

Amendment No. 5

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	<u>    </u>	(Y/N)
ADOPTED AS AMENDED	<u>    </u>	(Y/N)
ADOPTED W/O OBJECTION	<u>    </u>	(Y/N)
FAILED TO ADOPT	<u>    </u>	(Y/N)
WITHDRAWN	<u>    </u>	(Y/N)
OTHER	<u>      </u>	

---

1 Committee/Subcommittee hearing bill: Insurance & Banking  
 2 Subcommittee

3 Representative Fischer offered the following:

4

5 **Amendment (with title amendment)**

6 Remove lines 402-528 and insert:

7 Section 7. Subsection (7) is added to section 631.816,  
 8 Florida Statutes, to read:

9 631.816 Board of directors.—

10 (7) Subject to the approval of the department, the board  
 11 shall designate one representative to serve as a member of the  
 12 board of directors of the Florida Life and Health Insurance  
 13 Guaranty Association pursuant to s. 631.716(1). The  
 14 representative, or his or her alternate, has the right to be  
 15 present during all meetings of the association board of  
 16 directors and shall have full voting rights.

## Amendment No. 5

17 Section 8. Present subsections (2) through (6) of section  
18 631.818, Florida Statutes, are renumbered as subsections (3)  
19 through (7), respectively, a new subsection (2) is added to that  
20 section, present subsection (4) is amended, present paragraph  
21 (f) of present subsection (6) is redesignated as paragraph (g),  
22 and a new paragraph (f) is added to that subsection, to read:

23 631.818 Powers and duties of the plan.—

24 (2) In the event of a long-term care insurer impairment or  
25 insolvency, pursuant to s. 631.819(2)(c), the plan shall:

26 (a) Collect and transmit all information requested by the  
27 Florida Life and Health Insurance Guaranty Association for the  
28 association to determine the appropriate assessment base of the  
29 health insurance account pursuant to ss. 631.715(2)(a)1. and  
30 631.718(3)(b).

31 (b) Levy and collect assessments from HMOs.

32 (c) Coordinate the administration and collection of member  
33 HMO assessments for long-term care insurer impairments and  
34 insolvencies with the Florida Life and Health Insurance Guaranty  
35 Association.

36 (5)(4) The plan may render assistance and advice to the  
37 department, at the department's request, concerning  
38 rehabilitation, payment of claims, continuance of coverage, or  
39 the performance of other contractual obligations of any HMO  
40 subject to a delinquency proceeding ~~or a proceeding under s.~~  
41 ~~624.90.~~

Amendment No. 5

42           ~~(7)-(6)~~ The plan may:

43           (f) In the event of a long-term care insurer impairment or  
44 insolvency, coordinate with the Florida Life and Health  
45 Insurance Guaranty Association to carry out the responsibilities  
46 of the association for the limited purpose of the long-term care  
47 insurer impairment or insolvency, including the development of  
48 any plan for handling the administration of the impairment or  
49 insolvency.

50           Section 9. Subsections (1) and (3) of section 631.819,  
51 Florida Statutes, are amended, paragraph (c) is added to  
52 subsection (2), and subsection (6) is added to that section, to  
53 read:

54           631.819 Assessments.—

55           (1) For the purposes of providing the funds necessary to  
56 carry out the powers and duties of the plan, the board of  
57 directors shall assess the member HMOs at such time and for such  
58 amounts as the board finds necessary. Assessments shall be due  
59 not less than 30 days after written notice to the member HMOs  
60 ~~insurers~~.

61           (2) Assessments for funds to meet the requirements of the  
62 plan with respect to an insolvent HMO shall not be made until  
63 necessary to implement the purposes of this part. In order to  
64 carry out its duties and powers under this part, upon the  
65 insolvency of an HMO, the plan shall levy and collect  
66 assessments as follows:

Amendment No. 5

67 (c) For the purposes of long-term care insurer impairment  
68 and insolvency assessments under s. 631.718(3)(b), member HMOs  
69 must be assessed in the same manner as member insurers of the  
70 Florida Life and Health Insurance Guaranty Association under  
71 part III of this chapter. Long-term care insurer impairment and  
72 insolvency assessments must be levied and collected by the plan  
73 pursuant to this part, deposited into the health insurance  
74 account established under s. 631.715, and used solely for long-  
75 term care insurer impairment or insolvency obligations.  
76 Assessments collected from member HMOs are considered part of  
77 and satisfy the obligations of the health insurance account  
78 under ss. 631.715(2)(a)1. and 631.718(3)(b).

79 (3) All assessments against HMOs, including long-term care  
80 insurer impairment and insolvency assessments, must ~~shall~~ be  
81 levied as a percentage of annual earned premium revenue for non-  
82 Medicare and non-Medicaid contracts. In no event may the plan  
83 assess in any calendar year more than 0.5 percent of each HMO's  
84 annual earned premium revenue for non-Medicare and non-Medicaid  
85 contracts.

86 (6) The plan shall issue, in a form prescribed by the  
87 department, a certificate of contribution to each member HMO  
88 paying a long-term care insurer impairment or insolvency  
89 assessment under this part for the amount of the assessment so  
90 paid. All outstanding certificates are of equal dignity and  
91 priority without reference to amounts or dates of issue. A

Amendment No. 5

92 certificate of contribution may be shown by the member HMO in  
93 its financial statement as an asset in such form and for such  
94 amount and period of time as the office approves. However, any  
95 amount offset pursuant to s. 631.828 may not be shown as an  
96 asset of the member HMO on any of its financial statements.

97 Section 10. Paragraph (f) of subsection (3) and paragraph  
98 (a) of subsection (4) of section 631.820, Florida Statutes, are  
99 amended to read:

100 631.820 Plan of operation.—

101 (3) The plan of operation shall, in addition to  
102 requirements enumerated elsewhere in this part:

103 (f) Establish any additional procedures for assessments  
104 under this part, including procedures to coordinate the  
105 administration and collection of member HMO assessments for  
106 long-term care insurer impairments and insolvencies with the  
107 board of directors of the Florida Life and Health Insurance  
108 Guaranty Association.

109 (4) (a) The plan of operation may provide that any or all  
110 powers and duties of the plan, except those under ss.  
111 631.818(7)(b) and (c) and 631.819 ~~ss. 631.818(6)(b) and (c) and~~  
112 ~~631.819~~, are delegated to an administrator that ~~which~~ may be a  
113 corporation, association, or other organization that ~~which~~  
114 performs or will perform functions similar to those of this  
115 plan, or its equivalent.

Amendment No. 5

116 Section 11. Subsection (2) of section 631.821, Florida  
117 Statutes, is amended to read:

118 631.821 Powers and duties of the department.—

119 (2) Any action of the board of directors of the plan may  
120 be appealed to the office by any member HMO if such appeal is  
121 taken within 21 days of the action being appealed; however, the  
122 HMO must comply with such action pending exhaustion of appeal  
123 ~~under s. 631.818(2)~~. Any appeal shall be promptly determined by  
124 the office, and final action or order of the office shall be  
125 subject to judicial review in a court of competent jurisdiction.

126 Section 12. The amendments made to sections 631.713,  
127 631.714, 631.717, 631.718, 631.721, 631.818, 631.819, and  
128 631.820, Florida Statutes, by this act apply only to long-term  
129 care assessment obligations assessed as a result of an insurer  
130 being adjudged insolvent by a court of competent jurisdiction or  
131 being determined by the office to be impaired on or after the  
132 effective date of this act.

133

134 -----

135 **T I T L E A M E N D M E N T**

136 Remove lines 42-59 and insert:

137 insolvencies; conforming a cross-reference; amending

138 s. 631.816, F.S.; adding duties of the board of

139 directors of the Florida Health Maintenance

140 Organization Consumer Assistance Plan to conform to

## Amendment No. 5

141 changes made by the act; amending s. 631.818, F.S.;

142 adding to the duties of the plan to conform to changes

143 made by the act; amending s. 631.819, F.S.; specifying

144 requirements for long-term care insurer impairment and

145 insolvency assessments for member health maintenance

146 organizations; requiring the plan to issue

147 certificates of contribution to member health

148 maintenance organizations paying certain assessments;

149 specifying requirements of, and the use of, such

150 certificates; amending s. 631.820, F.S.; conforming

151 provisions to changes made by the act; amending s.

152 631.821, F.S.; making a technical change; providing

153 applicability of specified provisions to certain long-

154 term care assessment obligations; providing a