 624.40851.

1643 Section 17. Effective January 1, 2015, subsection (3) is
 1644 added to section 641.255, Florida Statutes, to read:

1645 641.255 Acquisition, merger, or consolidation.—

1646 (3) A health maintenance organization that is a member of
 1647 a holding company system is subject to s. 628.461 but not s.
 1648 628.4615.

1649 Section 18. Except as otherwise expressly provided in this
 1650 act, this act shall take effect October 1, 2014, if HB 1273 or
 1651 similar legislation is adopted in the same legislative session
 1652 or an extension thereof and becomes law.