

By the Committees on Judiciary; and Banking and Insurance; and
Senator Simmons

590-03147-14

20141308c2

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

590-03147-14

20141308c2

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

590-03147-14

20141308c2

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

590-03147-14

20141308c2

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

590-03147-14

20141308c2

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

590-03147-14

20141308c2

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)

590-03147-14

20141308c2

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

590-03147-14

20141308c2

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

590-03147-14

20141308c2

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

590-03147-14

20141308c2

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:

590-03147-14

20141308c2

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

305 2. An actuarial opinion summary written by the insurer's
306 appointed actuary. The summary must be filed in accordance with
307 the appropriate NAIC property and casualty annual statement
308 instructions. Proprietary business information contained in the
309 summary is confidential and exempt under s. 624.4212, and the
310 summary and related information are not subject to subpoena or
311 discovery directly from the office. Neither the office nor any
312 person who received documents, materials, or other information
313 while acting under the authority of the office, or with whom
314 such information is shared pursuant to s. 624.4212, may testify
315 in a private civil action concerning such confidential
316 information. However, the department or office may use the
317 confidential and exempt information in the furtherance of any
318 regulatory or legal action brought against an insurer as a part
319 of the official duties of the department or office. No waiver of

590-03147-14

20141308c2

320 any other applicable claim of confidentiality or privilege may
321 occur as a result of a disclosure to the office under this
322 section or any other section of the insurance code. This
323 paragraph does not apply to life and health insurers subject to
324 s. 625.121(3) before the operative date of the valuation manual
325 as defined in s. 625.1212(2), and does not apply to life and
326 health insurers subject to s. 625.1212(4) on or after such
327 operative date.

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

332 (8)

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

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

590-03147-14

20141308c2

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

590-03147-14

20141308c2

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

590-03147-14

20141308c2

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

590-03147-14

20141308c2

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

590-03147-14

20141308c2

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

492 (b) In addition to the opinion required by paragraph (a)
493 ~~subparagraph (a)1.~~, the office may, pursuant to commission rule,

590-03147-14

20141308c2

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

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

522 (a) For all ordinary policies of life insurance issued on

590-03147-14

20141308c2

523 the standard basis, excluding any disability and accidental
524 death benefits in such policies:

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

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

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

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

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

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

590-03147-14

20141308c2

552 Table; and

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

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

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

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

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

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

590-03147-14

20141308c2

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

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

589

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

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

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

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

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

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

608

609 Either table shall be combined with a mortality table permitted

590-03147-14

20141308c2

610 for calculating the reserves for life insurance policies.

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

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

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

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

590-03147-14

20141308c2

639 interest rate as described in subsection (6).

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

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

660 5. For all annuities and pure endowments purchased on or
661 after October 1, 1979, and before ~~prior to~~ October 1, 1986,
662 under group annuity and pure endowment contracts, excluding ~~any~~
663 disability and accidental death benefits purchased under such
664 contracts, the 1971 Group Annuity Mortality Table, or any
665 modification of this table approved by the office, and 7.5
666 percent interest. For such contracts purchased on or after
667 October 1, 1986, the 1983 Group Annuity Mortality Table, or any

590-03147-14

20141308c2

668 modification of such table approved by the office, and the
669 applicable calendar year statutory valuation interest rate as
670 described in subsection (6).

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

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

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

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

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

590-03147-14

20141308c2

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

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

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

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

722 (6) MINIMUM STANDARD OF VALUATION.—

723 (e) The interest rate index shall be the Moody's Corporate
724 Bond Yield Average-Monthly Average Corporates as published by
725 Moody's Investors Service, Inc., if the ~~as long as this~~ index is

590-03147-14

20141308c2

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

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

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

590-03147-14

20141308c2

755 reserve required for the policy or contract shall be the greater
756 of the reserve calculated according to the actual mortality
757 table, rate of interest, and method used for the policy or
758 contract, or the actual method used for the policy or contract
759 but using the minimum valuation standards of mortality and rate
760 of interest and replacing the valuation net premium by the
761 actual gross premium in each contract year for which the
762 valuation net premium exceeds the actual gross premium. The
763 minimum valuation standards of mortality and rate of interest
764 are those standards ~~there shall be maintained on such policy or~~
765 ~~contract a deficiency reserve in addition to the reserve defined~~
766 ~~by subsections (4), (5), and (6) (7) and (12). For each such~~
767 ~~policy or contract, the deficiency reserve shall be the present~~
768 ~~value, according to the minimum valuation standards of mortality~~
769 ~~and rate of interest, of the differences between all such~~
770 ~~valuation net premiums and the corresponding premiums charged~~
771 ~~for such policy or contract during the remainder of the premium-~~
772 ~~paying period. For any category of policies, contracts, or~~
773 ~~benefits specified in subsections (5) and (6), issued on or~~
774 ~~after the operative date of s. 627.476 (the Standard~~
775 ~~Nonforfeiture Law for Life Insurance), the aggregate deficiency~~
776 ~~reserves may be reduced by the amount, if any, by which the~~
777 ~~aggregate reserves actually calculated in accordance with~~
778 ~~subsection (9) exceed the minimum aggregate reserves prescribed~~
779 ~~by subsection (8). The minimum valuation standards of mortality~~
780 ~~and rate of interest referred to in this subsection are those~~
781 ~~standards stated in subsections (5) and (6). However, For any~~
782 ~~life insurance policy that~~ which ~~is issued on or after January~~
783 ~~1, 1985, for which the gross premium in the first policy year~~

590-03147-14

20141308c2

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

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

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

590-03147-14

20141308c2

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

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

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

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

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

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

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

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

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

590-03147-14

20141308c2

842 of insurance or reinsurance.

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

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

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

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

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

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

590-03147-14

20141308c2

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

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

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

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

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

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

590-03147-14

20141308c2

900 (4) ACTUARIAL OPINION OF RESERVES.—

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

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

927 (c) The insurer shall prepare a memorandum to support each
928 actuarial opinion in such form and substance as specified in the

590-03147-14

20141308c2

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

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

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

955 (5) MINIMUM STANDARD OF VALUATION.—

956 (a) In accordance with this subsection and subsection (6),
957 an insurer must apply the standard prescribed in the valuation

590-03147-14

20141308c2

958 manual as the minimum standard of valuation for contracts issued
959 on or after the operative date of the valuation manual, except:

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

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

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

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

590-03147-14

20141308c2

987 of the United States with respect to this section.

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

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

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

1008 (g) An insurer that adopted a standard of valuation
1009 producing greater aggregate reserves than those calculated
1010 according to the minimum standard provided under this section
1011 may, with the approval of the office, adopt a lower standard of
1012 valuation, but such standard may not be lower than the minimum
1013 provided in this subsection. For purposes of this subsection,
1014 holding additional reserves previously determined by an
1015 appointed actuary to be necessary to render the opinion required

590-03147-14

20141308c2

1016 by subsection (3) may not be deemed to be the adoption of a
1017 higher standard of valuation.

1018 (6) REQUIREMENTS OF A PRINCIPLE-BASED VALUATION OF
1019 RESERVES.—

1020 (a) Insurers required to use a principle-based valuation of
1021 reserves for specified product forms and product lines and
1022 associated policies and contracts, pursuant to subparagraph
1023 (5) (a) 2., must:

1024 1. Quantify the benefits and guarantees, and the funding
1025 associated with the policies or contracts and their risks at a
1026 level of conservatism that reflects conditions that:

1027 a. Include unfavorable events that have a reasonable
1028 probability of occurring during the lifetime of the policies or
1029 contracts; and

1030 b. Are appropriately adverse to quantifying the tail risk.

1031 2. Incorporate assumptions, risk analysis methods, and
1032 financial models and management techniques that are consistent
1033 with, but not necessarily identical to, those used within the
1034 insurer's overall risk assessment process while recognizing
1035 potential differences in financial reporting structures and any
1036 prescribed assumptions or methods.

1037 3. Incorporate assumptions that are derived in one of the
1038 following manners:

1039 a. The assumption is prescribed in the valuation manual.

1040 b. For assumptions that are not prescribed, the assumptions
1041 must:

1042 (I) Be established using the insurer's available
1043 experience, to the extent that it is relevant and statistically
1044 credible; or

590-03147-14

20141308c2

1045 (II) To the extent that insurer data is not available,
1046 relevant, or statistically credible, be established using other
1047 relevant, statistically credible experience.

1048 4. Provide margins for uncertainty including adverse
1049 deviation and estimation error, such that the greater the
1050 uncertainty the larger the margin and resulting reserve.

1051 (b) An insurer using a principle-based valuation for one or
1052 more policies or contracts subject to this section as specified
1053 in the valuation manual shall:

1054 1. Establish procedures for corporate governance and
1055 oversight of the actuarial valuation function consistent with
1056 those prescribed in the valuation manual.

1057 2. Submit an annual certification to the office and the
1058 insurer's board of directors of the effectiveness of internal
1059 controls on the principle-based valuation. The internal controls
1060 must be designed to assure that all material risks inherent in
1061 the liabilities and associated assets subject to the valuation
1062 are included in the valuation, and that valuations are made in
1063 accordance with the valuation manual. The certification must be
1064 based on controls in place as of the end of the preceding
1065 calendar year.

1066 3. Upon request, develop and file with the office a
1067 principle-based valuation report that complies with standards
1068 prescribed in the valuation manual.

1069 (c) A principle-based valuation may include a prescribed
1070 formulaic reserve component.

1071 (7) EXPERIENCE REPORTING.—An insurer subject to the
1072 requirements of paragraph (5)(d) shall submit mortality,
1073 morbidity, policyholder behavior, or expense experience and

590-03147-14

20141308c2

1074 other data as prescribed in the valuation manual to the office.

1075 (8) RULE ADOPTION.—The commission may adopt rules as
1076 necessary to administer this section, including rules requiring
1077 the use of the NAIC 2009 Standard Valuation Law and the NAIC
1078 2012 Valuation Manual. The adoption of such rules is not subject
1079 to s. 120.541(3), and the rules do not take effect until the
1080 operative date of the valuation manual.

1081 Section 8. Section 625.1214, Florida Statutes, is created
1082 to read:

1083 625.1214 Use of confidential information.—

1084 (1) Documents, reports, materials, and other information
1085 created, produced, or obtained pursuant to ss. 625.121 and
1086 625.1212 are privileged, confidential, and exempt as provided in
1087 s. 624.4212, and are not subject to subpoena or discovery
1088 directly from the office. However, the department or office may
1089 use the confidential and exempt information in the furtherance
1090 of any regulatory or legal action brought against an insurer as
1091 a part of the official duties of the department or office. A
1092 waiver of any other applicable claim of confidentiality or
1093 privilege may not occur as a result of a disclosure to the
1094 office under this section, any other section of the insurance
1095 code, or as a result of sharing under s. 624.4212.

1096 (2) Neither the office nor any person who received
1097 confidential and exempt information while acting under the
1098 authority of the office or with whom such information is shared
1099 pursuant to s. 624.4212 may be permitted or required to testify
1100 in a private civil action concerning any confidential and exempt
1101 information subject to s. 624.4212. If any portion of the
1102 confidential memorandum is cited by the insurer in its

590-03147-14

20141308c2

1103 marketing, is cited before a governmental agency other than a
1104 state insurance department, or is released by the insurer to the
1105 news media, no portion of the memorandum is confidential.

1106 (3) A privilege established under the law of any state or
1107 jurisdiction that is substantially similar to the privilege
1108 established under subsection (1) shall be available and enforced
1109 in any proceeding in and in any court of this state.

1110 Section 9. Paragraphs (h) and (i) of subsection (9) and
1111 subsection (14) of section 627.476, Florida Statutes, are
1112 amended to read:

1113 627.476 Standard Nonforfeiture Law for Life Insurance.—

1114 (9) CALCULATION OF ADJUSTED PREMIUMS AND PRESENT VALUES FOR
1115 POLICIES ISSUED AFTER OPERATIVE DATE OF THIS SUBSECTION.—

1116 (h) All adjusted premiums and present values referred to in
1117 this section shall, for all policies of ordinary insurance be
1118 calculated on the basis of the ~~Commissioners'~~ 1980 Standard
1119 Ordinary Mortality Table adopted by the NAIC or, at the election
1120 of the insurer for any one or more specified plans of life
1121 insurance, the ~~Commissioners'~~ 1980 Standard Ordinary Mortality
1122 Table with Ten-Year Select Mortality Factors adopted by the
1123 NAIC; ~~shall~~ for all policies of industrial insurance be
1124 calculated on the basis of the ~~Commissioners'~~ 1961 Standard
1125 Industrial Mortality Table adopted by the NAIC; and ~~shall~~ for
1126 all policies issued in a particular calendar year be calculated
1127 on the basis of a rate of interest not exceeding the
1128 nonforfeiture interest rate as defined in this subsection for
1129 policies issued in that calendar year. However:

1130 1. At the option of the insurer, calculations for all
1131 policies issued in a particular calendar year may be made on the

590-03147-14

20141308c2

1132 basis of a rate of interest not exceeding the nonforfeiture
1133 interest rate, as defined in this subsection, for policies
1134 issued in the immediately preceding calendar year.

1135 2. Under any paid-up nonforfeiture benefit, including any
1136 paid-up dividend additions, any cash surrender value available,
1137 whether ~~or not~~ required by subsection (2), shall be calculated
1138 on the basis of the mortality table and rate of interest used in
1139 determining the amount of such paid-up nonforfeiture benefit and
1140 paid-up dividend additions, if any.

1141 3. An insurer may calculate the amount of any guaranteed
1142 paid-up nonforfeiture benefit, including any paid-up additions
1143 under the policy, on the basis of an interest rate no lower than
1144 that specified in the policy for calculating cash surrender
1145 values.

1146 4. In calculating the present value of any paid-up term
1147 insurance with accompanying pure endowment, if any, offered as a
1148 nonforfeiture benefit, the rates of mortality assumed may be not
1149 more than those shown in the ~~Commissioners'~~ 1980 Extended Term
1150 Insurance Table adopted by the NAIC for policies of ordinary
1151 insurance and not more than the ~~Commissioners'~~ 1961 Industrial
1152 Extended Term Insurance Table adopted by the NAIC for policies
1153 of industrial insurance.

1154 5. In lieu of the mortality tables specified in this
1155 section, at the option of the insurance company and subject to
1156 rules adopted by the commission, the insurance company may
1157 substitute:

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

590-03147-14

20141308c2

1161 1989;

1162 b. The 1980 CSO or CET Smoker and Nonsmoker Mortality
1163 Tables, whichever is applicable, for policies issued on or after
1164 the operative date of this subsection;

1165 c. A mortality table that is a blend of the sex-distinct
1166 1980 CSO or CET mortality table standard, whichever is
1167 applicable, or a mortality table that is a blend of the sex-
1168 distinct 1980 CSO or CET smoker and nonsmoker mortality table
1169 standards, whichever is applicable, for policies that are
1170 subject to the United States Supreme Court decision in *Arizona*
1171 *Governing Committee v. Norris* to prevent unfair discrimination
1172 in employment situations.

1173 6. For policies issued:

1174 a. Before the operative date of the valuation manual,
1175 ordinary mortality tables, adopted after 1980 by the NAIC
1176 ~~National Association of Insurance Commissioners~~, adopted by rule
1177 by the commission for use in determining the minimum
1178 nonforfeiture standard may be substituted for the ~~Commissioners'~~
1179 1980 Standard Ordinary Mortality Table with or without Ten-Year
1180 Select Mortality Factors or ~~for the Commissioners'~~ 1980 Extended
1181 Term Insurance Table adopted by the NAIC.

1182 b. On or after the operative date of the valuation manual,
1183 the valuation manual shall provide the Standard Mortality Table
1184 for use in determining the minimum nonforfeiture standard that
1185 may be substituted for:

1186 (I) The 1980 Standard Ordinary Mortality Table with or
1187 without 10-Year Select Mortality Factors or the 1980 Extended
1188 Term Insurance Table adopted by the NAIC. If the commission
1189 approves by rule a Standard Ordinary Mortality Table adopted by

590-03147-14

20141308c2

1190 the NAIC for use in determining the minimum nonforfeiture
1191 standard for policies issued on or after the operative date of
1192 the valuation manual, the minimum nonforfeiture standard
1193 supersedes the minimum nonforfeiture standard provided by the
1194 valuation manual.

1195 (II) The 1961 Standard Industrial Mortality Table or 1961
1196 Industrial Extended Term Insurance Table adopted by the NAIC. If
1197 the commission approves by rule any Standard Industrial
1198 Mortality Table adopted by the NAIC for use in determining the
1199 minimum nonforfeiture standard for policies issued on or after
1200 the operative date of the valuation manual, the minimum
1201 nonforfeiture standard supersedes the minimum nonforfeiture
1202 standard provided by the valuation manual.

1203 7. For insurance issued on a substandard basis, the
1204 calculation of any such adjusted premiums and present values may
1205 be based on appropriate modifications of the aforementioned
1206 tables.

1207 (i) The nonforfeiture interest rate per year for a any
1208 policy issued in a particular calendar year for policies issued:

1209 1. Before the operative date of the valuation manual, shall
1210 be equal to 125 percent of the calendar year statutory valuation
1211 interest rate for such policy as defined in the Standard
1212 Valuation Law, rounded to the nearest one-fourth of 1 percent;
1213 however, the nonforfeiture interest rate may not be less than 4
1214 percent.

1215 2. On or after the operative date of the valuation manual,
1216 shall be as provided by the valuation manual.

1217 (14) OPERATIVE DATE.—

1218 (a) After the effective date of this code, an ~~any~~ insurer

590-03147-14

20141308c2

1219 may file with the office a written notice or notices of its
1220 election to comply with ~~the provisions of~~ this section on and
1221 after a specified date or dates before January 1, 1966, as to
1222 either or both of its policies of ordinary and industrial
1223 insurance, in which case such specified date or dates shall be
1224 the operative date of this section with respect to such
1225 policies. The operative date of this section for policies of
1226 both ordinary and industrial insurance shall be the earlier of
1227 January 1, 1966, and any prior operative date or dates resulting
1228 from such previously filed written notices. With respect to
1229 policies of industrial insurance issued on and after the
1230 operative date of this section for such policies but before
1231 January 1, 1968, any insurer may file with the office written
1232 notice of its election to have the ~~Commissioners'~~ 1961 Standard
1233 Industrial Mortality Table and ~~the Commissioners'~~ 1961
1234 Industrial Extended Term Insurance Table adopted by the NAIC
1235 applicable with respect to subsection (8) for policies issued on
1236 and after the date specified in such election.

1237 (b) As used in subsection (9), the term "operative date of
1238 the valuation manual" has the same meaning as provided in s.
1239 625.1212(2).

1240 Section 10. Subsections (1), (3), (10), (12), and (13) of
1241 section 628.461, Florida Statutes, are amended to read:

1242 628.461 Acquisition of controlling stock.—

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

590-03147-14

20141308c2

1248 securities of a domestic stock insurer or of a controlling
1249 company, unless:

1250 (a) The person or affiliated person has filed with the
1251 office and sent to the insurer and controlling company a letter
1252 of notification regarding the transaction or proposed
1253 transaction within ~~no later than~~ 5 days after any form of tender
1254 offer or exchange offer is proposed, or within ~~no later than~~ 5
1255 days after the acquisition of the securities if no tender offer
1256 or exchange offer is involved. The notification must be provided
1257 on forms prescribed by the commission containing information
1258 determined necessary to understand the transaction and identify
1259 all purchasers and owners involved;

1260 (b) The person or affiliated person has filed with the
1261 office the ~~a~~ statement as specified in subsection (3). The
1262 statement must be completed and filed within 30 days after:

- 1263 1. Any definitive acquisition agreement is entered;
1264 2. Any form of tender offer or exchange offer is proposed;

1265 or

1266 3. The acquisition of the securities, if no definitive
1267 acquisition agreement, tender offer, or exchange offer is
1268 involved; and

1269 (c) The office has approved the tender or exchange offer,
1270 or acquisition if no tender offer or exchange offer is involved,
1271 and approval is in effect.

1272

1273 ~~In lieu of a filing as required under this subsection, a party~~
1274 ~~acquiring less than 10 percent of the outstanding voting~~
1275 ~~securities of an insurer may file a disclaimer of affiliation~~
1276 ~~and control. The disclaimer shall fully disclose all material~~

590-03147-14

20141308c2

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

1289 (3) The statement to be filed with the office under
1290 subsection (1) and furnished to the insurer and controlling
1291 company must ~~shall~~ contain all the following information and any
1292 additional information that ~~as~~ the office deems necessary to
1293 determine the character, experience, ability, and other
1294 qualifications of the person or affiliated person of such person
1295 for the protection of the policyholders and shareholders of the
1296 insurer and the public:

1297 (a) The identity of, and the background information
1298 specified in subsection (4) on, each natural person by whom, or
1299 on whose behalf, the acquisition is to be made; and, if the
1300 acquisition is to be made by, or on behalf of, a corporation,
1301 association, or trust, as to the corporation, association, or
1302 trust and as to any person who controls, either ~~either~~ directly or
1303 indirectly, the corporation, association, or trust, the identity
1304 of, and the background information specified in subsection (4)
1305 on, each director, officer, trustee, or other natural person

590-03147-14

20141308c2

1306 performing duties similar to those of a director, officer, or
1307 trustee for the corporation, association, or trust.~~†~~

1308 (b) The source and amount of the funds or other
1309 consideration used, or to be used, in making the acquisition.~~†~~

1310 (c) Any plans or proposals that ~~which~~ such persons may have
1311 made to liquidate such insurer, to sell any of its assets or
1312 merge or consolidate it with any person, or to make any other
1313 major change in its business or corporate structure or
1314 management; and any plans or proposals that ~~which~~ such persons
1315 may have made to liquidate any controlling company of such
1316 insurer, to sell any of its assets or merge or consolidate it
1317 with any person, or to make any other major change in its
1318 business or corporate structure or management.~~†~~

1319 (d) The number of shares or other securities that ~~which~~ the
1320 person or affiliated person of such person proposes to acquire,
1321 the terms of the proposed acquisition, and the manner in which
1322 the securities are to be acquired.~~†~~ ~~and~~

1323 (e) Information as to any contract, arrangement, or
1324 understanding with any party with respect to any of the
1325 securities of the insurer or controlling company, including, but
1326 not limited to, information relating to the transfer of any of
1327 the securities, option arrangements, puts or calls, or the
1328 giving or withholding of proxies, which information names the
1329 party with whom the contract, arrangement, or understanding has
1330 been entered into and gives the details thereof.

1331 (f) Effective January 1, 2015, an agreement by the person
1332 required to file the statement that the person will provide the
1333 annual report specified in s. 628.801(2) if control exists.

1334 (g) Effective January 1, 2015, an acknowledgement by the

590-03147-14

20141308c2

1335 person required to file the statement that the person and all
1336 subsidiaries within the person's control in the insurance
1337 holding company system will provide, as necessary, information
1338 to the office upon request to evaluate enterprise risk to the
1339 insurer.

1340 (10) Upon notification to the office by the domestic stock
1341 insurer or a controlling company that any person or any
1342 affiliated person of such person has acquired 10 ~~5~~ percent or
1343 more of the outstanding voting securities of the domestic stock
1344 insurer or controlling company without complying with the
1345 provisions of this section, the office shall order that the
1346 person and any affiliated person of such person cease
1347 acquisition of any further securities of the domestic stock
1348 insurer or controlling company; however, the person or any
1349 affiliated person of such person may request a proceeding, which
1350 proceeding shall be convened within 7 days after the rendering
1351 of the order for the sole purpose of determining whether the
1352 person, individually or in connection with any affiliated person
1353 of such person, has acquired 10 ~~5~~ percent or more of the
1354 outstanding voting securities of a domestic stock insurer or
1355 controlling company. Upon the failure of the person or
1356 affiliated person to request a hearing within 7 days, or upon a
1357 determination at a hearing convened pursuant to this subsection
1358 that the person or affiliated person has acquired voting
1359 securities of a domestic stock insurer or controlling company in
1360 violation of this section, the office may order the person and
1361 affiliated person to divest themselves of any voting securities
1362 so acquired.

1363 (12) (a) A person may rebut a presumption of control by

590-03147-14

20141308c2

1364 filing a disclaimer of control with the office on a form
1365 prescribed by the office. The disclaimer must fully disclose all
1366 material relationships and bases for affiliation between the
1367 person and the insurer as well as the basis for disclaiming the
1368 affiliation. In lieu of such form, a person or acquiring party
1369 may file with the office a copy of a Schedule 13G filed with the
1370 Securities and Exchange Commission pursuant to rules 13d-1(b) or
1371 13d-1(c) under the Securities Exchange Act of 1934, as amended.
1372 After a disclaimer has been filed, the insurer is relieved of
1373 any duty to register or report under this section which may
1374 arise out of the insurer's relationship with the person unless
1375 the office disallows the disclaimer.

1376 (b) A controlling person of a domestic insurer who seeks to
1377 divest the person's controlling interest in the domestic insurer
1378 in any manner shall file with the office, with a copy provided
1379 to the insurer, confidential notice, not subject to public
1380 inspection as provided under s. 624.4212, of the person's
1381 proposed divestiture at least 30 days before the cessation of
1382 control. The office shall determine those instances in which the
1383 party seeking to divest or to acquire a controlling interest in
1384 an insurer must file for and obtain approval of the transaction.
1385 The information remains confidential until the conclusion of the
1386 transaction unless the office, in its discretion, determines
1387 that confidential treatment interferes with enforcement of this
1388 section. If the statement referred to in subsection (1) is
1389 otherwise filed, this paragraph does not apply ~~For the purpose~~
1390 ~~of this section, the term "affiliated person" of another person~~
1391 ~~means:~~

1392 ~~1. The spouse of such other person;~~

590-03147-14

20141308c2

1393 ~~2. The parents of such other person and their lineal~~
1394 ~~descendants and the parents of such other person's spouse and~~
1395 ~~their lineal descendants;~~

1396 ~~3. Any person who directly or indirectly owns or controls,~~
1397 ~~or holds with power to vote, 5 percent or more of the~~
1398 ~~outstanding voting securities of such other person;~~

1399 ~~4. Any person 5 percent or more of the outstanding voting~~
1400 ~~securities of which are directly or indirectly owned or~~
1401 ~~controlled, or held with power to vote, by such other person;~~

1402 ~~5. Any person or group of persons who directly or~~
1403 ~~indirectly control, are controlled by, or are under common~~
1404 ~~control with such other person;~~

1405 ~~6. Any officer, director, partner, copartner, or employee~~
1406 ~~of such other person;~~

1407 ~~7. If such other person is an investment company, any~~
1408 ~~investment adviser of such company or any member of an advisory~~
1409 ~~board of such company;~~

1410 ~~8. If such other person is an unincorporated investment~~
1411 ~~company not having a board of directors, the depositor of such~~
1412 ~~company; or~~

1413 ~~9. Any person who has entered into an agreement, written or~~
1414 ~~unwritten, to act in concert with such other person in acquiring~~
1415 ~~or limiting the disposition of securities of a domestic stock~~
1416 ~~insurer or controlling company.~~

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

1421 ~~(13) The commission may adopt, amend, or repeal rules that~~

590-03147-14

20141308c2

1422 are necessary to administer ~~implement the provisions of~~ this
1423 section, ~~pursuant to chapter 120.~~

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

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

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

590-03147-14

20141308c2

1451 between an insurer and its affiliates shall be filed with the
1452 office as provided by rule ~~Upon request, the office may waive~~
1453 ~~filing requirements under this section for a domestic insurer~~
1454 ~~that is the subsidiary of an insurer that is in full compliance~~
1455 ~~with the insurance holding company registration laws of its~~
1456 ~~state of domicile, which state is accredited by the National~~
1457 ~~Association of Insurance Commissioners.~~

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

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

1476 (b) The term "enterprise risk" means an activity,
1477 circumstance, event, or series of events involving one or more
1478 affiliates of an insurer which, if not remedied promptly, are
1479 likely to have a materially adverse effect upon the financial

590-03147-14

20141308c2

1480 condition or liquidity of the insurer or its insurance holding
1481 company system as a whole, including anything that would cause
1482 the insurer's risk-based capital to fall into company action
1483 level as set forth in s. 624.4085 or would cause the insurer to
1484 be in a hazardous financial condition.

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

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

590-03147-14

20141308c2

1509 duties of the department or office.

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

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

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

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

1532
1533 A waiver granted pursuant to this subsection is valid for 2
1534 years unless sooner withdrawn due to a change in the
1535 circumstances under which the waiver was granted.

1536 Section 12. Effective January 1, 2015, present subsection
1537 (4) of section 628.803, Florida Statutes, is renumbered as

590-03147-14

20141308c2

1538 subsection (5), and a new subsection (4) is added to that
1539 section, to read:

1540 628.803 Sanctions.—

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

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

1548 628.804 Groupwide supervision for international insurance
1549 groups.—

1550 (1) As used in this section:

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

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

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

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

1564 1. Determine that the office is the appropriate groupwide
1565 supervisor for an international insurance group with substantial
1566 operations concentrated in this state or in insurance operations

590-03147-14

20141308c2

1567 conducted by subsidiary insurance companies domiciled in this
1568 state; or

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

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

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

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

1589 628.805 Supervisory colleges.—In order to assess the
1590 business strategy, financial position, legal and regulatory
1591 position, risk exposure, risk management, and governance
1592 processes, and as part of the examination of individual insurers
1593 in accordance with ss. 624.316 and 628.801, the office may
1594 participate in a supervisory college with other regulators
1595 charged with supervision of the insurer or its affiliates,

590-03147-14

20141308c2

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

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

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

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

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

1612 (d) Coordinate the ongoing activities of the supervisory
1613 college, including planning meetings, supervisory activities,
1614 and processes for information sharing.

1615 (e) Establish a crisis management plan.

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

1622 (3) Each registered insurer subject to this section is
1623 liable for and shall pay reasonable expenses for the office's
1624 participation in a supervisory college, including reasonable

590-03147-14

20141308c2

1625 travel expenses. A supervisory college may be convened as a
1626 temporary or permanent forum for communication and cooperation
1627 between the regulators charged with the supervision of the
1628 insurer or its affiliates, and the office may impose a regular
1629 assessment on the insurer for the payment of these expenses.

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

1632 636.045 Minimum surplus requirements.—

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

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

1639 641.225 Surplus requirements.—

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

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

1645 641.255 Acquisition, merger, or consolidation.—

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

1649 Section 18. Except as otherwise expressly provided in this
1650 act, this act shall take effect October 1, 2014, if SB 1300 or
1651 similar legislation is adopted in the same legislative session
1652 or an extension thereof and becomes a law.