

By the Committee on Banking and Insurance; and 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) before the operative  
325 date of the valuation manual as defined in s. 625.1212(2), and  
326 does not apply to life and health insurers subject to s.  
327 625.1212(4) on or after such operative date.

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

332 (8)

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

347 (11) Each insurer doing business in this state which  
348 reinsures through a captive insurance company as defined in s.

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349 628.901, but without regard to domiciliary status, shall, in  
350 conjunction with the annual financial statement required under  
351 paragraph (1)(a), file a report with the office containing  
352 financial information specific to reinsurance assumed by each  
353 captive.

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

357 (b) Insurers must:

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

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

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

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

373 625.121 Standard Valuation Law; life insurance.—

374 (2) ANNUAL VALUATION.—The office shall annually value, or  
375 cause to be valued, the reserves ~~reserve liabilities,~~  
376 ~~hereinafter called "reserves,"~~ for all outstanding life  
377 insurance policies and annuity and pure endowment contracts of

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

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407 the office with a valuation of its outstanding policies as  
 408 computed by its own actuary or by an actuary deemed satisfactory  
 409 for that ~~the~~ purpose by the office, the valuation shall be  
 410 verified by the actuary of the office without cost to the  
 411 insurer. This section applies to the calculation of reserves for  
 412 policies and contracts not subject to s. 625.1212.

413 (3) ACTUARIAL OPINION OF RESERVES.—

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

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

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

434 ~~3.4.~~ The commission may adopt rules providing the standards  
 435 of the actuarial opinion consistent with standards adopted by

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436 the Actuarial Standards Board on December 31, 2013 ~~2002~~, and  
437 subsequent revisions thereto ~~if, provided that~~ the standards  
438 remain substantially consistent.

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

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

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

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

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

463 ~~9.10.~~ Except as otherwise provided in this subparagraph  
464 ~~paragraph,~~ any memorandum or other material in support of the



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465 opinion is confidential and exempt from ~~the provisions of~~ s.  
466 119.07(1) and is not subject to subpoena or discovery or  
467 admissible in evidence in any private civil action; however, the  
468 memorandum or other material may be released by the office with  
469 the written consent of the insurer company, or to the American  
470 Academy of Actuaries upon request stating that the memorandum or  
471 other material is required for the purpose of professional  
472 disciplinary proceedings and setting forth procedures  
473 satisfactory to the office for preserving the confidentiality of  
474 the memorandum or other material. If any portion of the  
475 confidential memorandum is cited by the insurer company in its  
476 marketing, ~~or~~ is cited before any governmental agency other than  
477 a state insurance department, or is released by the insurer  
478 ~~company~~ to the news media, no portion of the memorandum is  
479 confidential. Neither the office nor any person who receives  
480 documents, materials, or other information while acting under  
481 the authority of the office or with whom such information is  
482 shared pursuant to this paragraph may testify in a private civil  
483 action concerning the confidential documents, materials, or  
484 information. However, the department or office may use the  
485 confidential and exempt information in the furtherance of any  
486 regulatory or legal action brought against an insurer as a part  
487 of the official duties of the department or office. A waiver of  
488 an applicable privilege or claim of confidentiality in the  
489 documents, materials, or information may not occur as a result  
490 of disclosure to the office under this section or any other  
491 section of the insurance code, or as a result of sharing as  
492 authorized under s. 624.4212.

493 (b) In addition to the opinion required by paragraph (a)

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494 ~~subparagraph (a)1.~~, the office may, pursuant to commission rule,  
495 require an opinion of the same qualified actuary as to whether  
496 the reserves and related actuarial items held in support of the  
497 policies and contracts specified by the commission by rule, when  
498 considered in light of the assets held by the insurer ~~company~~  
499 with respect to the reserves and related actuarial items,  
500 including, but not limited to, the investment earnings on the  
501 assets and considerations anticipated to be received and  
502 retained under the policies and contracts, make adequate  
503 provision for the insurer's ~~company's~~ obligations under the  
504 policies and contracts, including, but not limited to, the  
505 benefits under, and expenses associated with, the policies and  
506 contracts.

507 (5) MINIMUM STANDARD FOR VALUATION OF POLICIES AND  
508 CONTRACTS ISSUED ON OR AFTER OPERATIVE DATE OF THE STANDARD  
509 NONFORFEITURE LAW.—Except as otherwise provided in paragraph (h)  
510 and subsections (6), (13) ~~(11)~~, and (14), the minimum standard  
511 for the valuation of all such policies and contracts issued on  
512 or after the operative date of s. 627.476 ~~(Standard~~  
513 ~~Nonforfeiture Law for Life Insurance)~~ shall be the  
514 commissioners' reserve valuation method defined in subsections  
515 (7), (11), and (14); 5 percent interest for group annuity and  
516 pure endowment contracts and 3.5 percent interest for all other  
517 such policies and contracts, or in the case of life insurance  
518 policies and contracts, other than annuity and pure endowment  
519 contracts, issued on or after July 1, 1973, 4 percent interest  
520 for such policies issued prior to October 1, 1979, and 4.5  
521 percent interest for such policies issued on or after October 1,  
522 1979; and the following tables:

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

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

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

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

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

547 1. For policies issued before ~~prior to~~ the first date ~~to~~  
548 ~~which~~ the ~~commissioners'~~ 1961 Commissioners Standard Industrial  
549 Mortality Table is applicable according to s. 627.476, the 1941  
550 Standard Industrial Mortality Table; ~~and~~

551 2. For ~~such~~ policies issued on or after that date, the

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552 ~~commissioners'~~ 1961 Commissioners Standard Industrial Mortality  
553 Table; and

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

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

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

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

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

578 2. For policies or contracts issued on or after January 1,  
579 1961, and before ~~prior to~~ January 1, 1966, either of the tables  
580 specified in subparagraph 1. ~~these tables~~ or, at the option of

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581 the insurer, the class three disability table (1926);

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

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

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

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

596 1. For policies issued on or after January 1, 1966, the  
597 1959 Accidental Death Benefits Table;

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

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

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

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

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

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

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

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

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639 the office, and the applicable calendar year statutory valuation  
640 interest rate as described in subsection (6).

641 3. For individual annuity and pure endowment contracts  
642 issued on or after October 1, 1979, and before ~~prior to~~ October  
643 1, 1986, other than single-premium immediate annuity contracts,  
644 excluding any disability and accidental death benefits in such  
645 contracts, the 1971 Individual Annuity Mortality Table, or any  
646 modification of this table approved by the office, and 5.5  
647 percent interest for single-premium deferred annuity and pure  
648 endowment contracts and 4.5 percent interest for all other such  
649 individual annuity and pure endowment contracts. For such  
650 contracts issued on or after October 1, 1986, the 1983  
651 Individual Annual Mortality Table, or any modification of such  
652 table approved by the office, and the applicable calendar year  
653 statutory valuation interest rate as described in subsection  
654 (6).

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

661 5. For all annuities and pure endowments purchased on or  
662 after October 1, 1979, and before ~~prior to~~ October 1, 1986,  
663 under group annuity and pure endowment contracts, excluding ~~any~~  
664 disability and accidental death benefits purchased under such  
665 contracts, the 1971 Group Annuity Mortality Table, or any  
666 modification of this table approved by the office, and 7.5  
667 percent interest. For such contracts purchased on or after

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668 October 1, 1986, the 1983 Group Annuity Mortality Table, or any  
669 modification of such table approved by the office, and the  
670 applicable calendar year statutory valuation interest rate as  
671 described in subsection (6).

672

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

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

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

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

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



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697 before July 1, 1998.

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

702 (j) The commission may adopt by rule the model regulation  
703 for valuation of life insurance policies as approved by the NAIC  
704 ~~National Association of Insurance Commissioners~~ in March 1999,  
705 including tables of select mortality factors, and may make the  
706 regulation effective for policies issued on or after January 1,  
707 2000.

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

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

723 (6) MINIMUM STANDARD OF VALUATION.—

724 (e) The interest rate index shall be the Moody's Corporate  
725 Bond Yield Average—Monthly Average Corporates as published by

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726 Moody's Investors Service, Inc., if the ~~as long as this~~ index is  
727 calculated by using substantially the same methodology ~~as~~ used  
728 by Moody's ~~it~~ on January 1, 1981. If Moody's corporate bond  
729 yield average ceases to be calculated in substantially the same  
730 ~~this~~ manner, the interest rate index shall be the index  
731 specified in the valuation manual, as applicable, as provided  
732 under s. 625.1212, or an index adopted by the NAIC and approved  
733 by rule adopted ~~promulgated~~ by the commission. The methodology  
734 used in determining the index approved by rule must ~~shall~~ be  
735 substantially the same as the methodology employed on January 1,  
736 1981, for determining Moody's Corporate Bond Yield Average-  
737 Monthly Average Corporates as published by Moody's Investors  
738 Service, Inc.

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

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

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

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

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

812 (a) Be appropriate in relation to the benefits and the

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813 pattern of premiums for that plan; and

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

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

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

821 (1) APPLICABILITY.-This section applies to life insurance  
822 contracts, accident and health insurance contracts, and deposit-  
823 type contracts issued on or after the operative date of the  
824 valuation manual unless the manual requires or permits an  
825 insurer to determine reserves according to the standards in  
826 effect before the operative date of the manual and rules adopted  
827 by the commission as provided under s. 625.121. Subsections (5)  
828 and (6) do not apply to policies and contracts subject to s.  
829 625.121.

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

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

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

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

841 (d) "Insurer" means a person engaged as an indemnitor,

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842 surety, or contractor in the business of entering into contracts  
843 of insurance or reinsurance.

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

847 (f) "Operative date of the valuation manual" means the  
848 later of January 1, 2017, or the January 1 immediately following  
849 the July 1 that the Commissioner of the Office of Insurance  
850 Regulation certifies to the Financial Services Commission in  
851 writing that the following conditions occurred on or before July  
852 1:

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

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

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

866 (g) "Policyholder behavior" means an action a policyholder,  
867 contract holder, or other person who has the right to elect  
868 options, such as a certificateholder, may take under a policy or  
869 contract subject to this section including, but not limited to,  
870 lapse, withdrawal, transfer, deposit, premium payment, loan,

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871 annuitization, or benefit elections prescribed by the policy or  
872 contract but excluding events of mortality or morbidity that  
873 result in benefits prescribed in their essential aspects by the  
874 terms of the policy or contract.

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

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

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

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

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

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900 required in this section.

901 (4) ACTUARIAL OPINION OF RESERVES.—

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

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

928 (c) The insurer shall prepare a memorandum to support each



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

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

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

956 (5) MINIMUM STANDARD OF VALUATION.—

957 (a) In accordance with this subsection and subsection (6),

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958 an insurer must apply the standard prescribed in the valuation  
959 manual as the minimum standard of valuation for contracts issued  
960 on or after the operative date of the valuation manual, except:

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

963 2. That an insurer domiciled in a state that does not  
964 require the insurer to apply the standards prescribed in the  
965 valuation manual as the minimum standard of valuation, including  
966 the principle-based valuation of reserves, may not apply such  
967 standards in this state.

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

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

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987 with the commissioner of another state, district, or territory  
988 of the United States with respect to this section.

989 (d) The office may require an insurer to change any  
990 assumption or method that, in the opinion of the office, is  
991 necessary to comply with the valuation manual or this section.  
992 The insurer shall adjust the reserves as required by the office.  
993 The office may take other disciplinary action pursuant to  
994 applicable state law and rules.

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

999 (f) A domestic insurer licensed and doing business only in  
1000 this state may exempt specific product forms or product lines  
1001 from the requirements of this subsection and subsection (6) if  
1002 the insurer computes reserves for the specific product forms or  
1003 product lines using assumptions and methods used before the  
1004 operative date of the valuation manual, and the amount of  
1005 insurance subject to the stochastic or deterministic reserve  
1006 requirement is immaterial. The requirements of s. 625.121 apply  
1007 to specific product forms and product lines exempted under this  
1008 paragraph.

1009 (g) An insurer that adopted a standard of valuation  
1010 producing greater aggregate reserves than those calculated  
1011 according to the minimum standard provided under this section  
1012 may, with the approval of the office, adopt a lower standard of  
1013 valuation, but such standard may not be lower than the minimum  
1014 provided in this subsection. For purposes of this subsection,  
1015 holding additional reserves previously determined by an

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1016 appointed actuary to be necessary to render the opinion required  
1017 by subsection (3) may not be deemed to be the adoption of a  
1018 higher standard of valuation.

1019 (6) REQUIREMENTS OF A PRINCIPLE-BASED VALUATION OF  
1020 RESERVES.—

1021 (a) Insurers required to use a principle-based valuation of  
1022 reserves for specified product forms and product lines and  
1023 associated policies and contracts, pursuant to subparagraph  
1024 (5) (a)2., must:

1025 1. Quantify the benefits and guarantees, and the funding  
1026 associated with the policies or contracts and their risks at a  
1027 level of conservatism that reflects conditions that:

1028 a. Include unfavorable events that have a reasonable  
1029 probability of occurring during the lifetime of the policies or  
1030 contracts; and

1031 b. Are appropriately adverse to quantifying the tail risk.

1032 2. Incorporate assumptions, risk analysis methods, and  
1033 financial models and management techniques that are consistent  
1034 with, but not necessarily identical to, those used within the  
1035 insurer's overall risk assessment process while recognizing  
1036 potential differences in financial reporting structures and any  
1037 prescribed assumptions or methods.

1038 3. Incorporate assumptions that are derived in one of the  
1039 following manners:

1040 a. The assumption is prescribed in the valuation manual.

1041 b. For assumptions that are not prescribed, the assumptions  
1042 must:

1043 (I) Be established using the insurer's available  
1044 experience, to the extent that it is relevant and statistically

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1045 credible; or

1046 (II) To the extent that insurer data is not available,  
1047 relevant, or statistically credible, be established using other  
1048 relevant, statistically credible experience.

1049 4. Provide margins for uncertainty including adverse  
1050 deviation and estimation error, such that the greater the  
1051 uncertainty the larger the margin and resulting reserve.

1052 (b) An insurer using a principle-based valuation for one or  
1053 more policies or contracts subject to this section as specified  
1054 in the valuation manual shall:

1055 1. Establish procedures for corporate governance and  
1056 oversight of the actuarial valuation function consistent with  
1057 those prescribed in the valuation manual.

1058 2. Submit an annual certification to the office and the  
1059 insurer's board of directors of the effectiveness of internal  
1060 controls on the principle-based valuation. The internal controls  
1061 must be designed to assure that all material risks inherent in  
1062 the liabilities and associated assets subject to the valuation  
1063 are included in the valuation, and that valuations are made in  
1064 accordance with the valuation manual. The certification must be  
1065 based on controls in place as of the end of the preceding  
1066 calendar year.

1067 3. Upon request, develop and file with the office a  
1068 principle-based valuation report that complies with standards  
1069 prescribed in the valuation manual.

1070 (c) A principle-based valuation may include a prescribed  
1071 formulaic reserve component.

1072 (7) EXPERIENCE REPORTING.—An insurer subject to the  
1073 requirements of paragraph (5)(d) shall submit mortality,

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1074 morbidity, policyholder behavior, or expense experience and  
1075 other data as prescribed in the valuation manual to the office.

1076 (8) RULE ADOPTION.—The commission may adopt rules as  
1077 necessary to administer this section, including rules requiring  
1078 the use of the NAIC 2009 Standard Valuation Law and the NAIC  
1079 2012 Valuation Manual. The adoption of such rules is not subject  
1080 to s. 120.541(3), and the rules do not take effect until the  
1081 operative date of the valuation manual.

1082 Section 8. Section 625.1214, Florida Statutes, is created  
1083 to read:

1084 625.1214 Use of confidential information.—

1085 (1) Documents, reports, materials, and other information  
1086 created, produced, or obtained pursuant to ss. 625.121 and  
1087 625.1212 are privileged, confidential, and exempt as provided in  
1088 s. 624.4212, and are not subject to subpoena or discovery, or  
1089 admissible in evidence in any private civil action. However, the  
1090 department or office may use the confidential and exempt  
1091 information in the furtherance of any regulatory or legal action  
1092 brought against an insurer as a part of the official duties of  
1093 the department or office. A waiver of any other applicable claim  
1094 of confidentiality or privilege may not occur as a result of a  
1095 disclosure to the office under this section, any other section  
1096 of the insurance code, or as a result of sharing under s.  
1097 624.4212.

1098 (2) Neither the office nor any person who received  
1099 confidential and exempt information while acting under the  
1100 authority of the office or with whom such information is shared  
1101 pursuant to s. 624.4212 may be permitted or required to testify  
1102 in a private civil action concerning any confidential and exempt

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1103 information subject to s. 624.4212. If any portion of the  
1104 confidential memorandum is cited by the insurer in its  
1105 marketing, is cited before a governmental agency other than a  
1106 state insurance department, or is released by the insurer to the  
1107 news media, no portion of the memorandum is confidential.

1108 (3) A privilege established under the law of any state or  
1109 jurisdiction that is substantially similar to the privilege  
1110 established under subsection (1) shall be available and enforced  
1111 in any proceeding in and in any court of this state.

1112 Section 9. Paragraphs (h) and (i) of subsection (9) and  
1113 subsection (14) of section 627.476, Florida Statutes, are  
1114 amended to read:

1115 627.476 Standard Nonforfeiture Law for Life Insurance.—

1116 (9) CALCULATION OF ADJUSTED PREMIUMS AND PRESENT VALUES FOR  
1117 POLICIES ISSUED AFTER OPERATIVE DATE OF THIS SUBSECTION.—

1118 (h) All adjusted premiums and present values referred to in  
1119 this section shall, for all policies of ordinary insurance be  
1120 calculated on the basis of the ~~Commissioners'~~ 1980 Standard  
1121 Ordinary Mortality Table adopted by the NAIC or, at the election  
1122 of the insurer for any one or more specified plans of life  
1123 insurance, the ~~Commissioners'~~ 1980 Standard Ordinary Mortality  
1124 Table with Ten-Year Select Mortality Factors adopted by the  
1125 NAIC; shall for all policies of industrial insurance be  
1126 calculated on the basis of the ~~Commissioners'~~ 1961 Standard  
1127 Industrial Mortality Table adopted by the NAIC; and shall for  
1128 all policies issued in a particular calendar year be calculated  
1129 on the basis of a rate of interest not exceeding the  
1130 nonforfeiture interest rate as defined in this subsection for  
1131 policies issued in that calendar year. However:

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1132 1. At the option of the insurer, calculations for all  
1133 policies issued in a particular calendar year may be made on the  
1134 basis of a rate of interest not exceeding the nonforfeiture  
1135 interest rate, as defined in this subsection, for policies  
1136 issued in the immediately preceding calendar year.

1137 2. Under any paid-up nonforfeiture benefit, including any  
1138 paid-up dividend additions, any cash surrender value available,  
1139 whether ~~or not~~ required by subsection (2), shall be calculated  
1140 on the basis of the mortality table and rate of interest used in  
1141 determining the amount of such paid-up nonforfeiture benefit and  
1142 paid-up dividend additions, if any.

1143 3. An insurer may calculate the amount of any guaranteed  
1144 paid-up nonforfeiture benefit, including any paid-up additions  
1145 under the policy, on the basis of an interest rate no lower than  
1146 that specified in the policy for calculating cash surrender  
1147 values.

1148 4. In calculating the present value of any paid-up term  
1149 insurance with accompanying pure endowment, if any, offered as a  
1150 nonforfeiture benefit, the rates of mortality assumed may be not  
1151 more than those shown in the ~~Commissioners'~~ 1980 Extended Term  
1152 Insurance Table adopted by the NAIC for policies of ordinary  
1153 insurance and not more than the ~~Commissioners'~~ 1961 Industrial  
1154 Extended Term Insurance Table adopted by the NAIC for policies  
1155 of industrial insurance.

1156 5. In lieu of the mortality tables specified in this  
1157 section, at the option of the insurance company and subject to  
1158 rules adopted by the commission, the insurance company may  
1159 substitute:

1160 a. The 1958 CSO or CET Smoker and Nonsmoker Mortality



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1161 Tables, whichever is applicable, for policies issued on or after  
1162 the operative date of this subsection and before January 1,  
1163 1989;

1164 b. The 1980 CSO or CET Smoker and Nonsmoker Mortality  
1165 Tables, whichever is applicable, for policies issued on or after  
1166 the operative date of this subsection;

1167 c. A mortality table that is a blend of the sex-distinct  
1168 1980 CSO or CET mortality table standard, whichever is  
1169 applicable, or a mortality table that is a blend of the sex-  
1170 distinct 1980 CSO or CET smoker and nonsmoker mortality table  
1171 standards, whichever is applicable, for policies that are  
1172 subject to the United States Supreme Court decision in *Arizona*  
1173 *Governing Committee v. Norris* to prevent unfair discrimination  
1174 in employment situations.

1175 6. For policies issued:

1176 a. Before the operative date of the valuation manual,  
1177 ordinary mortality tables, adopted after 1980 by the NAIC  
1178 ~~National Association of Insurance Commissioners~~, adopted by rule  
1179 by the commission for use in determining the minimum  
1180 nonforfeiture standard may be substituted for the ~~Commissioners'~~  
1181 1980 Standard Ordinary Mortality Table with or without Ten-Year  
1182 Select Mortality Factors or ~~for the Commissioners'~~ 1980 Extended  
1183 Term Insurance Table adopted by the NAIC.

1184 b. On or after the operative date of the valuation manual,  
1185 the valuation manual shall provide the Standard Mortality Table  
1186 for use in determining the minimum nonforfeiture standard that  
1187 may be substituted for:

1188 (I) The 1980 Standard Ordinary Mortality Table with or  
1189 without 10-Year Select Mortality Factors or the 1980 Extended

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1190 Term Insurance Table adopted by the NAIC. If the commission  
1191 approves by rule a Standard Ordinary Mortality Table adopted by  
1192 the NAIC for use in determining the minimum nonforfeiture  
1193 standard for policies issued on or after the operative date of  
1194 the valuation manual, the minimum nonforfeiture standard  
1195 supersedes the minimum nonforfeiture standard provided by the  
1196 valuation manual.

1197 (II) The 1961 Standard Industrial Mortality Table or 1961  
1198 Industrial Extended Term Insurance Table adopted by the NAIC. If  
1199 the commission approves by rule any Standard Industrial  
1200 Mortality Table adopted by the NAIC for use in determining the  
1201 minimum nonforfeiture standard for policies issued on or after  
1202 the operative date of the valuation manual, the minimum  
1203 nonforfeiture standard supersedes the minimum nonforfeiture  
1204 standard provided by the valuation manual.

1205 7. For insurance issued on a substandard basis, the  
1206 calculation of any such adjusted premiums and present values may  
1207 be based on appropriate modifications of the aforementioned  
1208 tables.

1209 (i) The nonforfeiture interest rate per year for a any  
1210 policy issued in a particular calendar year for policies issued:

1211 1. Before the operative date of the valuation manual, shall  
1212 be equal to 125 percent of the calendar year statutory valuation  
1213 interest rate for such policy as defined in the Standard  
1214 Valuation Law, rounded to the nearest one-fourth of 1 percent;  
1215 however, the nonforfeiture interest rate may not be less than 4  
1216 percent.

1217 2. On or after the operative date of the valuation manual,  
1218 shall be as provided by the valuation manual.

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1219 (14) OPERATIVE DATE.—

1220 (a) After the effective date of this code, an ~~any~~ insurer  
 1221 may file with the office a written notice or notices of its  
 1222 election to comply with ~~the provisions of~~ this section on and  
 1223 after a specified date or dates before January 1, 1966, as to  
 1224 either or both of its policies of ordinary and industrial  
 1225 insurance, in which case such specified date or dates shall be  
 1226 the operative date of this section with respect to such  
 1227 policies. The operative date of this section for policies of  
 1228 both ordinary and industrial insurance shall be the earlier of  
 1229 January 1, 1966, and any prior operative date or dates resulting  
 1230 from such previously filed written notices. With respect to  
 1231 policies of industrial insurance issued on and after the  
 1232 operative date of this section for such policies but before  
 1233 January 1, 1968, any insurer may file with the office written  
 1234 notice of its election to have the ~~Commissioners'~~ 1961 Standard  
 1235 Industrial Mortality Table and ~~the Commissioners'~~ 1961  
 1236 Industrial Extended Term Insurance Table adopted by the NAIC  
 1237 applicable with respect to subsection (8) for policies issued on  
 1238 and after the date specified in such election.

1239 (b) As used in subsection (9), the term "operative date of  
 1240 the valuation manual" has the same meaning as provided in s.  
 1241 625.1212(2).

1242 Section 10. Subsections (1), (3), (10), (12), and (13) of  
 1243 section 628.461, Florida Statutes, are amended to read:

1244 628.461 Acquisition of controlling stock.—

1245 (1) A person may not, individually or in conjunction with  
 1246 any affiliated person of such person, acquire directly or  
 1247 indirectly, conclude a tender offer or exchange offer for, enter

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1248 into any agreement to exchange securities for, or otherwise  
1249 finally acquire 10 ~~5~~ percent or more of the outstanding voting  
1250 securities of a domestic stock insurer or of a controlling  
1251 company, unless:

1252 (a) The person or affiliated person has filed with the  
1253 office and sent to the insurer and controlling company a letter  
1254 of notification regarding the transaction or proposed  
1255 transaction within ~~no later than~~ 5 days after any form of tender  
1256 offer or exchange offer is proposed, or within ~~no later than~~ 5  
1257 days after the acquisition of the securities if no tender offer  
1258 or exchange offer is involved. The notification must be provided  
1259 on forms prescribed by the commission containing information  
1260 determined necessary to understand the transaction and identify  
1261 all purchasers and owners involved;

1262 (b) The person or affiliated person has filed with the  
1263 office the ~~a~~ statement as specified in subsection (3). The  
1264 statement must be completed and filed within 30 days after:

- 1265 1. Any definitive acquisition agreement is entered;  
1266 2. Any form of tender offer or exchange offer is proposed;

1267 or

1268 3. The acquisition of the securities, if no definitive  
1269 acquisition agreement, tender offer, or exchange offer is  
1270 involved; and

1271 (c) The office has approved the tender or exchange offer,  
1272 or acquisition if no tender offer or exchange offer is involved,  
1273 and approval is in effect.

1274

1275 ~~In lieu of a filing as required under this subsection, a party~~  
1276 ~~acquiring less than 10 percent of the outstanding voting~~

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1277 ~~securities of an insurer may file a disclaimer of affiliation~~  
1278 ~~and control. The disclaimer shall fully disclose all material~~  
1279 ~~relationships and basis for affiliation between the person and~~  
1280 ~~the insurer as well as the basis for disclaiming the affiliation~~  
1281 ~~and control. After a disclaimer has been filed, the insurer~~  
1282 ~~shall be relieved of any duty to register or report under this~~  
1283 ~~section which may arise out of the insurer's relationship with~~  
1284 ~~the person unless and until the office disallows the disclaimer.~~  
1285 ~~The office shall disallow a disclaimer only after furnishing all~~  
1286 ~~parties in interest with notice and opportunity to be heard and~~  
1287 ~~after making specific findings of fact to support the~~  
1288 ~~disallowance.~~ A filing ~~as~~ required under this subsection must be  
1289 made for ~~as to~~ any acquisition that equals or exceeds 10 percent  
1290 of the outstanding voting securities.

1291 (3) The statement to be filed with the office under  
1292 subsection (1) and furnished to the insurer and controlling  
1293 company must ~~shall~~ contain all the following information and any  
1294 additional information that ~~as~~ the office deems necessary to  
1295 determine the character, experience, ability, and other  
1296 qualifications of the person or affiliated person of such person  
1297 for the protection of the policyholders and shareholders of the  
1298 insurer and the public:

1299 (a) The identity of, and the background information  
1300 specified in subsection (4) on, each natural person by whom, or  
1301 on whose behalf, the acquisition is to be made; and, if the  
1302 acquisition is to be made by, or on behalf of, a corporation,  
1303 association, or trust, as to the corporation, association, or  
1304 trust and as to any person who controls, either ~~either~~ directly or  
1305 indirectly, the corporation, association, or trust, the identity

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1306 of, and the background information specified in subsection (4)  
1307 on, each director, officer, trustee, or other natural person  
1308 performing duties similar to those of a director, officer, or  
1309 trustee for the corporation, association, or trust.~~†~~

1310 (b) The source and amount of the funds or other  
1311 consideration used, or to be used, in making the acquisition.~~†~~

1312 (c) Any plans or proposals that ~~which~~ such persons may have  
1313 made to liquidate such insurer, to sell any of its assets or  
1314 merge or consolidate it with any person, or to make any other  
1315 major change in its business or corporate structure or  
1316 management; and any plans or proposals that ~~which~~ such persons  
1317 may have made to liquidate any controlling company of such  
1318 insurer, to sell any of its assets or merge or consolidate it  
1319 with any person, or to make any other major change in its  
1320 business or corporate structure or management.~~†~~

1321 (d) The number of shares or other securities that ~~which~~ the  
1322 person or affiliated person of such person proposes to acquire,  
1323 the terms of the proposed acquisition, and the manner in which  
1324 the securities are to be acquired.~~†~~ ~~and~~

1325 (e) Information as to any contract, arrangement, or  
1326 understanding with any party with respect to any of the  
1327 securities of the insurer or controlling company, including, but  
1328 not limited to, information relating to the transfer of any of  
1329 the securities, option arrangements, puts or calls, or the  
1330 giving or withholding of proxies, which information names the  
1331 party with whom the contract, arrangement, or understanding has  
1332 been entered into and gives the details thereof.

1333 (f) Effective January 1, 2015, an agreement by the person  
1334 required to file the statement that the person will provide the

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1335 annual report specified in s. 628.801(2) if control exists.

1336 (g) Effective January 1, 2015, an acknowledgement by the  
1337 person required to file the statement that the person and all  
1338 subsidiaries within the person's control in the insurance  
1339 holding company system will provide, as necessary, information  
1340 to the office upon request to evaluate enterprise risk to the  
1341 insurer.

1342 (10) Upon notification to the office by the domestic stock  
1343 insurer or a controlling company that any person or any  
1344 affiliated person of such person has acquired 10 ~~5~~ percent or  
1345 more of the outstanding voting securities of the domestic stock  
1346 insurer or controlling company without complying with the  
1347 provisions of this section, the office shall order that the  
1348 person and any affiliated person of such person cease  
1349 acquisition of any further securities of the domestic stock  
1350 insurer or controlling company; however, the person or any  
1351 affiliated person of such person may request a proceeding, which  
1352 proceeding shall be convened within 7 days after the rendering  
1353 of the order for the sole purpose of determining whether the  
1354 person, individually or in connection with any affiliated person  
1355 of such person, has acquired 10 ~~5~~ percent or more of the  
1356 outstanding voting securities of a domestic stock insurer or  
1357 controlling company. Upon the failure of the person or  
1358 affiliated person to request a hearing within 7 days, or upon a  
1359 determination at a hearing convened pursuant to this subsection  
1360 that the person or affiliated person has acquired voting  
1361 securities of a domestic stock insurer or controlling company in  
1362 violation of this section, the office may order the person and  
1363 affiliated person to divest themselves of any voting securities

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1364 so acquired.

1365       (12) (a) A person may rebut a presumption of control by  
1366 filing a disclaimer of control with the office. The disclaimer  
1367 must fully disclose all material relationships and bases for  
1368 affiliation between the person and the insurer as well as the  
1369 basis for disclaiming the affiliation. The disclaimer of control  
1370 shall be filed on a form prescribed by the office. A person or  
1371 acquiring party may file a disclaimer of control by filing with  
1372 the office a copy of a Schedule 13G filed with the Securities  
1373 and Exchange Commission pursuant to rules 13d-1(b) or 13d-1(c)  
1374 under the Securities Exchange Act of 1934, as amended. After a  
1375 disclaimer has been filed, the insurer is relieved of any duty  
1376 to register or report under this section which may arise out of  
1377 the insurer's relationship with the person unless the office  
1378 disallows the disclaimer.

1379       (b) A controlling person of a domestic insurer who seeks to  
1380 divest the person's controlling interest in the domestic insurer  
1381 in any manner shall file with the office, with a copy provided  
1382 to the insurer, confidential notice, not subject to public  
1383 inspection as provided under s. 624.4212, of the person's  
1384 proposed divestiture at least 30 days before the cessation of  
1385 control. The office shall determine those instances in which the  
1386 party seeking to divest or to acquire a controlling interest in  
1387 an insurer must file for and obtain approval of the transaction.  
1388 The information remains confidential until the conclusion of the  
1389 transaction unless the office, in its discretion, determines  
1390 that confidential treatment interferes with enforcement of this  
1391 section. If the statement referred to in subsection (1) is  
1392 otherwise filed, this paragraph does not apply ~~For the purpose~~



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1393 of this section, the term "affiliated person" of another person  
1394 means:

1395 1. ~~The spouse of such other person;~~

1396 2. ~~The parents of such other person and their lineal  
1397 descendants and the parents of such other person's spouse and  
1398 their lineal descendants;~~

1399 3. ~~Any person who directly or indirectly owns or controls,  
1400 or holds with power to vote, 5 percent or more of the  
1401 outstanding voting securities of such other person;~~

1402 4. ~~Any person 5 percent or more of the outstanding voting  
1403 securities of which are directly or indirectly owned or  
1404 controlled, or held with power to vote, by such other person;~~

1405 5. ~~Any person or group of persons who directly or  
1406 indirectly control, are controlled by, or are under common  
1407 control with such other person;~~

1408 6. ~~Any officer, director, partner, copartner, or employee  
1409 of such other person;~~

1410 7. ~~If such other person is an investment company, any  
1411 investment adviser of such company or any member of an advisory  
1412 board of such company;~~

1413 8. ~~If such other person is an unincorporated investment  
1414 company not having a board of directors, the depositor of such  
1415 company; or~~

1416 9. ~~Any person who has entered into an agreement, written or  
1417 unwritten, to act in concert with such other person in acquiring  
1418 or limiting the disposition of securities of a domestic stock  
1419 insurer or controlling company.~~

1420 (b) ~~For the purposes of this section, the term "controlling  
1421 company" means any corporation, trust, or association owning,~~

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1422 ~~directly or indirectly, 25 percent or more of the voting~~  
1423 ~~securities of one or more domestic stock insurance companies.~~

1424 (13) The commission may adopt, ~~amend, or repeal~~ rules that  
1425 are necessary to administer ~~implement the provisions of this~~  
1426 ~~section, pursuant to chapter 120.~~

1427 Section 11. Section 628.801, Florida Statutes, is amended  
1428 to read:

1429 628.801 Insurance holding companies; registration;  
1430 regulation.—

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

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1451 ~~rules Regulatory Act and the Model Regulation existed on~~  
1452 ~~November 30, 2001, and may include a prohibition on oral~~  
1453 ~~contracts between affiliated entities. Material transactions~~  
1454 ~~between an insurer and its affiliates shall be filed with the~~  
1455 ~~office as provided by rule Upon request, the office may waive~~  
1456 ~~filing requirements under this section for a domestic insurer~~  
1457 ~~that is the subsidiary of an insurer that is in full compliance~~  
1458 ~~with the insurance holding company registration laws of its~~  
1459 ~~state of domicile, which state is accredited by the National~~  
1460 ~~Association of Insurance Commissioners.~~

1461 (2) Effective January 1, 2015, the ultimate controlling  
1462 person of every insurer subject to registration shall also file  
1463 an annual enterprise risk report on or before April 1. As used  
1464 in this subsection, the term "ultimate controlling person" means  
1465 a person who is not controlled by any other person. The report,  
1466 to the best of the ultimate controlling person's knowledge and  
1467 belief, must identify the material risks within the insurance  
1468 holding company system that could pose enterprise risk to the  
1469 insurer. The report shall be filed with the lead state office of  
1470 the insurance holding company system as determined by the  
1471 procedures within the Financial Analysis Handbook adopted by the  
1472 NAIC and is confidential and exempt from public disclosure as  
1473 provided in s. 624.4212.

1474 (a) An insurer may satisfy this requirement by providing  
1475 the office with the most recently filed parent corporation  
1476 reports that have been filed with the Securities and Exchange  
1477 Commission which provide the appropriate enterprise risk  
1478 information.

1479 (b) The term "enterprise risk" means an activity,

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1480 circumstance, event, or series of events involving one or more  
1481 affiliates of an insurer which, if not remedied promptly, are  
1482 likely to have a materially adverse effect upon the financial  
1483 condition or liquidity of the insurer or its insurance holding  
1484 company system as a whole, including anything that would cause  
1485 the insurer's risk-based capital to fall into company action  
1486 level as set forth in s. 624.4085 or would cause the insurer to  
1487 be in a hazardous financial condition.

1488 (3) Effective January 1, 2015, pursuant to chapter 624  
1489 relating to the examination of insurers, the office may examine  
1490 any insurer registered under this section and its affiliates to  
1491 ascertain the financial condition of the insurer, including the  
1492 enterprise risk to the insurer by the ultimate controlling  
1493 party, or by any entity or combination of entities within the  
1494 insurance holding company system, or by the insurance holding  
1495 company system on a consolidated basis.

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

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1509 subject to s. 624.4212. However, the department or office may  
1510 use the confidential and exempt information in the furtherance  
1511 of any regulatory or legal action brought against an insurer as  
1512 a part of the official duties of the department or office.

1513 (5) Effective January 1, 2015, the failure to file a  
1514 registration statement, or a summary of the registration  
1515 statement, or the enterprise risk filing report required by this  
1516 section within the time specified for filing is a violation of  
1517 this section.

1518 (6) Upon request, the office may waive the filing  
1519 requirements of this section:

1520 (a) If the insurer is a domestic insurer that is the  
1521 subsidiary of an insurer that is in full compliance with the  
1522 insurance holding company registration laws of its state of  
1523 domicile, which state is accredited by the NAIC; or

1524 (b) If the insurer is a domestic insurer that writes only  
1525 in this state and has annual direct written and assumed premium  
1526 of less than \$300 million, excluding premiums reinsured with the  
1527 Federal Crop Insurance Corporation and Federal Flood Program,  
1528 and demonstrates that compliance with this section would not  
1529 provide substantial regulatory or consumer benefit. In  
1530 evaluating a waiver request made under this paragraph, the  
1531 office may consider various factors including, but not limited  
1532 to, the type of business entity, the volume of business written,  
1533 the ownership or organizational structure of the entity, or  
1534 whether the company is in run-off.

1535  
1536 A waiver granted pursuant to this subsection is valid for 2  
1537 years unless sooner withdrawn due to a change in the

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1538 circumstances under which the waiver was granted.

1539 Section 12. Effective January 1, 2015, present subsection  
1540 (4) of section 628.803, Florida Statutes, is renumbered as  
1541 subsection (5), and a new subsection (4) is added to that  
1542 section, to read:

1543 628.803 Sanctions.—

1544 (4) If the office determines that any person violated s.  
1545 628.461 or s. 628.801, the violation may serve as an independent  
1546 basis for disapproving dividends or distributions and for  
1547 placing the insurer under an order of supervision in accordance  
1548 with part VI of chapter 624.

1549 Section 13. Effective January 1, 2015, section 628.804,  
1550 Florida Statutes, is created to read:

1551 628.804 Groupwide supervision for international insurance  
1552 groups.—

1553 (1) As used in this section:

1554 (a) "Groupwide supervisor" means the chief insurance  
1555 regulatory official for the jurisdiction who is determined by  
1556 the office to have significant contacts with the international  
1557 insurance group sufficient to conduct and coordinate groupwide  
1558 supervision activities.

1559 (b) "International insurance group" means an insurance  
1560 group operating internationally which includes an insurer.

1561 (2) The office may act as the groupwide supervisor for an  
1562 international insurance group in which the ultimate controlling  
1563 person of the group is domiciled in this state.

1564 (3) (a) If the ultimate controlling person is domiciled  
1565 outside this state, the office, in cooperation with other  
1566 groupwide supervisors, may:

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1567 1. Determine that the office is the appropriate groupwide  
1568 supervisor for an international insurance group with substantial  
1569 operations concentrated in this state or in insurance operations  
1570 conducted by subsidiary insurance companies domiciled in this  
1571 state; or

1572 2. Acknowledge that another chief insurance regulatory  
1573 official is the appropriate groupwide supervisor for the  
1574 international insurance group.

1575 (b) Before issuing a determination, the office must notify  
1576 the insurer and the ultimate controlling person within the  
1577 international insurance group and provide the international  
1578 insurance group with at least 30 days to submit information  
1579 pertinent to the pending determination.

1580 (4) The commission may adopt rules to administer this  
1581 section, including rules establishing the criteria for making a  
1582 determination under paragraph (3) (a), such as the extent of  
1583 insurance operations in this state and nation; the location of  
1584 the executive offices, assets and liabilities, and business  
1585 operations of the international insurance group; the domicile of  
1586 the ultimate controlling person of the international insurance  
1587 group; and the similarity of the regulatory systems of other  
1588 jurisdictions acting or seeking to act as lead groupwide  
1589 supervisor.

1590 Section 14. Effective January 1, 2015, section 628.805,  
1591 Florida Statutes, is created to read:

1592 628.805 Supervisory colleges.—In order to assess the  
1593 business strategy, financial position, legal and regulatory  
1594 position, risk exposure, risk management, and governance  
1595 processes, and as part of the examination of individual insurers

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1596 in accordance with ss. 624.316 and 628.801, the office may  
1597 participate in a supervisory college with other regulators  
1598 charged with supervision of the insurer or its affiliates,  
1599 including other state, federal, and international regulatory  
1600 agencies. In accordance with s. 624.4212 regarding confidential  
1601 information sharing, the office may enter into agreements that  
1602 provide the basis for cooperation between the office and the  
1603 other regulatory agencies and the activities of the supervisory  
1604 college. This section does not delegate to the supervisory  
1605 college the office's authority to regulate or supervise the  
1606 insurer or its affiliates under its jurisdiction.

1607 (1) With respect to participation in a supervisory college,  
1608 the office may:

1609 (a) Initiate the establishment of a supervisory college.

1610 (b) Clarify the membership and participation of other  
1611 supervisors in the supervisory college.

1612 (c) Clarify the functions of the supervisory college and  
1613 the role of other regulators, including the establishment of a  
1614 groupwide supervisor.

1615 (d) Coordinate the ongoing activities of the supervisory  
1616 college, including planning meetings, supervisory activities,  
1617 and processes for information sharing.

1618 (e) Establish a crisis management plan.

1619 (2) With respect to an insurer registered under s. 628.801,  
1620 and in accordance with this section, the office may participate  
1621 in a supervisory college for any domestic insurer that is part  
1622 of an insurance holding company system that has international  
1623 operations in order to determine the insurer's compliance with  
1624 this chapter.



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1625 (3) Each registered insurer subject to this section is  
1626 liable for and shall pay reasonable expenses for the office's  
1627 participation in a supervisory college, including reasonable  
1628 travel expenses. A supervisory college may be convened as a  
1629 temporary or permanent forum for communication and cooperation  
1630 between the regulators charged with the supervision of the  
1631 insurer or its affiliates, and the office may impose a regular  
1632 assessment on the insurer for the payment of these expenses.

1633 Section 15. Effective January 1, 2015, subsection (3) is  
1634 added to section 636.045, Florida Statutes, to read:

1635 636.045 Minimum surplus requirements.—

1636 (3) A prepaid limited health service organization that is  
1637 authorized in this state and one or more other states,  
1638 jurisdictions, or countries is subject to ss. 624.4085 and  
1639 624.40851.

1640 Section 16. Effective January 1, 2015, subsection (7) is  
1641 added to section 641.225, Florida Statutes, to read:

1642 641.225 Surplus requirements.—

1643 (7) A health maintenance organization that is authorized in  
1644 this state and one or more other states, jurisdictions, or  
1645 countries is subject to ss. 624.4085 and 624.40851.

1646 Section 17. Effective January 1, 2015, subsection (3) is  
1647 added to section 641.255, Florida Statutes, to read:

1648 641.255 Acquisition, merger, or consolidation.—

1649 (3) A health maintenance organization that is a member of a  
1650 holding company system is subject to s. 628.461 but not s.  
1651 628.4615.

1652 Section 18. Except as otherwise expressly provided in this  
1653 act, this act shall take effect October 1, 2014, if SB 1300 or

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1654 similar legislation is adopted in the same legislative session  
1655 or an extension thereof and becomes a law.