

By Senator Simmons

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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       privileges; 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 National Association of Insurance  
22      Commissioner's (NAIC) valuation manual and  
23      incorporating certain provisions included in the  
24      manual; exempting certain documents from civil  
25      proceedings; revising the methods for evaluating the  
26      valuation of industrial life insurance policies;  
27      revising provisions relating to calculating additional  
28      premium; updating provisions relating to reserve  
29      calculations for indeterminate premium plans; creating

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30 s. 625.1212, F.S.; providing for the valuation of  
31 policies and contracts after the adoption of the  
32 NAIC's valuation manual; providing applicability;  
33 defining terms; requiring the office to value insurer  
34 reserves; requiring actuarial opinions of the reserves  
35 and a supporting memorandum to the opinions; requiring  
36 the insurer to apply the standard prescribed in the  
37 valuation manual; providing exceptions; providing  
38 requirements for a principle-based valuation of  
39 reserves; requiring an insurer to submit certain data  
40 to the office; directing the Financial Services  
41 Commission to adopt rules; creating s. 625.1214, F.S.;  
42 providing for the use of confidential information;  
43 prohibiting the use of such information in private  
44 civil actions; amending s. 627.476, F.S.; revising the  
45 Standard Nonforfeiture Law; distinguishing provisions  
46 subject to the valuation manual and providing for the  
47 application of tables found in the manual; amending s.  
48 628.461, F.S.; revising the amount of outstanding  
49 voting 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 Insurance Regulation of  
55 the Financial Services Commission of the acquisition  
56 of the voting securities of a domestic stock company  
57 under certain circumstances; requiring the statement  
58 notifying the office to include additional

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59 information; conforming a provision to changes made by  
60 the act; providing that control is presumed to exist  
61 under certain conditions; specifying how control may  
62 be rebutted and how a controlling interest may be  
63 divested; deleting definitions; amending s. 628.801,  
64 F.S.; requiring an insurer to annually file a  
65 registration statement by a specified date; revising  
66 the requirements and standards for the rules  
67 establishing the information and statement form for  
68 the registration; requiring an insurer to file an  
69 annual enterprise risk report; authorizing the office  
70 to conduct examinations to determine the financial  
71 condition of registrants; providing that failure to  
72 file a registration or report is a violation of the  
73 section; providing additional grounds, requirements,  
74 and conditions with respect to a waiver from the  
75 registration requirements; amending s. 628.803, F.S.;  
76 providing sanctions for persons who violate certain  
77 provisions relating to the acquisition of controlling  
78 stock; creating s. 628.804, F.S.; providing for the  
79 groupwide supervision of international insurance  
80 groups; defining terms; providing for the selection of  
81 a groupwide supervisor; authorizing the commission to  
82 adopt rules; creating s. 628.805, F.S.; authorizing  
83 the office to participate in supervisory colleges;  
84 authorizing the office to assess fees on insurers for  
85 participation; amending ss. 636.045 and 641.225, F.S.;  
86 applying certain statutes related to solvency to  
87 prepaid limited health service organizations and

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88 health maintenance organizations; amending s. 641.255,  
89 F.S.; providing for applicability of specified  
90 provisions to a health maintenance organization that  
91 is a member of a holding company; providing effective  
92 dates and a contingent effective date.

93

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

95

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

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

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

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117 controlled, or held with power to vote, by the other person;

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

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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 of  
152 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 privileges.

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)

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175 (c) Subject to the limitations provided in this subsection,  
176 services, including those listed in the definition of the term  
177 "transact" in s. 624.10, may be provided by the insurer or an  
178 affiliated person as defined in s. 624.04 under common ownership  
179 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 that  
193 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

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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



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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

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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:

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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 or admissible in evidence in a private civil action.  
312 Neither the office nor any person who received documents,  
313 materials, or other information while acting under the authority  
314 of the office, or with whom such information is shared pursuant  
315 to s. 624.4212, may testify in a private civil action concerning  
316 such confidential information. However, the department or office  
317 may use the confidential and exempt information in the  
318 furtherance of any regulatory or legal action brought against an  
319 insurer as a part of the official duties of the department or

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320 office. No waiver of any other applicable claim of  
321 confidentiality or privilege may occur as a result of a  
322 disclosure to the office under this section or any other section  
323 of the insurance code. This paragraph does not apply to life and  
324 health insurers subject to s. 625.121(3).

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

329 (8)

330 (e) The commission shall adopt rules to administer  
331 ~~implement~~ this subsection, which ~~rules~~ must be in substantial  
332 conformity with the 2006 Annual Financial Reporting Model  
333 ~~Regulation 1998 Model Rule requiring annual audited financial~~  
334 ~~reports~~ adopted by the NAIC National Association of Insurance  
335 ~~Commissioners~~ or subsequent amendments, except where  
336 inconsistent with the requirements of this subsection. Any  
337 exception to, waiver of, or interpretation of accounting  
338 requirements of the commission must be in writing and signed by  
339 an authorized representative of the office. An ~~No~~ insurer may  
340 not raise an ~~as a defense in any action, any~~ exception to,  
341 waiver of, or interpretation of accounting requirements as a  
342 defense in an action, unless previously issued in writing by an  
343 authorized representative of the office.

344 (11) Each insurer doing business in this state which  
345 reinsures through a captive insurance company as defined in s.  
346 628.901, but without regard to domiciliary status, shall, in  
347 conjunction with the annual financial statement required under  
348 paragraph (1) (a), file a report with the office containing

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349 financial information specific to reinsurance assumed by each  
 350 captive.

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

354 (b) Insurers must:

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

360 2. Disclose the assets of the captive in the format  
 361 prescribed in the NAIC annual statement schedules.

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

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

370 625.121 Standard Valuation Law; life insurance.—

371 (2) ANNUAL VALUATION.—The office shall annually value, or  
 372 cause to be valued, the reserves ~~reserve liabilities,~~  
 373 ~~hereinafter called "reserves,"~~ for all outstanding life  
 374 insurance policies and annuity and pure endowment contracts of  
 375 each every life insurer doing business in this state, ~~and may~~  
 376 ~~certify the amount of any such reserves, specifying the~~  
 377 ~~mortality table or tables, rate or rates of interest, and~~

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378 ~~methods, net level premium method or others, used in the~~  
379 ~~calculation of such reserves.~~ In the case of an alien insurer,  
380 such valuation is ~~shall be~~ limited to its insurance transactions  
381 in the United States. In calculating ~~such~~ reserves, the office  
382 may use group methods and approximate averages for fractions of  
383 a year or otherwise, and. ~~It may accept in its discretion the~~  
384 insurer's calculation of such reserves. In lieu of the valuation  
385 of the reserves ~~herein~~ required of a ~~any~~ foreign or alien  
386 insurer, the office ~~it~~ may accept any valuation made or caused  
387 to be made by the insurance supervisory official of any state or  
388 other jurisdiction if the ~~when such~~ valuation complies with the  
389 minimum standard ~~herein~~ provided under this section ~~and if the~~  
390 ~~official of such state or jurisdiction accepts as sufficient and~~  
391 ~~valid for all legal purposes the certificate of valuation of the~~  
392 ~~office when such certificate states the valuation to have been~~  
393 ~~made in a specified manner according to which the aggregate~~  
394 ~~reserves would be at least as large as if they had been computed~~  
395 ~~in the manner prescribed by the law of that state or~~  
396 ~~jurisdiction.~~ If a ~~When any such~~ valuation is made by the  
397 office, the office ~~it~~ may use its ~~the~~ actuary ~~of the office~~ or  
398 employ an actuary for that ~~the~~ purpose; and the reasonable  
399 compensation of the actuary, at a rate approved by the office,  
400 plus ~~and~~ reimbursement of travel expenses pursuant to s. 624.320  
401 ~~upon demand by the office,~~ supported by an itemized statement of  
402 such compensation and expenses, shall be paid by the insurer  
403 upon demand of the office. If ~~When~~ a domestic insurer furnishes  
404 the office with a valuation of its outstanding policies as  
405 computed by its own actuary or by an actuary deemed satisfactory  
406 for that ~~the~~ purpose by the office, the valuation shall be

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407 verified by the actuary of the office without cost to the  
408 insurer. This section applies to the calculation of reserves for  
409 policies and contracts not subject to s. 625.1212.

410 (3) ACTUARIAL OPINION OF RESERVES.—

411 (a)~~1.~~ Each life insurer ~~insurance company~~ doing business in  
412 this state shall annually submit the opinion of a qualified  
413 actuary as to whether the reserves and related actuarial items  
414 held in support of the policies and contracts specified by the  
415 commission by rule are computed appropriately, are based on  
416 assumptions that ~~which~~ satisfy contractual provisions, are  
417 consistent with prior reported amounts, and comply with  
418 applicable laws of this state. The commission by rule shall  
419 define the specifics of this opinion and add any other items  
420 determined ~~to be~~ necessary to its scope.

421 ~~1.2.~~ The opinion shall be submitted with the annual  
422 statement and must reflect ~~reflecting~~ the valuation of such  
423 reserve liabilities for each year ending on or before ~~after~~  
424 December 31 of the year before the operative date of the  
425 valuation manual as defined in s. 625.1212(2), and in accordance  
426 with s. 625.1212(4) for each year thereafter, ~~1992.~~

427 ~~2.3.~~ The opinion applies ~~shall apply~~ to all business in  
428 force, including individual and group health insurance plans, in  
429 the form and substance acceptable to the office as specified by  
430 rule of the commission.

431 ~~3.4.~~ The commission may adopt rules providing the standards  
432 of the actuarial opinion consistent with standards adopted by  
433 the Actuarial Standards Board on December 31, 2013 ~~2002~~, and  
434 subsequent revisions thereto if, ~~provided that~~ the standards  
435 remain substantially consistent.

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436 ~~4.5. In the case of an opinion required to be submitted by~~  
437 ~~a foreign or alien company,~~ The office may accept an the opinion  
438 filed by a foreign or alien insurer ~~that company~~ with the  
439 insurance supervisory official of another state if the office  
440 determines that the opinion reasonably meets the requirements  
441 applicable to an insurer ~~a company~~ domiciled in this state.

442 ~~5.6. As used in~~ For the purposes of this subsection, the  
443 term "qualified actuary" means a member in good standing of the  
444 American Academy of Actuaries who also meets the requirements  
445 specified by rule of the commission.

446 ~~6.7.~~ Disciplinary action by the office against the insurer  
447 ~~company~~ or the qualified actuary shall be in accordance with the  
448 insurance code and related rules adopted by the commission.

449 ~~7.8.~~ A memorandum in the form and substance specified by  
450 rule shall be prepared to support each actuarial opinion.

451 ~~8.9.~~ If the insurer ~~insurance company~~ fails to provide a  
452 supporting memorandum at the request of the office within a  
453 period specified by rule of the commission, or if the office  
454 determines that the supporting memorandum provided by the  
455 insurer ~~insurance company~~ fails to meet the standards prescribed  
456 by rule of the commission, the office may engage a qualified  
457 actuary at the expense of the insurer ~~company~~ to review the  
458 opinion and the basis for the opinion and prepare such  
459 supporting memorandum as ~~is~~ required by the office.

460 ~~9.10.~~ Except as otherwise provided in this subparagraph  
461 ~~paragraph,~~ any memorandum or other material in support of the  
462 opinion is confidential and exempt from ~~the provisions of~~ s.  
463 119.07(1) and is not subject to subpoena or discovery or  
464 admissible in evidence in any private civil action; however, the



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

490 (b) In addition to the opinion required by paragraph (a)  
491 ~~subparagraph (a)1.~~, the office may, pursuant to commission rule,  
492 require an opinion of the same qualified actuary as to whether  
493 the reserves and related actuarial items held in support of the

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

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

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

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

530 2. For policies issued on or after the operative date of s.  
531 627.476(9), the ~~commissioners'~~ 1980 Standard Ordinary Mortality  
532 Table adopted by the NAIC or, at the election of the insurer for  
533 any one or more specified plans of life insurance, the  
534 ~~commissioners'~~ 1980 Standard Ordinary Mortality Table with Ten-  
535 Year Select Mortality Factors adopted by the NAIC.

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

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

544 1. For policies issued before ~~prior to~~ the first date ~~to~~  
545 ~~which~~ the ~~commissioners'~~ 1961 Standard Industrial Mortality  
546 Table adopted by the NAIC is applicable according to s. 627.476,  
547 the 1941 Standard Industrial Mortality Table; ~~and~~

548 2. For ~~such~~ policies issued on or after that date, the  
549 ~~commissioners'~~ 1961 Standard Industrial Mortality Table adopted  
550 by the NAIC; and.

551 3. For policies issued on or after October 1, 2014, an

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552 Industrial Mortality Table adopted after 1980 by the NAIC which  
553 is adopted by rule of the commission for use in determining the  
554 minimum standard of valuation for such policies.

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

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

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

570 1. For policies or contracts issued on or after January 1,  
571 1966, the tables of period 2 disablement rates and the 1930 to  
572 1950 termination rates of the 1952 disability study of the  
573 Society of Actuaries, with due regard to the type of benefit;

574 2. For policies or contracts issued on or after January 1,  
575 1961, and before ~~prior to~~ January 1, 1966, either of the tables  
576 specified in subparagraph 1. ~~those tables~~ or, at the option of  
577 the insurer, the class three disability table (1926);

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

580 4. For policies or contracts issued on or after July 1,

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581 2004, tables of disablement rates and termination rates adopted  
582 after 1980 by the NAIC ~~National Association of Insurance~~  
583 ~~Commissioners~~, adopted by rule by the commission for use in  
584 determining the minimum standard of valuation for those policies  
585 or contracts.

586  
587 Any such table for active lives shall be combined with a  
588 mortality table permitted for calculating the reserves for life  
589 insurance policies.

590 (f) For accidental death benefits in or supplementary to  
591 policies:

592 1. For policies issued on or after January 1, 1966, the  
593 1959 Accidental Death Benefits Table;

594 2. For policies issued on or after January 1, 1961, and  
595 before ~~prior to~~ January 1, 1966, the 1959 Accidental Death  
596 Benefits ~~either that~~ Table or, at the option of the insurer, the  
597 Intercompany Double Indemnity Mortality Table;

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

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

605  
606 Either table shall be combined with a mortality table permitted  
607 for calculating the reserves for life insurance policies.

608 (g) For group life insurance, life insurance issued on the  
609 substandard basis, and other special benefits, such tables as

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610 may be approved by the office as being sufficient with relation  
611 to the benefits provided by such policies.

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

620 1. For individual annuity and pure endowment contracts  
621 issued before ~~prior to~~ October 1, 1979, excluding any disability  
622 and accidental death benefits in such contracts, the 1971  
623 Individual Annuity Mortality Table, or any modification of this  
624 table approved by the office, and 6 percent interest for single-  
625 premium immediate annuity contracts and 4 percent interest for  
626 all other individual annuity and pure endowment contracts.

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

637 3. For individual annuity and pure endowment contracts  
638 issued on or after October 1, 1979, and before ~~prior to~~ October

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639 1, 1986, other than single-premium immediate annuity contracts,  
640 excluding any disability and accidental death benefits in such  
641 contracts, the 1971 Individual Annuity Mortality Table, or any  
642 modification of this table approved by the office, and 5.5  
643 percent interest for single-premium deferred annuity and pure  
644 endowment contracts and 4.5 percent interest for all other such  
645 individual annuity and pure endowment contracts. For such  
646 contracts issued on or after October 1, 1986, the 1983  
647 Individual Annual Mortality Table, or any modification of such  
648 table approved by the office, and the applicable calendar year  
649 statutory valuation interest rate as described in subsection  
650 (6).

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

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

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669 After July 1, 1973, an ~~any~~ insurer may have filed with the  
670 former Department of Insurance a written notice of its election  
671 to comply with ~~the provisions of~~ this paragraph after a  
672 specified date before January 1, 1979, which shall be the  
673 operative date of this paragraph for such insurer. However, an  
674 insurer may elect a different operative date for individual  
675 annuity and pure endowment contracts from that elected for group  
676 annuity and pure endowment contracts. If an insurer does not  
677 make ~~makes no~~ such election, the operative date of this  
678 paragraph for such insurer is ~~shall be~~ January 1, 1979.

679

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

683

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

687

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

690

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

694

695 4. Use the 1994 GAR Table for determining the minimum  
696 standard of valuation for annuities and pure endowments  
697 purchased on or after January 1, 1998, and before July 1, 1998,



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697 under group annuity and pure endowment contracts.

698 (j) The commission may adopt by rule the model regulation  
699 for valuation of life insurance policies as approved by the NAIC  
700 ~~National Association of Insurance Commissioners~~ in March 1999,  
701 including tables of select mortality factors, and may make the  
702 regulation effective for policies issued on or after January 1,  
703 2000.

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

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

719 (6) MINIMUM STANDARD OF VALUATION.—

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

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

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

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

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755 contract, or the actual method used for the policy or contract  
756 but using the minimum valuation standards of mortality and rate  
757 of interest and replacing the valuation net premium by the  
758 actual gross premium in each contract year for which the  
759 valuation net premium exceeds the actual gross premium. The  
760 minimum valuation standards of mortality and rate of interest  
761 are those standards ~~there shall be maintained on such policy or~~  
762 ~~contract a deficiency reserve in addition to the reserve defined~~  
763 ~~by subsections (4), (5), and (6) (7) and (12). For each such~~  
764 ~~policy or contract, the deficiency reserve shall be the present~~  
765 ~~value, according to the minimum valuation standards of mortality~~  
766 ~~and rate of interest, of the differences between all such~~  
767 ~~valuation net premiums and the corresponding premiums charged~~  
768 ~~for such policy or contract during the remainder of the premium-~~  
769 ~~paying period. For any category of policies, contracts, or~~  
770 ~~benefits specified in subsections (5) and (6), issued on or~~  
771 ~~after the operative date of s. 627.476 (the Standard~~  
772 ~~Nonforfeiture Law for Life Insurance), the aggregate deficiency~~  
773 ~~reserves may be reduced by the amount, if any, by which the~~  
774 ~~aggregate reserves actually calculated in accordance with~~  
775 ~~subsection (9) exceed the minimum aggregate reserves prescribed~~  
776 ~~by subsection (8). The minimum valuation standards of mortality~~  
777 ~~and rate of interest referred to in this subsection are those~~  
778 ~~standards stated in subsections (5) and (6). However, For any~~  
779 ~~life insurance policy that which is issued on or after January~~  
780 ~~1, 1985, for which the gross premium in the first policy year~~  
781 ~~exceeds that of the second year and for which no comparable~~  
782 ~~additional benefit is provided in the first year for such~~  
783 ~~excess, and which provides an endowment benefit, a cash~~

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784 surrender value, or a combination thereof in an amount greater  
 785 than such excess premium, the foregoing provisions of this  
 786 subsection shall be applied as if the method actually used in  
 787 calculating the reserve for such policy were the method  
 788 described in subsection (7), the provisions of subparagraph  
 789 (7) (a)2. being ignored. The minimum premium reserve amount ~~of~~  
 790 ~~the deficiency reserve~~, if any, at each policy anniversary of  
 791 such a policy is ~~shall be~~ the excess, if any, of the amount  
 792 determined by the foregoing provisions of this subsection plus  
 793 the reserve calculated by the method described in subsection  
 794 (7), the provisions of subparagraph (7) (a)2. being ignored, over  
 795 the reserve actually calculated by the method described in  
 796 subsection (7), the provisions of subparagraph (7) (a)2. being  
 797 taken into account.

798 (12) RESERVE CALCULATION FOR INDETERMINATE PREMIUM PLANS  
 799 ~~ALTERNATE METHOD FOR DETERMINING RESERVES IN CERTAIN CASES.~~—In  
 800 the case of a ~~any~~ plan of life insurance which provides for  
 801 future premium determination, the amounts of which are to be  
 802 determined by the insurer based on then estimates of future  
 803 experience, or in the case of a ~~any~~ plan of life insurance or  
 804 annuity for ~~which is of such a nature that~~ the minimum reserves  
 805 cannot be determined by the methods described in subsections (7)  
 806 and (11) ~~subsection (7)~~, the reserves that ~~which~~ are held under  
 807 any such plan must ~~shall~~:

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

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

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813 Section 7. Section 625.1212, Florida Statutes, is created  
814 to read:

815 625.1212 Valuation of policies and contracts issued on or  
816 after the operative date of the valuation manual.-

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

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

827 (a) "Accident and health insurance" means contracts that  
828 incorporate morbidity risk and provide protection against  
829 economic loss resulting from accident, sickness, or medical  
830 conditions and as may be specified in the valuation manual.

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

834 (c) "Deposit-type contract" means contracts that do not  
835 incorporate mortality or morbidity risks and as may be specified  
836 in the valuation manual.

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

840 (e) "Life insurance" means policies or contracts that  
841 incorporate mortality risk, including annuity and pure endowment

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842 contracts, and as may be specified in the valuation manual.

843 (f) "Operative date of the valuation manual" means the  
844 latter of January 1, 2017, or the first January 1 following the  
845 first July 1 that the Commissioner of the Office of Insurance  
846 Regulation certifies to the Financial Services Commission in  
847 writing that:

848 1. The valuation manual is adopted by the NAIC by an  
849 affirmative vote of at least 42 members of the NAIC or 75  
850 percent of members voting, whichever is greater;

851 2. The Standard Valuation Law, as amended by the NAIC in  
852 2009, or substantially similar legislation, is enacted in states  
853 representing more than 75 percent of the direct premiums written  
854 as reported in the 2008 annual statements for life, accident and  
855 health, health, or fraternal society insurance; and

856 3. The Standard Valuation Law as amended by the NAIC in  
857 2009, or substantially similar legislation, is enacted in at  
858 least 42 of the following 55 jurisdictions: the 50 states of the  
859 United States, the District of Columbia, American Samoa, the  
860 American Virgin Islands, Guam, and Puerto Rico.

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

870 (h) "Principle-based valuation" means a reserve valuation

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871 that uses one or more methods or assumptions determined by the  
872 insurer and must comply with subsection (6) as specified in the  
873 valuation manual.

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

880 (j) "Tail risk" means a risk that occurs when the frequency  
881 of low probability events is higher than expected under a normal  
882 probability distribution or when there are observed events of  
883 very significant size or magnitude.

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

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

896 (4) ACTUARIAL OPINION OF RESERVES.—

897 (a) Each insurer that has outstanding life insurance  
898 contracts, accident and health insurance contracts, or deposit-  
899 type contracts in this state which are subject to regulation by

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900 the office must annually submit the opinion of a qualified  
901 actuary as to whether the reserves and related actuarial items  
902 held in support of the policies and contracts are computed  
903 appropriately, are based on assumptions that satisfy contractual  
904 provisions, are consistent with prior reported amounts, and  
905 comply with applicable state law. The specifics of the opinion,  
906 including any items deemed necessary to its scope, must be as  
907 prescribed by the valuation manual.

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

923 (c) The insurer shall prepare a memorandum to support each  
924 actuarial opinion in such form and substance as specified in the  
925 valuation manual and acceptable to the office. If the insurer  
926 fails to provide a supporting memorandum within the period  
927 specified in the valuation manual, or if the office determines  
928 that the supporting memorandum fails to meet the standards



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929 required by the manual or is otherwise unacceptable to the  
930 office, the office may engage a qualified actuary at the expense  
931 of the insurer to review the opinion and the basis for the  
932 opinion and to prepare the supporting memorandum.

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

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

951 (5) MINIMUM STANDARD OF VALUATION.—

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

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

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958       2. That an insurer domiciled in a state that does not  
959 require the insurer to apply the standards prescribed in the  
960 valuation manual as the minimum standard of valuation, including  
961 the principle-based valuation of reserves, may not apply such  
962 standards in this state.

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

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

984       (d) The office may require an insurer to change any  
985 assumption or method that, in the opinion of the office, is  
986 necessary to comply with the valuation manual or this section.

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987 The insurer shall adjust the reserves as required by the office.  
988 The office may take other disciplinary action pursuant to  
989 applicable state law and rules.

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

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

1004 (g) An insurer that adopted a standard of valuation  
1005 producing greater aggregate reserves than those calculated  
1006 according to the minimum standard provided under this section  
1007 may, with the approval of the office, adopt a lower standard of  
1008 valuation, but such standard may not be lower than the minimum  
1009 provided in this subsection. For purposes of this subsection,  
1010 holding additional reserves previously determined by an  
1011 appointed actuary to be necessary to render the opinion required  
1012 by subsection (3) may not be deemed to be the adoption of a  
1013 higher standard of valuation.

1014 (6) REQUIREMENTS OF A PRINCIPLE-BASED VALUATION OF  
1015 RESERVES.—

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1016 (a) Insurers required to use a principle-based valuation of  
1017 reserves for specified product forms and product lines and  
1018 associated policies and contracts, pursuant to subparagraph  
1019 (5) (a)2., must:

1020 1. Quantify the benefits and guarantees, and the funding  
1021 associated with the policies or contracts and their risks at a  
1022 level of conservatism that reflects conditions that:

1023 a. Include unfavorable events that have a reasonable  
1024 probability of occurring during the lifetime of the policies or  
1025 contracts; and

1026 b. Are appropriately adverse to quantifying the tail risk.

1027 2. Incorporate assumptions, risk analysis methods, and  
1028 financial models and management techniques that are consistent  
1029 with, but not necessarily identical to, those used within the  
1030 insurer's overall risk assessment process while recognizing  
1031 potential differences in financial reporting structures and any  
1032 prescribed assumptions or methods.

1033 3. Incorporate assumptions that are derived in one of the  
1034 following manners:

1035 a. The assumption is prescribed in the valuation manual.

1036 b. For assumptions that are not prescribed, the assumptions  
1037 must:

1038 (I) Be established using the insurer's available  
1039 experience, to the extent that it is relevant and statistically  
1040 credible; or

1041 (II) To the extent that insurer data is not available,  
1042 relevant, or statistically credible, be established using other  
1043 relevant, statistically credible experience.

1044 4. Provide margins for uncertainty including adverse

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1045 deviation and estimation error, such that the greater the  
1046 uncertainty the larger the margin and resulting reserve.

1047 (b) An insurer using a principle-based valuation for one or  
1048 more policies or contracts subject to this section as specified  
1049 in the valuation manual shall:

1050 1. Establish procedures for corporate governance and  
1051 oversight of the actuarial valuation function consistent with  
1052 those prescribed in the valuation manual.

1053 2. Submit an annual certification to the office and the  
1054 insurer's board of directors of the effectiveness of internal  
1055 controls on the principle-based valuation. The internal controls  
1056 must be designed to assure that all material risks inherent in  
1057 the liabilities and associated assets subject to the valuation  
1058 are included in the valuation, and that valuations are made in  
1059 accordance with the valuation manual. The certification must be  
1060 based on controls in place as of the end of the preceding  
1061 calendar year.

1062 3. Upon request, develop and file with the office a  
1063 principle-based valuation report that complies with standards  
1064 prescribed in the valuation manual.

1065 (c) A principle-based valuation may include a prescribed  
1066 formulaic reserve component.

1067 (7) EXPERIENCE REPORTING.—An insurer subject to the  
1068 requirements of paragraph (5)(d) shall submit mortality,  
1069 morbidity, policyholder behavior, or expense experience and  
1070 other data as prescribed in the valuation manual to the office.

1071 (8) RULE ADOPTION.—The commission may adopt rules as  
1072 necessary to administer this section, including rules requiring  
1073 the use of the NAIC 2009 Standard Valuation Law and the NAIC

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1074 2012 Valuation Manual. The adoption of such rules is not subject  
1075 to s. 120.541(3), and the rules do not take effect until the  
1076 operative date of the valuation manual.

1077 Section 8. Section 625.1214, Florida Statutes, is created  
1078 to read:

1079 625.1214 Use of confidential information.—

1080 (1) Documents, reports, materials, and other information  
1081 created, produced, or obtained pursuant to ss. 625.121 and  
1082 625.1212 are privileged, confidential, and exempt as provided in  
1083 s. 624.4212, and are not subject to subpoena or discovery, or  
1084 admissible in evidence in any private civil action. However, the  
1085 department or office may use the confidential and exempt  
1086 information in the furtherance of any regulatory or legal action  
1087 brought against an insurer as a part of the official duties of  
1088 the department or office. A waiver of any other applicable claim  
1089 of confidentiality or privilege may not occur as a result of a  
1090 disclosure to the office under this section, any other section  
1091 of the insurance code, or as a result of sharing under s.  
1092 624.4212.

1093 (2) Neither the office nor any person who received  
1094 confidential and exempt information while acting under the  
1095 authority of the office or with whom such information is shared  
1096 pursuant to s. 624.4212 may be permitted or required to testify  
1097 in a private civil action concerning any confidential and exempt  
1098 information subject to s. 624.4212. If any portion of the  
1099 confidential memorandum is cited by the insurer in its  
1100 marketing, is cited before a governmental agency other than a  
1101 state insurance department, or is released by the insurer to the  
1102 news media, no portion of the memorandum is confidential.

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1103       (3) A privilege established under the law of any state or  
1104 jurisdiction that is substantially similar to the privilege  
1105 established under subsection (1) shall be available and enforced  
1106 in any proceeding in and in any court of this state.

1107       Section 9. Paragraphs (h) and (i) of subsection (9) and  
1108 subsection (14) of section 627.476, Florida Statutes, are  
1109 amended to read:

1110       627.476 Standard Nonforfeiture Law for Life Insurance.—

1111       (9) CALCULATION OF ADJUSTED PREMIUMS AND PRESENT VALUES FOR  
1112 POLICIES ISSUED AFTER OPERATIVE DATE OF THIS SUBSECTION.—

1113       (h) All adjusted premiums and present values referred to in  
1114 this section shall, for all policies of ordinary insurance be  
1115 calculated on the basis of the ~~Commissioners'~~ 1980 Standard  
1116 Ordinary Mortality Table adopted by the NAIC or, at the election  
1117 of the insurer for any one or more specified plans of life  
1118 insurance, the ~~Commissioners'~~ 1980 Standard Ordinary Mortality  
1119 Table with Ten-Year Select Mortality Factors adopted by the  
1120 NAIC; ~~shall~~ for all policies of industrial insurance be  
1121 calculated on the basis of the ~~Commissioners'~~ 1961 Standard  
1122 Industrial Mortality Table adopted by the NAIC; and ~~shall~~ for  
1123 all policies issued in a particular calendar year be calculated  
1124 on the basis of a rate of interest not exceeding the  
1125 nonforfeiture interest rate as defined in this subsection for  
1126 policies issued in that calendar year. However:

1127       1. At the option of the insurer, calculations for all  
1128 policies issued in a particular calendar year may be made on the  
1129 basis of a rate of interest not exceeding the nonforfeiture  
1130 interest rate, as defined in this subsection, for policies  
1131 issued in the immediately preceding calendar year.

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1132           2. Under any paid-up nonforfeiture benefit, including any  
1133 paid-up dividend additions, any cash surrender value available,  
1134 whether ~~or not~~ required by subsection (2), shall be calculated  
1135 on the basis of the mortality table and rate of interest used in  
1136 determining the amount of such paid-up nonforfeiture benefit and  
1137 paid-up dividend additions, if any.

1138           3. An insurer may calculate the amount of any guaranteed  
1139 paid-up nonforfeiture benefit, including any paid-up additions  
1140 under the policy, on the basis of an interest rate no lower than  
1141 that specified in the policy for calculating cash surrender  
1142 values.

1143           4. In calculating the present value of any paid-up term  
1144 insurance with accompanying pure endowment, if any, offered as a  
1145 nonforfeiture benefit, the rates of mortality assumed may be not  
1146 more than those shown in the ~~Commissioners'~~ 1980 Extended Term  
1147 Insurance Table adopted by the NAIC for policies of ordinary  
1148 insurance and not more than the ~~Commissioners'~~ 1961 Industrial  
1149 Extended Term Insurance Table adopted by the NAIC for policies  
1150 of industrial insurance.

1151           5. In lieu of the mortality tables specified in this  
1152 section, at the option of the insurance company and subject to  
1153 rules adopted by the commission, the insurance company may  
1154 substitute:

1155           a. The 1958 CSO or CET Smoker and Nonsmoker Mortality  
1156 Tables, whichever is applicable, for policies issued on or after  
1157 the operative date of this subsection and before January 1,  
1158 1989;

1159           b. The 1980 CSO or CET Smoker and Nonsmoker Mortality  
1160 Tables, whichever is applicable, for policies issued on or after



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1161 the operative date of this subsection;

1162 c. A mortality table that is a blend of the sex-distinct  
1163 1980 CSO or CET mortality table standard, whichever is  
1164 applicable, or a mortality table that is a blend of the sex-  
1165 distinct 1980 CSO or CET smoker and nonsmoker mortality table  
1166 standards, whichever is applicable, for policies that are  
1167 subject to the United States Supreme Court decision in *Arizona*  
1168 *Governing Committee v. Norris* to prevent unfair discrimination  
1169 in employment situations.

1170 6. For policies issued:

1171 a. Before the operative date of the valuation manual,  
1172 ordinary mortality tables, adopted after 1980 by the NAIC  
1173 ~~National Association of Insurance Commissioners~~, adopted by rule  
1174 by the commission for use in determining the minimum  
1175 nonforfeiture standard may be substituted for the ~~Commissioners'~~  
1176 1980 Standard Ordinary Mortality Table with or without Ten-Year  
1177 Select Mortality Factors or ~~for the Commissioners'~~ 1980 Extended  
1178 Term Insurance Table adopted by the NAIC.

1179 b. On or after the operative date of the valuation manual,  
1180 the valuation manual shall provide the Standard Mortality Table  
1181 for use in determining the minimum nonforfeiture standard that  
1182 may be substituted for:

1183 (I) The 1980 Standard Ordinary Mortality Table with or  
1184 without 10-Year Select Mortality Factors or the 1980 Extended  
1185 Term Insurance Table adopted by the NAIC. If the commission  
1186 approves by rule a Standard Ordinary Mortality Table adopted by  
1187 the NAIC for use in determining the minimum nonforfeiture  
1188 standard for policies issued on or after the operative date of  
1189 the valuation manual, the minimum nonforfeiture standard

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1190 supersedes the minimum nonforfeiture standard provided by the  
1191 valuation manual.

1192 (II) The 1961 Standard Industrial Mortality Table or 1961  
1193 Industrial Extended Term Insurance Table adopted by the NAIC. If  
1194 the commission approves by rule any Standard Industrial  
1195 Mortality Table adopted by the NAIC for use in determining the  
1196 minimum nonforfeiture standard for policies issued on or after  
1197 the operative date of the valuation manual, the minimum  
1198 nonforfeiture standard supersedes the minimum nonforfeiture  
1199 standard provided by the valuation manual.

1200 7. For insurance issued on a substandard basis, the  
1201 calculation of any such adjusted premiums and present values may  
1202 be based on appropriate modifications of the aforementioned  
1203 tables.

1204 (i) The nonforfeiture interest rate per year for a any  
1205 policy issued in a particular calendar year for policies issued:

1206 1. Before the operative date of the valuation manual, shall  
1207 be equal to 125 percent of the calendar year statutory valuation  
1208 interest rate for such policy as defined in the Standard  
1209 Valuation Law, rounded to the nearest one-fourth of 1 percent;  
1210 however, the nonforfeiture interest rate may not be less than 4  
1211 percent.

1212 2. On or after the operative date of the valuation manual,  
1213 shall be as provided by the valuation manual.

1214 (14) OPERATIVE DATE.—

1215 (a) After the effective date of this code, an any insurer  
1216 may file with the office a written notice or notices of its  
1217 election to comply with ~~the provisions of~~ this section on and  
1218 after a specified date or dates before January 1, 1966, as to

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1219 either or both of its policies of ordinary and industrial  
1220 insurance, in which case such specified date or dates shall be  
1221 the operative date of this section with respect to such  
1222 policies. The operative date of this section for policies of  
1223 both ordinary and industrial insurance shall be the earlier of  
1224 January 1, 1966, and any prior operative date or dates resulting  
1225 from such previously filed written notices. With respect to  
1226 policies of industrial insurance issued on and after the  
1227 operative date of this section for such policies but before  
1228 January 1, 1968, any insurer may file with the office written  
1229 notice of its election to have the ~~Commissioners'~~ 1961 Standard  
1230 Industrial Mortality Table and ~~the Commissioners'~~ 1961  
1231 Industrial Extended Term Insurance Table adopted by the NAIC  
1232 applicable with respect to subsection (8) for policies issued on  
1233 and after the date specified in such election.

1234 (b) As used in subsection (9), the term "operative date of  
1235 the valuation manual" has the same meaning as provided in s.  
1236 625.1212(2).

1237 Section 10. Subsections (1), (3), (10), (12), and (13) of  
1238 section 628.461, Florida Statutes, are amended to read:

1239 628.461 Acquisition of controlling stock.—

1240 (1) A person may not, individually or in conjunction with  
1241 any affiliated person of such person, acquire directly or  
1242 indirectly, conclude a tender offer or exchange offer for, enter  
1243 into any agreement to exchange securities for, or otherwise  
1244 finally acquire 10 ~~5~~ percent or more of the outstanding voting  
1245 securities of a domestic stock insurer or of a controlling  
1246 company, unless:

1247 (a) The person or affiliated person has filed with the

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1248 office and sent to the insurer and controlling company a letter  
1249 of notification regarding the transaction or proposed  
1250 transaction within ~~no later than~~ 5 days after any form of tender  
1251 offer or exchange offer is proposed, or within ~~no later than~~ 5  
1252 days after the acquisition of the securities if no tender offer  
1253 or exchange offer is involved. The notification must be provided  
1254 on forms prescribed by the commission containing information  
1255 determined necessary to understand the transaction and identify  
1256 all purchasers and owners involved;

1257 (b) The person or affiliated person has filed with the  
1258 office the ~~a~~ statement as specified in subsection (3). The  
1259 statement must be completed and filed within 30 days after:

1260 1. Any definitive acquisition agreement is entered;  
1261 2. Any form of tender offer or exchange offer is proposed;  
1262 or

1263 3. The acquisition of the securities, if no definitive  
1264 acquisition agreement, tender offer, or exchange offer is  
1265 involved; and

1266 (c) The office has approved the tender or exchange offer,  
1267 or acquisition if no tender offer or exchange offer is involved,  
1268 and approval is in effect.

1269  
1270 ~~In lieu of a filing as required under this subsection, a party~~  
1271 ~~acquiring less than 10 percent of the outstanding voting~~  
1272 ~~securities of an insurer may file a disclaimer of affiliation~~  
1273 ~~and control. The disclaimer shall fully disclose all material~~  
1274 ~~relationships and basis for affiliation between the person and~~  
1275 ~~the insurer as well as the basis for disclaiming the affiliation~~  
1276 ~~and control. After a disclaimer has been filed, the insurer~~

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

1286 (3) The statement to be filed with the office under  
1287 subsection (1) and furnished to the insurer and controlling  
1288 company must ~~shall~~ contain all the following information and any  
1289 additional information that ~~as~~ the office deems necessary to  
1290 determine the character, experience, ability, and other  
1291 qualifications of the person or affiliated person of such person  
1292 for the protection of the policyholders and shareholders of the  
1293 insurer and the public:

1294 (a) The identity of, and the background information  
1295 specified in subsection (4) on, each natural person by whom, or  
1296 on whose behalf, the acquisition is to be made; and, if the  
1297 acquisition is to be made by, or on behalf of, a corporation,  
1298 association, or trust, as to the corporation, association, or  
1299 trust and as to any person who controls, either ~~either~~ directly or  
1300 indirectly, the corporation, association, or trust, the identity  
1301 of, and the background information specified in subsection (4)  
1302 on, each director, officer, trustee, or other natural person  
1303 performing duties similar to those of a director, officer, or  
1304 trustee for the corporation, association, or trust. †

1305 (b) The source and amount of the funds or other

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1306 consideration used, or to be used, in making the acquisition.~~†~~

1307 (c) Any plans or proposals that ~~which~~ such persons may have  
1308 made to liquidate such insurer, to sell any of its assets or  
1309 merge or consolidate it with any person, or to make any other  
1310 major change in its business or corporate structure or  
1311 management; and any plans or proposals that ~~which~~ such persons  
1312 may have made to liquidate any controlling company of such  
1313 insurer, to sell any of its assets or merge or consolidate it  
1314 with any person, or to make any other major change in its  
1315 business or corporate structure or management.~~†~~

1316 (d) The number of shares or other securities that ~~which~~ the  
1317 person or affiliated person of such person proposes to acquire,  
1318 the terms of the proposed acquisition, and the manner in which  
1319 the securities are to be acquired.~~†~~ ~~and~~

1320 (e) Information as to any contract, arrangement, or  
1321 understanding with any party with respect to any of the  
1322 securities of the insurer or controlling company, including, but  
1323 not limited to, information relating to the transfer of any of  
1324 the securities, option arrangements, puts or calls, or the  
1325 giving or withholding of proxies, which information names the  
1326 party with whom the contract, arrangement, or understanding has  
1327 been entered into and gives the details thereof.

1328 (f) Effective January 1, 2015, an agreement by the person  
1329 required to file the statement that the person will provide the  
1330 annual report specified in s. 628.801(2) if control exists.

1331 (g) Effective January 1, 2015, an acknowledgement by the  
1332 person required to file the statement that the person and all  
1333 subsidiaries within the person's control in the insurance  
1334 holding company system will provide, as necessary, information

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1335 to the office upon request to evaluate enterprise risk to the  
1336 insurer.

1337 (10) Upon notification to the office by the domestic stock  
1338 insurer or a controlling company that any person or any  
1339 affiliated person of such person has acquired 10 ~~5~~ percent or  
1340 more of the outstanding voting securities of the domestic stock  
1341 insurer or controlling company without complying with the  
1342 provisions of this section, the office shall order that the  
1343 person and any affiliated person of such person cease  
1344 acquisition of any further securities of the domestic stock  
1345 insurer or controlling company; however, the person or any  
1346 affiliated person of such person may request a proceeding, which  
1347 proceeding shall be convened within 7 days after the rendering  
1348 of the order for the sole purpose of determining whether the  
1349 person, individually or in connection with any affiliated person  
1350 of such person, has acquired 10 ~~5~~ percent or more of the  
1351 outstanding voting securities of a domestic stock insurer or  
1352 controlling company. Upon the failure of the person or  
1353 affiliated person to request a hearing within 7 days, or upon a  
1354 determination at a hearing convened pursuant to this subsection  
1355 that the person or affiliated person has acquired voting  
1356 securities of a domestic stock insurer or controlling company in  
1357 violation of this section, the office may order the person and  
1358 affiliated person to divest themselves of any voting securities  
1359 so acquired.

1360 (12) (a) The disclaimer must fully disclose all material  
1361 relationships and bases for affiliation between the person and  
1362 the insurer as well as the basis for disclaiming the  
1363 affiliation. The disclaimer of control shall be filed on a form

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1364 prescribed by the office. A person or acquiring party may file a  
1365 disclaimer of control by filing with the office a copy of a  
1366 Schedule 13G filed with the Securities and Exchange Commission  
1367 pursuant to rules 13d-1(b) or 13d-1(c) under the Securities  
1368 Exchange Act of 1934, as amended. After a disclaimer has been  
1369 filed, the insurer is relieved of any duty to register or report  
1370 under this section which may arise out of the insurer's  
1371 relationship with the person unless the office disallows the  
1372 disclaimer.

1373 (b) A controlling person of a domestic insurer who seeks to  
1374 divest the person's controlling interest in the domestic insurer  
1375 in any manner shall file with the office, with a copy provided  
1376 to the insurer, confidential notice, not subject to public  
1377 inspection as provided under s. 624.4212, of the person's  
1378 proposed divestiture at least 30 days before the cessation of  
1379 control. The office shall determine those instances in which the  
1380 party seeking to divest or to acquire a controlling interest in  
1381 an insurer must file for and obtain approval of the transaction.  
1382 The information remains confidential until the conclusion of the  
1383 transaction unless the office, in its discretion, determines  
1384 that confidential treatment interferes with enforcement of this  
1385 section. If the statement referred to in subsection (1) is  
1386 otherwise filed, this paragraph does not apply ~~For the purpose~~  
1387 ~~of this section, the term "affiliated person" of another person~~  
1388 ~~means:~~

- 1389 ~~1. The spouse of such other person;~~  
1390 ~~2. The parents of such other person and their lineal~~  
1391 ~~descendants and the parents of such other person's spouse and~~  
1392 ~~their lineal descendants;~~



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1393 ~~3. Any person who directly or indirectly owns or controls,~~  
1394 ~~or holds with power to vote, 5 percent or more of the~~  
1395 ~~outstanding voting securities of such other person;~~

1396 ~~4. Any person 5 percent or more of the outstanding voting~~  
1397 ~~securities of which are directly or indirectly owned or~~  
1398 ~~controlled, or held with power to vote, by such other person;~~

1399 ~~5. Any person or group of persons who directly or~~  
1400 ~~indirectly control, are controlled by, or are under common~~  
1401 ~~control with such other person;~~

1402 ~~6. Any officer, director, partner, copartner, or employee~~  
1403 ~~of such other person;~~

1404 ~~7. If such other person is an investment company, any~~  
1405 ~~investment adviser of such company or any member of an advisory~~  
1406 ~~board of such company;~~

1407 ~~8. If such other person is an unincorporated investment~~  
1408 ~~company not having a board of directors, the depositor of such~~  
1409 ~~company; or~~

1410 ~~9. Any person who has entered into an agreement, written or~~  
1411 ~~unwritten, to act in concert with such other person in acquiring~~  
1412 ~~or limiting the disposition of securities of a domestic stock~~  
1413 ~~insurer or controlling company.~~

1414 ~~(b) For the purposes of this section, the term "controlling~~  
1415 ~~company" means any corporation, trust, or association owning,~~  
1416 ~~directly or indirectly, 25 percent or more of the voting~~  
1417 ~~securities of one or more domestic stock insurance companies.~~

1418 ~~(13) The commission may adopt, amend, or repeal rules that~~  
1419 ~~are necessary to administer ~~implement~~ the provisions of this~~  
1420 ~~section, pursuant to chapter 120.~~

1421 Section 11. Section 628.801, Florida Statutes, is amended

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1422 to read:

1423 628.801 Insurance holding companies; registration;  
1424 regulation.—

1425 (1) An ~~Every~~ insurer that is authorized to do business in  
1426 this state and that is a member of an insurance holding company  
1427 shall, on or before April 1 of each year, register with the  
1428 office and file a registration statement and be subject to  
1429 regulation with respect to its relationship to the holding  
1430 company as provided by law or rule ~~or statute~~. The commission  
1431 shall adopt rules establishing the information and statement  
1432 form required for registration and the manner in which  
1433 registered insurers and their affiliates are regulated. The  
1434 rules apply to domestic insurers, foreign insurers, and  
1435 commercially domiciled insurers, except for a foreign insurer  
1436 domiciled in states that were ~~are~~ accredited by the NAIC  
1437 ~~National Association of Insurance Commissioners~~ by December 31,  
1438 1995. Except to the extent of any conflict with this code, the  
1439 rules must include all requirements and standards of ss. 4 and 5  
1440 of the Insurance Holding Company System Regulatory Act and the  
1441 Insurance Holding Company System Model Regulation of the NAIC  
1442 ~~National Association of Insurance Commissioners~~, as adopted in  
1443 December 2010. The commission may adopt subsequent amendments  
1444 thereto if the methodology remains substantially consistent. The  
1445 rules ~~Regulatory Act and the Model Regulation existed on~~  
1446 ~~November 30, 2001,~~ and may include a prohibition on oral  
1447 contracts between affiliated entities. Material transactions  
1448 between an insurer and its affiliates shall be filed with the  
1449 office as provided by rule ~~Upon request, the office may waive~~  
1450 ~~filing requirements under this section for a domestic insurer~~

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1451 ~~that is the subsidiary of an insurer that is in full compliance~~  
1452 ~~with the insurance holding company registration laws of its~~  
1453 ~~state of domicile, which state is accredited by the National~~  
1454 ~~Association of Insurance Commissioners.~~

1455 (2) Effective January 1, 2015, the ultimate controlling  
1456 person of every insurer subject to registration shall also file  
1457 an annual enterprise risk report on or before April 1. As used  
1458 in this subsection, the term "ultimate controlling person" means  
1459 a person who is not controlled by any other person. The report,  
1460 to the best of the ultimate controlling person's knowledge and  
1461 belief, must identify the material risks within the insurance  
1462 holding company system that could pose enterprise risk to the  
1463 insurer. The report shall be filed with the lead state office of  
1464 the insurance holding company system as determined by the  
1465 procedures within the Financial Analysis Handbook adopted by the  
1466 NAIC and is confidential and exempt from public disclosure as  
1467 provided in s. 624.4212.

1468 (a) An insurer may satisfy this requirement by providing  
1469 the office with the most recently filed parent corporation  
1470 reports that have been filed with the Securities and Exchange  
1471 Commission which provide the appropriate enterprise risk  
1472 information.

1473 (b) The term "enterprise risk" means an activity,  
1474 circumstance, event, or series of events involving one or more  
1475 affiliates of an insurer which, if not remedied promptly, are  
1476 likely to have a materially adverse effect upon the financial  
1477 condition or liquidity of the insurer or its insurance holding  
1478 company system as a whole, including anything that would cause  
1479 the insurer's risk-based capital to fall into company action

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1480 level as set forth in s. 624.4085 or would cause the insurer to  
1481 be in a hazardous financial condition.

1482 (3) Effective January 1, 2015, pursuant to chapter 624  
1483 relating to the examination of insurers, the office may examine  
1484 any insurer registered under this section and its affiliates to  
1485 ascertain the financial condition of the insurer, including the  
1486 enterprise risk to the insurer by the ultimate controlling  
1487 party, or by any entity or combination of entities within the  
1488 insurance holding company system, or by the insurance holding  
1489 company system on a consolidated basis.

1490 (4) The filings and related documents filed pursuant to  
1491 this section are confidential and exempt as provided in s.  
1492 624.4212 and are not subject to subpoena or discovery or  
1493 admissible in evidence in any private civil action. A waiver of  
1494 any applicable privilege or claim of confidentiality in the  
1495 filings and related documents may not occur as a result of any  
1496 disclosure to the office under this section or any other section  
1497 of the insurance code as authorized under s. 624.4212. Neither  
1498 the office nor any person who received the filings and related  
1499 documents while acting under the authority of the office or with  
1500 whom such information is shared pursuant to s. 624.4212 is  
1501 permitted or required to testify in any private civil action  
1502 concerning any confidential documents, materials, or information  
1503 subject to s. 624.4212. However, the department or office may  
1504 use the confidential and exempt information in the furtherance  
1505 of any regulatory or legal action brought against an insurer as  
1506 a part of the official duties of the department or office.

1507 (5) Effective January 1, 2015, the failure to file a  
1508 registration statement, or a summary of the registration

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1509 statement, or the enterprise risk filing report required by this  
1510 section within the time specified for filing is a violation of  
1511 this section.

1512 (6) Upon request, the office may waive the filing  
1513 requirements of this section:

1514 (a) If the insurer is a domestic insurer that is the  
1515 subsidiary of an insurer that is in full compliance with the  
1516 insurance holding company registration laws of its state of  
1517 domicile, which state is accredited by the NAIC; or

1518 (b) If the insurer is a domestic insurer that writes only  
1519 in this state and has annual direct written and assumed premium  
1520 of less than \$300 million, excluding premiums reinsured with the  
1521 Federal Crop Insurance Corporation and Federal Flood Program,  
1522 and demonstrates that compliance with this section would not  
1523 provide substantial regulatory or consumer benefit. In  
1524 evaluating a waiver request made under this paragraph, the  
1525 office may consider various factors including, but not limited  
1526 to, the type of business entity, the volume of business written,  
1527 the ownership or organizational structure of the entity, or  
1528 whether the company is in run-off.

1529  
1530 A waiver granted pursuant to this subsection is valid for 2  
1531 years unless sooner withdrawn due to a change in the  
1532 circumstances under which the waiver was granted.

1533 Section 12. Effective January 1, 2015, present subsection  
1534 (4) of section 628.803, Florida Statutes, is renumbered as  
1535 subsection (5), and a new subsection (4) is added to that  
1536 section, to read:

1537 628.803 Sanctions.—

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1538       (4) If the office determines that any person violated s.  
1539 628.461 or s. 628.801, the violation may serve as an independent  
1540 basis for disapproving dividends or distributions and for  
1541 placing the insurer under an order of supervision in accordance  
1542 with part VI of chapter 624.

1543       Section 13. Effective January 1, 2015, section 628.804,  
1544 Florida Statutes, is created to read:

1545       628.804 Groupwide supervision for international insurance  
1546 groups.-

1547       (1) As used in this section:

1548       (a) "Groupwide supervisor" means the chief insurance  
1549 regulatory official for the jurisdiction who is determined by  
1550 the office to have significant contacts with the international  
1551 insurance group sufficient to conduct and coordinate groupwide  
1552 supervision activities.

1553       (b) "International insurance group" means an insurance  
1554 group operating internationally which includes an insurer.

1555       (2) The office may act as the groupwide supervisor for an  
1556 international insurance group in which the ultimate controlling  
1557 person of the group is domiciled in this state.

1558       (3) (a) If the ultimate controlling person is domiciled  
1559 outside this state, the office, in cooperation with other  
1560 groupwide supervisors, may:

1561       1. Determine that the office is the appropriate groupwide  
1562 supervisor for an international insurance group with substantial  
1563 operations concentrated in this state or in insurance operations  
1564 conducted by subsidiary insurance companies domiciled in this  
1565 state; or

1566       2. Acknowledge that another chief insurance regulatory

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1567 official is the appropriate groupwide supervisor for the  
1568 international insurance group.

1569 (b) Before issuing a determination, the office must notify  
1570 the insurer and the ultimate controlling person within the  
1571 international insurance group and provide the international  
1572 insurance group with at least 30 days to submit information  
1573 pertinent to the pending determination.

1574 (4) The commission may adopt rules to administer this  
1575 section, including rules establishing the criteria for making a  
1576 determination under paragraph (3) (a), such as the extent of  
1577 insurance operations in this state and nation; the location of  
1578 the executive offices, assets and liabilities, and business  
1579 operations of the international insurance group; the domicile of  
1580 the ultimate controlling person of the international insurance  
1581 group; and the similarity of the regulatory systems of other  
1582 jurisdictions acting or seeking to act as lead groupwide  
1583 supervisor.

1584 Section 14. Effective January 1, 2015, section 628.805,  
1585 Florida Statutes, is created to read:

1586 628.805 Supervisory colleges.—In order to assess the  
1587 business strategy, financial position, legal and regulatory  
1588 position, risk exposure, risk management, and governance  
1589 processes, and as part of the examination of individual insurers  
1590 in accordance with ss. 624.316 and 628.801, the office may  
1591 participate in a supervisory college with other regulators  
1592 charged with supervision of the insurer or its affiliates,  
1593 including other state, federal, and international regulatory  
1594 agencies. In accordance with s. 624.4212 regarding confidential  
1595 information sharing, the office may enter into agreements that

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1596 provide the basis for cooperation between the office and the  
1597 other regulatory agencies and the activities of the supervisory  
1598 college. This section does not delegate to the supervisory  
1599 college the office's authority to regulate or supervise the  
1600 insurer or its affiliates under its jurisdiction.

1601 (1) With respect to participation in a supervisory college,  
1602 the office may:

1603 (a) Initiate the establishment of a supervisory college.

1604 (b) Clarify the membership and participation of other  
1605 supervisors in the supervisory college.

1606 (c) Clarify the functions of the supervisory college and  
1607 the role of other regulators, including the establishment of a  
1608 groupwide supervisor.

1609 (d) Coordinate the ongoing activities of the supervisory  
1610 college, including planning meetings, supervisory activities,  
1611 and processes for information sharing.

1612 (e) Establish a crisis management plan.

1613 (2) With respect to an insurer registered under s. 628.801,  
1614 and in accordance with this section, the office may participate  
1615 in a supervisory college for any domestic insurer that is part  
1616 of an insurance holding company system that has international  
1617 operations in order to determine the insurer's compliance with  
1618 this chapter.

1619 (3) Each registered insurer subject to this section is  
1620 liable for and shall pay reasonable expenses for the office's  
1621 participation in a supervisory college, including reasonable  
1622 travel expenses. A supervisory college may be convened as a  
1623 temporary or permanent forum for communication and cooperation  
1624 between the regulators charged with the supervision of the



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1625 insurer or its affiliates, and the office may impose a regular  
1626 assessment on the insurer for the payment of these expenses.

1627 Section 15. Effective January 1, 2015, subsection (3) is  
1628 added to section 636.045, Florida Statutes, to read:

1629 636.045 Minimum surplus requirements.—

1630 (3) A prepaid limited health service organization that is  
1631 authorized in this state and one or more other states,  
1632 jurisdictions, or countries is subject to ss. 624.4085 and  
1633 624.40851.

1634 Section 16. Effective January 1, 2015, subsection (7) is  
1635 added to section 641.225, Florida Statutes, to read:

1636 641.225 Surplus requirements.—

1637 (7) A health maintenance organization that is authorized in  
1638 this state and one or more other states, jurisdictions, or  
1639 countries is subject to ss. 624.4085 and 624.40851.

1640 Section 17. Effective January 1, 2015, subsection (3) is  
1641 added to section 641.255, Florida Statutes, to read:

1642 641.255 Acquisition, merger, or consolidation.—

1643 (3) A health maintenance organization that is a member of a  
1644 holding company system is subject to s. 628.461 but not s.  
1645 628.4615.

1646 Section 18. Except as otherwise expressly provided in this  
1647 act, this act shall take effect October 1, 2014, if SB \_\_\_\_ or  
1648 similar legislation is adopted in the same legislative session  
1649 or an extension thereof and becomes a law.