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1  
 2 An act relating to insurer guaranty associations;  
 3 amending s. 631.713, F.S.; revising applicability of  
 4 part III of ch. 631, F.S., as to health maintenance  
 5 organizations, long-term care insurance benefits,  
 6 certain health care benefits, and certain structured  
 7 settlement annuity benefits; amending s. 631.716,  
 8 F.S.; revising the number of members and composition  
 9 of the Florida Life and Health Insurance Guaranty  
 10 Association's board of directors; specifying  
 11 requirements relating to the director of the Florida  
 12 Health Maintenance Organization Consumer Assistance  
 13 Plan to be confirmed to the association's board;  
 14 specifying rights of the director or his or her  
 15 alternate; deleting an obsolete provision; amending s.  
 16 631.717, F.S.; adding the reissuance of covered  
 17 policies to a list of duties of the association  
 18 relating to insolvent insurers; providing  
 19 construction; specifying duties of the association as  
 20 to potential long-term care insurer impairments or  
 21 insolvencies, sharing information, and providing  
 22 assistance to the Florida Health Maintenance  
 23 Organization Consumer Assistance Plan's board of  
 24 directors; revising applicability of a specified limit  
 25 on the association's liability for the contractual

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26 obligations of an insolvent insurer; conforming a  
27 provision to changes made by the act; requiring that  
28 the Department of Financial Services, rather than a  
29 receivership court, approve certain alternative  
30 policies or contracts; authorizing the board to file  
31 directly for actuarially justified rate or premium  
32 increases; amending s. 631.718, F.S.; specifying the  
33 calculation and allocation of Class B assessments for  
34 long-term care insurance; specifying a limit on  
35 certain assessments on a member insurer or member  
36 health maintenance organization; conforming provisions  
37 to changes made by the act; amending s. 631.721, F.S.;  
38 deleting an obsolete provision; revising the  
39 requirements of the association's plan of operation  
40 relating to long-term care insurer impairments and  
41 insolvencies; conforming a cross-reference; creating  
42 s. 631.738, F.S.; providing applicability of certain  
43 provisions to certain health maintenance  
44 organizations; amending s. 631.816, F.S.; adding  
45 duties of the board of directors of the Florida Health  
46 Maintenance Organization Consumer Assistance Plan to  
47 conform to changes made by the act; amending s.  
48 631.818, F.S.; adding to the duties of the plan to  
49 conform to changes made by the act; amending s.  
50 631.819, F.S.; specifying requirements for long-term

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51 care insurer impairment and insolvency assessments for  
 52 member health maintenance organizations; requiring the  
 53 plan to issue certificates of contribution to member  
 54 health maintenance organizations paying certain  
 55 assessments; specifying requirements of, and the use  
 56 of, such certificates; amending s. 631.820, F.S.;  
 57 conforming provisions to changes made by the act;  
 58 amending s. 631.821, F.S.; making a technical change;  
 59 providing applicability of specified provisions to  
 60 certain long-term care insurer impairment and  
 61 insolvency assessments; providing a directive to the  
 62 Division of Law Revision; providing an effective date.

63  
 64 Be It Enacted by the Legislature of the State of Florida:

65  
 66 Section 1. Subsection (3) of section 631.713, Florida  
 67 Statutes, is amended to read:

68 631.713 Application of part.—

69 (3) This part does not apply to:

70 (a) That portion or part of a variable life insurance  
 71 contract or variable annuity contract not guaranteed by an  
 72 insurer.

73 (b) That portion or part of any policy or contract under  
 74 which the risk is borne by the policyholder.

75 (c) Any policy or contract or part thereof assumed by the

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76 | impaired or insolvent insurer under a contract of reinsurance,  
 77 | other than reinsurance for which assumption certificates have  
 78 | been issued.

79 | (d) Fraternal benefit societies as defined in s. 632.601.

80 | (e) Health maintenance organizations, except for  
 81 | assessments levied pursuant to ss. 631.715(2)(a)1.,  
 82 | 631.718(3)(b), and 631.819(2)(c) for long-term care insurer  
 83 | impairments or insolvencies insurance.

84 | (f) Dental service plan insurance.

85 | (g) Pharmaceutical service plan insurance.

86 | (h) Optometric service plan insurance.

87 | (i) Ambulance service association insurance.

88 | (j) Preneed funeral merchandise or service contract  
 89 | insurance.

90 | (k) Prepaid health clinic insurance.

91 | (l) Any annuity contract or group annuity contract that is  
 92 | not issued to and owned by an individual, except to the extent  
 93 | of any annuity benefits:

94 | 1. Guaranteed directly and not through an intermediary to  
 95 | an individual by an insurer under such contract or certificate;

96 | 2. Under an annuity issued by an insurer under 26 U.S.C.  
 97 | s. 408(b); or

98 | 3. Under an annuity issued by an insurer and held by a  
 99 | custodian or trustee in accordance with 26 U.S.C. s. 408(a).

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101 This paragraph applies to every insolvency regardless of its  
 102 date of inception, and an assessment base may not include  
 103 premiums for such excluded products.

104 (m) Any federal employees' group policy or contract that,  
 105 under 5 U.S.C. s. 8909(f), is prohibited from being subject to  
 106 an assessment under s. 631.718.

107 (n) Except as provided in this paragraph, a portion of a  
 108 policy or contract, to the extent that the rate of interest on  
 109 which the policy or contract is based, or the interest rate,  
 110 crediting rate, or similar factor determined by use of an index  
 111 or other external reference stated in the policy or contract  
 112 employed in calculating returns or changes in value:

113 1. Averaged over the period of 4 years immediately  
 114 preceding the date on which the member insurer becomes an  
 115 impaired or insolvent insurer under this part, whichever is  
 116 earlier, exceeds the rate of interest determined by subtracting  
 117 2 percentage points from Moody's Corporate Bond Yield Average  
 118 averaged for that same 4-year period or for such lesser period  
 119 if the policy or contract was issued less than 4 years before  
 120 the member insurer becomes an impaired or insolvent insurer  
 121 under this part, whichever is earlier; and

122 2. On and after the date on which the member insurer  
 123 becomes an impaired or insolvent insurer under this part,  
 124 whichever is earlier, exceeds the rate of interest determined by  
 125 subtracting 3 percentage points from the most current version of

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126 | Moody's Corporate Bond Yield Average.

127 |

128 | This paragraph does not apply to any portion of a policy or  
 129 | contract, including a rider, which provides long-term care or  
 130 | any other health insurance benefit.

131 | (o) A portion of a policy or contract to the extent the  
 132 | policy or contract provides for interest or other changes in  
 133 | value to be determined by the use of an index or other external  
 134 | reference stated in the policy or contract, but which has not  
 135 | been credited to the policy or contract, or as to which the  
 136 | policy or contract owner's rights are subject to forfeiture, as  
 137 | of the date the member insurer becomes an impaired or insolvent  
 138 | insurer under this part. However, if the interest or change in  
 139 | value is credited less frequently than annually as determined by  
 140 | using the procedures defined in the policy or contract, interest  
 141 | or change in value shall be credited by using the procedure  
 142 | defined in the policy or contract as if the contractual date of  
 143 | crediting interest or changing values was the date of impairment  
 144 | or insolvency, whichever is earlier, and shall not be subject to  
 145 | forfeiture.

146 | (p) A policy or contract providing any hospital, medical,  
 147 | prescription drug, or other health care benefits pursuant to  
 148 | Title XVIII (Medicare), Title XIX (Medicaid), or Title XXI (the  
 149 | Children's Health Insurance Program) of the Social Security Act  
 150 | Medicare part C or part D or any regulations promulgated

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151 ~~thereunder issued pursuant to Medicare Part C or Part D.~~

152 (q) Structured settlement annuity benefits to which a  
 153 payee, or a beneficiary if the payee is deceased, has  
 154 transferred his or her rights in a structured settlement  
 155 factoring transaction, as that term is defined in 26 U.S.C. s.  
 156 5891(c) (3) (A) .

157 Section 2. Subsection (1) of section 631.716, Florida  
 158 Statutes, is amended to read:

159 631.716 Board of directors.—

160 (1) (a) The board of directors of the association shall  
 161 have at least 9, but no more than 11, members. The members shall  
 162 be comprised of not fewer than five nor more than nine member  
 163 insurers, serving terms as established in the plan of operation  
 164 and 1 Florida Health Maintenance Organization Consumer  
 165 Assistance Plan director confirmed pursuant to paragraph (b). At  
 166 all times, at least 1 ~~one~~ member of the board must ~~shall~~ be a  
 167 domestic insurer as defined in s. 624.06(1). The members of the  
 168 board who are member insurers shall be elected by member  
 169 insurers, subject to the approval of the department.

170 (b) The board shall confirm, subject to the approval of  
 171 the department, the Florida Health Maintenance Organization  
 172 Consumer Assistance Plan director. The confirmed director must  
 173 not be a member insurer serving on the board of the association.  
 174 The director confirmed to the board must be designated by the  
 175 Florida Health Maintenance Organization Consumer Assistance

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176 | Plan's board of directors to serve on the board and represent  
 177 | the interests of the Florida Health Maintenance Organization  
 178 | Consumer Assistance Plan and its board of directors. An  
 179 | individual serving as a Florida Health Maintenance Organization  
 180 | Consumer Assistance Plan director on the board must be a member  
 181 | of the Florida Health Maintenance Organization Consumer  
 182 | Assistance Plan's board of directors. The Florida Health  
 183 | Maintenance Organization Consumer Assistance Plan director, or  
 184 | his or her alternate, has the right to be present at all  
 185 | meetings of the board and has full voting rights on all issues.

186 |       (c) A vacancy on the board shall be filled for the  
 187 | remaining period of the term by a majority vote of the remaining  
 188 | board members, subject to the approval of the department. ~~Prior~~  
 189 | ~~to the selection of the initial board of directors and the~~  
 190 | ~~organization of the association, the department shall give~~  
 191 | ~~notice to all member insurers of the time and place of the~~  
 192 | ~~organizational meeting. At the organizational meeting, each~~  
 193 | ~~member insurer shall be entitled to one vote, in person or by~~  
 194 | ~~proxy. If the board of directors is not elected within 60 days~~  
 195 | ~~after notice of the organizational meeting, the department may~~  
 196 | ~~appoint the initial members.~~

197 |       Section 3. Present subsections (9) through (12) of section  
 198 | 631.717, Florida Statutes, are redesignated as subsections (12)  
 199 | through (15), respectively, new subsections (9), (10), and (11)  
 200 | are added to that section, subsections (2) and (3), paragraph



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201 (c) of present subsection (9), and paragraph (g) of present  
 202 subsection (12) are amended, and paragraph (h) is added to  
 203 present subsection (12) of that section, to read:

204 631.717 Powers and duties of the association.—

205 (2) If a domestic insurer is an insolvent insurer, the  
 206 association shall, subject to the approval of the department:

207 (a) Guarantee, assume, reissue, or reinsure, or cause to  
 208 be guaranteed, assumed, reissued, or reinsured, the covered  
 209 policies of persons referred to in s. 631.713(2); and

210 (b) Provide moneys, pledges, notes, guarantees, or other  
 211 means that are proper and reasonably necessary to implement  
 212 paragraph (a) in order to assure payment of the contractual  
 213 obligations of the insolvent insurer with regard to persons  
 214 referred to in s. 631.713(2).

215 (3) If a foreign or alien insurer is an insolvent insurer,  
 216 the association shall, subject to the approval of the  
 217 department:

218 (a) Guarantee, assume, reissue, or reinsure, or cause to  
 219 be guaranteed, assumed, reissued, or reinsured, the covered  
 220 policies of residents of this state; and

221 (b) Provide moneys, pledges, notes, guarantees, or other  
 222 means that are proper and reasonably necessary to implement  
 223 paragraph (a) in order to assure payment of the contractual  
 224 obligations of the insolvent insurer with regard to persons  
 225 referred to in s. 631.713(2).

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226  
 227 However, this subsection does not apply when the department has  
 228 determined that the foreign or alien insurer's domiciliary  
 229 jurisdiction or state of entry provides, by statute, protection  
 230 substantially similar to that provided by this part for  
 231 residents of this state.

232 (9) For purposes of this part, benefits provided by a  
 233 long-term care rider to a life insurance policy or annuity  
 234 contract are considered the same type of benefits as the base  
 235 life insurance policy or annuity contract to which the rider  
 236 relates.

237 (10) In the event of a potential long-term care insurer  
 238 impairment or insolvency, the association shall coordinate its  
 239 activities with the Florida Health Maintenance Organization  
 240 Consumer Assistance Plan, including the development of any plan  
 241 for handling the administration of the impairment or insolvency.

242 (11) The association shall share information, including  
 243 data, with and assist, as applicable, the board of directors of  
 244 the Florida Health Maintenance Organization Consumer Assistance  
 245 Plan with the administration and collection of member health  
 246 maintenance organization assessments for long-term care insurer  
 247 impairments or insolvencies pursuant to ss. 631.715(2)(a)1.,  
 248 631.718(3)(b), 631.818(2), and 631.819(2)(c).

249 (12)~~(9)~~ The association's liability for the contractual  
 250 obligations of the insolvent insurer must be as great as, but no

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251 greater than, the contractual obligations of the insurer in the  
 252 absence of such insolvency, unless such obligations are reduced  
 253 as permitted by subsection (4), but the aggregate liability of  
 254 the association with respect to one life shall not exceed the  
 255 following:

256 (c) For all other benefits, including in long-term care  
 257 policies, \$300,000, including cash values, except as provided in  
 258 paragraph (d).

259

260 In no event is the association liable for any penalties or  
 261 interest.

262 ~~(15)-(12)~~

263 (g) In carrying out its duties in connection with  
 264 guaranteeing, assuming, reissuing, or reinsuring policies or  
 265 contracts under subsections (2) and (3), the association may,  
 266 subject to approval of the department ~~receivership court~~, issue  
 267 an alternative policy or contract to substitute coverage for a  
 268 policy or contract providing ~~that provides~~ an interest rate,  
 269 crediting rate, or similar factor that was determined by use of  
 270 an index or other external reference stated in the policy or  
 271 contract and employed in calculating returns or changes in value  
 272 ~~by issuing an alternative policy or contract~~. In lieu of the  
 273 index or other external reference provided for in the original  
 274 policy or contract, the alternative policy or contract must  
 275 provide for a fixed interest rate, payment of dividends with

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276 | minimum guarantees, or a different method for calculating  
 277 | interest or changes in value. In such case:

278 |       1. There is no requirement for evidence of insurability,  
 279 | waiting period, or other exclusion that would not have applied  
 280 | under the replaced policy or contract.

281 |       2. The alternative policy or contract shall be  
 282 | substantially similar to the replaced policy or contract in all  
 283 | other material terms.

284 |       (h) In accordance with the terms and conditions of the  
 285 | policy or contract, the board may directly file for actuarially  
 286 | justified rate or premium increases for any policy or contract  
 287 | for which it provides coverage under this part.

288 |       Section 4. Paragraph (b) of subsection (3), paragraph (a)  
 289 | of subsection (5), and subsection (8) of section 631.718,  
 290 | Florida Statutes, are amended to read:

291 |       631.718 Assessments.—

292 |       (3)

293 |       (b)1. The amount of any Class B assessment, except for  
 294 | assessments related to long-term care insurance, must ~~shall~~ be  
 295 | allocated for assessment purposes among the accounts pursuant to  
 296 | an allocation formula, which may be based on the premiums or  
 297 | reserves of the impaired or insolvent insurer.

298 |       2. The amount of the Class B assessment for long-term care  
 299 | insurance written by the impaired or insolvent insurer must be  
 300 | allocated according to a methodology included in the plan of

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301 operation and approved by the department. The methodology must  
302 provide for 50 percent of the assessment to be allocated to  
303 health member insurers and 50 percent to be allocated to life  
304 and annuity member insurers.

305 3. For the purposes of the methodology outlined in  
306 subparagraph 2. and included in the plan of operation, the  
307 health member insurers' share of the assessment must be  
308 calculated by including the assessable premiums of member health  
309 maintenance organizations of the Florida Health Maintenance  
310 Organization Consumer Assistance Plan.

311 (5) (a) 1. The total of all assessments upon a member  
312 insurer for each account may not in any one calendar year exceed  
313 1 percent of the sum of the insurer's premiums written in this  
314 state regarding business covered by the account received during  
315 the 3 calendar years preceding the year in which the assessment  
316 is made, divided by three. If premium information for the 3-year  
317 period is not reasonably available for each member insurer, the  
318 association may use any reasonably available premium  
319 information.

320 2. For long-term care insurer impairments and insolvencies  
321 only, the total assessments upon a member insurer or member  
322 health maintenance organization of the Florida Health  
323 Maintenance Organization Consumer Assistance Plan may not, in  
324 any one calendar year, exceed 0.5 percent of the sum of the  
325 member insurer's or member health maintenance organization's

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326 premiums written in this state regarding business covered by the  
 327 account received during the calendar year preceding the year in  
 328 which the assessment is made. If premium information is not  
 329 reasonably available for each member insurer or member health  
 330 maintenance organization of the Florida Health Maintenance  
 331 Organization Consumer Assistance Plan, the association or the  
 332 Florida Health Maintenance Organization Consumer Assistance Plan  
 333 may use any reasonably available premium information.

334 (8) The association shall issue to each member insurer  
 335 paying an assessment under this part, other than a Class A  
 336 assessment, a certificate of contribution, in a form prescribed  
 337 by the office ~~department~~, for the amount of the assessment so  
 338 paid. All outstanding certificates are of equal dignity and  
 339 priority without reference to amounts or dates of issue. A  
 340 certificate of contribution may be shown by the insurer in its  
 341 financial statement as an asset in such form and for such  
 342 amount, if any, and period of time as the office ~~department~~  
 343 approves. However, any amount offset pursuant to s. 631.72 may  
 344 not be shown as an asset of the insurer on any of its financial  
 345 statements.

346 Section 5. Paragraph (b) of subsection (1), paragraph (f)  
 347 of subsection (3), and subsection (4) of section 631.721,  
 348 Florida Statutes, are amended to read:

349 631.721 Plan of operation.—

350 (1)

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351           (b) ~~If the association fails to submit a suitable proposed~~  
 352 ~~plan of operation within 180 days following October 1, 1979, or~~  
 353 ~~If at any time thereafter~~ the association fails to submit  
 354 suitable amendments to the plan, the department shall, after  
 355 notice and hearing, adopt such reasonable rules as are necessary  
 356 to effectuate the provisions of this part. Such rules shall  
 357 continue in force until modified by the department or superseded  
 358 by a proposed plan submitted by the association and approved by  
 359 the department.

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

362           (f) Establish any additional procedures for assessments  
 363 under s. 631.718, including procedures to share assessment  
 364 information, including data, with and assist, as applicable, the  
 365 board of directors of the Florida Health Maintenance  
 366 Organization Consumer Assistance Plan with the administration,  
 367 collection, and deposit of member health maintenance  
 368 organization assessments for long-term care insurer impairments  
 369 and insolvencies into the health account established under s.  
 370 631.715.

371           (4) The plan of operation may provide that any or all  
 372 powers and duties of the association, except those under ss.  
 373 631.717(13)(c) and 631.718 ~~ss. 631.717(10)(e) and 631.718~~, are  
 374 delegated to a corporation, association, or other organization  
 375 which performs or will perform functions similar to those of

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376 | this association, or its equivalent, in two or more states. Such  
 377 | a corporation, association, or organization shall be reimbursed  
 378 | for any payments made on behalf of the association and shall be  
 379 | paid for its performance of any function of the association. A  
 380 | delegation under this subsection shall take effect only with the  
 381 | approval of both the board of directors and the department and  
 382 | may be made only to a corporation, association, or organization  
 383 | which extends protection not substantially less favorable and  
 384 | effective than that provided by this part.

385 |       Section 6. Section 631.738, Florida Statutes, is created  
 386 | to read:

387 |       631.738 Applicability as to certain health maintenance  
 388 | organizations.—The provisions of this part which relate to  
 389 | assessments for long-term care insurer impairments and  
 390 | insolvencies do not apply to any nonprofit health maintenance  
 391 | organization that operates only in this state and whose  
 392 | statutory capital and surplus is less than \$200 million as of  
 393 | December 31 of the year preceding the year in which the  
 394 | assessment is made.

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

397 |       631.816 Board of directors.—

398 |       (7) Subject to the approval of the department, the board  
 399 | shall designate one representative to serve as a member of the  
 400 | board of directors of the Florida Life and Health Insurance



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401 Guaranty Association pursuant to s. 631.716(1). The  
 402 representative, or his or her alternate, has the right to be  
 403 present during all meetings of the association board of  
 404 directors and shall have full voting rights.

405 Section 8. Present subsections (2) through (6) of section  
 406 631.818, Florida Statutes, are renumbered as subsections (3)  
 407 through (7), respectively, a new subsection (2) is added to that  
 408 section, present subsection (4) is amended, present paragraph  
 409 (f) of present subsection (6) is redesignated as paragraph (g),  
 410 and a new paragraph (f) is added to that subsection, to read:

411 631.818 Powers and duties of the plan.—

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

414 (a) Collect and transmit all information requested by the  
 415 Florida Life and Health Insurance Guaranty Association for the  
 416 association to determine the appropriate assessment base of the  
 417 health insurance account pursuant to ss. 631.715(2)(a)1. and  
 418 631.718(3)(b).

419 (b) Levy and collect assessments from HMOs.

420 (c) Coordinate the administration and collection of member  
 421 HMO assessments for long-term care insurer impairments and  
 422 insolvencies with the Florida Life and Health Insurance Guaranty  
 423 Association.

424 (5)-(4) The plan may render assistance and advice to the  
 425 department, at the department's request, concerning

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426 rehabilitation, payment of claims, continuance of coverage, or  
 427 the performance of other contractual obligations of any HMO  
 428 subject to a delinquency proceeding ~~or a proceeding under s.~~  
 429 ~~624.90.~~

430 (7)~~(6)~~ The plan may:

431 (f) In the event of a long-term care insurer impairment or  
 432 insolvency, coordinate with the Florida Life and Health  
 433 Insurance Guaranty Association to carry out the responsibilities  
 434 of the association for the limited purpose of the long-term care  
 435 insurer impairment or insolvency, including the development of  
 436 any plan for handling the administration of the impairment or  
 437 insolvency.

438 Section 9. Subsections (1) and (3) of section 631.819,  
 439 Florida Statutes, are amended, paragraph (c) is added to  
 440 subsection (2), and subsection (6) is added to that section, to  
 441 read:

442 631.819 Assessments.—

443 (1) For the purposes of providing the funds necessary to  
 444 carry out the powers and duties of the plan, the board of  
 445 directors shall assess the member HMOs at such time and for such  
 446 amounts as the board finds necessary. Assessments shall be due  
 447 not less than 30 days after written notice to the member HMOs  
 448 ~~insurers.~~

449 (2) Assessments for funds to meet the requirements of the  
 450 plan with respect to an insolvent HMO shall not be made until

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451 necessary to implement the purposes of this part. In order to  
452 carry out its duties and powers under this part, upon the  
453 insolvency of an HMO, the plan shall levy and collect  
454 assessments as follows:

455 (c) For the purposes of long-term care insurer impairment  
456 and insolvency assessments under s. 631.718(3)(b), member HMOs  
457 must be assessed in the same manner as member insurers of the  
458 Florida Life and Health Insurance Guaranty Association under  
459 part III of this chapter. Long-term care insurer impairment and  
460 insolvency assessments must be levied and collected by the plan  
461 pursuant to this part, deposited into the health insurance  
462 account established under s. 631.715, and used solely for long-  
463 term care insurer impairment or insolvency obligations.  
464 Assessments collected from member HMOs are considered part of  
465 and satisfy the obligations of the health insurance account  
466 under ss. 631.715(2)(a)1. and 631.718(3)(b).

467 (3) All assessments against HMOs, including long-term care  
468 insurer impairment and insolvency assessments, must ~~shall~~ be  
469 levied as a percentage of annual earned premium revenue for non-  
470 Medicare and non-Medicaid contracts. In no event may the plan  
471 assess in any calendar year more than 0.5 percent of each HMO's  
472 annual earned premium revenue for non-Medicare and non-Medicaid  
473 contracts.

474 (6) The plan shall issue, in a form prescribed by the  
475 office, a certificate of contribution to each member HMO paying

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476 a long-term care insurer impairment or insolvency assessment  
 477 under this part for the amount of the assessment so paid. All  
 478 outstanding certificates are of equal dignity and priority  
 479 without reference to amounts or dates of issue. A certificate of  
 480 contribution may be shown by the member HMO in its financial  
 481 statement as an asset in such form and for such amount and  
 482 period of time as the office approves. However, any amount  
 483 offset pursuant to s. 631.828 may not be shown as an asset of  
 484 the member HMO on any of its financial statements.

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

488 631.820 Plan of operation.—

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

491 (f) Establish any additional procedures for assessments  
 492 under this part, including procedures to coordinate the  
 493 administration and collection of member HMO assessments for  
 494 long-term care insurer impairments and insolvencies with the  
 495 board of directors of the Florida Life and Health Insurance  
 496 Guaranty Association.

497 (4) (a) The plan of operation may provide that any or all  
 498 powers and duties of the plan, except those under ss.  
 499 631.818(7) (b) and (c) and 631.819 ss. 631.818(6) (b) and (c) and  
 500 631.819, are delegated to an administrator that ~~which~~ may be a

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501 corporation, association, or other organization that ~~which~~  
 502 performs or will perform functions similar to those of this  
 503 plan, or its equivalent.

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

506 631.821 Powers and duties of the department.—

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

514 Section 12. Section 631.738, Florida Statutes, as created  
 515 by this act, and the amendments made to ss. 631.713, 631.717,  
 516 631,718, 631.721, 631.818, 631.819, and 631.820, Florida  
 517 Statutes, by this act apply only to long-term care insurer  
 518 impairment and insolvency assessments that result from an  
 519 insurer being adjudged insolvent by a court of competent  
 520 jurisdiction or being determined by the office to be impaired on  
 521 or after the effective date of this act.

522 Section 13. The Division of Law Revision is directed to  
 523 replace the phrase "the effective date of this act" wherever it  
 524 occurs in this act with the date this act becomes a law.

525 Section 14. This act shall take effect upon becoming a

ENROLLED

CS/CS/HB 673

2019 Legislature

526 | law.