

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 privilege; 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 NAIC's valuation manual and  
22 incorporating certain provisions included in the  
23 manual; exempting certain documents from civil  
24 proceedings; revising the methods for evaluating the  
25 valuation of industrial life insurance policies;  
26 revising provisions relating to calculating additional

27 premium; updating provisions relating to reserve  
28 calculations for indeterminate premium plans; creating  
29 s. 625.1212, F.S.; providing for the valuation of  
30 policies and contracts after the adoption of the  
31 NAIC's valuation manual; providing applicability;  
32 defining terms; requiring the Office of Insurance  
33 Regulation to value insurer reserves; requiring  
34 actuarial opinions of the reserves and a supporting  
35 memorandum to the opinions; requiring the insurer to  
36 apply the standard prescribed in the valuation manual;  
37 providing exceptions; providing requirements for a  
38 principle-based valuation of reserves; requiring an  
39 insurer to submit certain data to the office;  
40 directing the Financial Services Commission to adopt  
41 rules; creating s. 625.1214, F.S.; providing for the  
42 use of confidential information; prohibiting the use  
43 of such information in private civil actions; amending  
44 s. 627.476, F.S.; revising the Standard Nonforfeiture  
45 Law; distinguishing provisions subject to the  
46 valuation manual and providing for the application of  
47 tables founds in the manual; amending s. 628.461,  
48 F.S.; revising the amount of outstanding voting  
49 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 the acquisition of the  
55 voting securities of a domestic stock company under  
56 certain circumstances; requiring the statement  
57 notifying the office to include additional  
58 information; conforming a provision to changes made by  
59 the act; providing that control is presumed to exist  
60 under certain conditions; specifying how control may  
61 be rebutted and how a controlling interest may be  
62 divested; deleting definitions; amending s. 628.801,  
63 F.S.; requiring an insurer to annually file a  
64 registration statement by a specified date; revising  
65 the requirements and standards for the rules  
66 establishing the information and statement form for  
67 the registration; requiring an insurer to file an  
68 annual enterprise risk report; authorizing the office  
69 to conduct examinations to determine the financial  
70 condition of registrants; providing that failure to  
71 file a registration or report is a violation of the  
72 section; providing additional grounds, requirements,  
73 and conditions with respect to a waiver from the  
74 registration requirements; amending s. 628.803, F.S.;  
75 providing sanctions for persons who violate certain  
76 provisions relating to the acquisition of controlling  
77 stock; creating s. 628.804, F.S.; providing for the  
78 groupwide supervision of international insurance

79 groups; defining terms; providing for the selection of  
 80 a groupwide supervisor; authorizing the commission to  
 81 adopt rules; creating s. 628.805, F.S.; authorizing  
 82 the office to participate in supervisory colleges;  
 83 authorizing the office to assess fees on insurers for  
 84 participation; amending ss. 636.045 and 641.225, F.S.;  
 85 applying certain statutes related to solvency to  
 86 prepaid limited health service organizations and  
 87 health maintenance organizations; amending s. 641.255,  
 88 F.S.; providing for applicability of specified  
 89 provisions to a health maintenance organization that  
 90 is a member of a holding company; providing effective  
 91 dates and a contingent effective date.

92

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

94

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

97 624.10 Other definitions ~~Transacting insurance.~~ As used in  
 98 the Florida Insurance Code, the term:

99 (1) "Affiliate" means an entity that exercises control  
 100 over or is directly or indirectly controlled by the insurer  
 101 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  
 117 controlled, or held with power to vote, by the other person;

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

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)

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

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

305 2. An actuarial opinion summary written by the insurer's  
306 appointed actuary. The summary must be filed in accordance with  
307 the appropriate NAIC property and casualty annual statement  
308 instructions. Proprietary business information contained in the  
309 summary is confidential and exempt under s. 624.4212, and the  
310 summary and related information are not subject to subpoena or  
311 discovery or admissible in evidence in a private civil action.  
312 Neither the office nor any person who received documents,

313 materials, or other information while acting under the authority  
314 of the office, or with whom such information is shared pursuant  
315 to s. 624.4212, may testify in a private civil action concerning  
316 such confidential information. However, the department or office  
317 may use the confidential and exempt information in the  
318 furtherance of any regulatory or legal action brought against an  
319 insurer as a part of the official duties of the department or  
320 office. No waiver of any other applicable claim of  
321 confidentiality or privilege may occur as a result of a  
322 disclosure to the office under this section or any other section  
323 of the insurance code. This paragraph does not apply to life and  
324 health insurers subject to s. 625.121(3).

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

329 (8)

330 (e) The commission shall adopt rules to administer  
331 ~~implement~~ this subsection, which ~~rules~~ must be in substantial  
332 conformity with the 2006 Annual Financial Reporting Model  
333 Regulation ~~1998 Model Rule requiring annual audited financial~~  
334 ~~reports~~ adopted by the NAIC ~~National Association of Insurance~~  
335 ~~Commissioners~~ or subsequent amendments, except where  
336 inconsistent with the requirements of this subsection. Any  
337 exception to, waiver of, or interpretation of accounting  
338 requirements of the commission must be in writing and signed by

339 an authorized representative of the office. An ~~No~~ insurer may  
 340 not raise an as a defense in any action, any exception to,  
 341 waiver of, or interpretation of accounting requirements as a  
 342 defense in an action, unless previously issued in writing by an  
 343 authorized representative of the office.

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

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

354 (b) Insurers must:

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

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

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

365 the captive.

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

370 625.121 Standard Valuation Law; life insurance.—

371 (2) ANNUAL VALUATION.—The office shall annually value, or  
 372 cause to be valued, the reserves ~~reserve liabilities,~~  
 373 ~~hereinafter called "reserves,"~~ for all outstanding life  
 374 insurance policies and annuity and pure endowment contracts of  
 375 each ~~every~~ life insurer doing business in this state, ~~and may~~  
 376 ~~certify the amount of any such reserves, specifying the~~  
 377 ~~mortality table or tables, rate or rates of interest, and~~  
 378 ~~methods, net-level premium method or others, used in the~~  
 379 ~~calculation of such reserves.~~ In the case of an alien insurer,  
 380 such valuation is ~~shall be~~ limited to its insurance transactions  
 381 in the United States. In calculating ~~such~~ reserves, the office  
 382 may use group methods and approximate averages for fractions of  
 383 a year or otherwise, and. ~~It may accept in its discretion the~~  
 384 insurer's calculation of such reserves. In lieu of the valuation  
 385 of the reserves ~~herein~~ required of a ~~any~~ foreign or alien  
 386 insurer, the office ~~it~~ may accept any valuation made or caused  
 387 to be made by the insurance supervisory official of any state or  
 388 other jurisdiction if the ~~when such~~ valuation complies with the  
 389 minimum standard ~~herein~~ provided under this section ~~and if the~~  
 390 ~~official of such state or jurisdiction accepts as sufficient and~~

391 ~~valid for all legal purposes the certificate of valuation of the~~  
 392 ~~office when such certificate states the valuation to have been~~  
 393 ~~made in a specified manner according to which the aggregate~~  
 394 ~~reserves would be at least as large as if they had been computed~~  
 395 ~~in the manner prescribed by the law of that state or~~  
 396 ~~jurisdiction. If a ~~When any such~~ valuation is made by the~~  
 397 ~~office, the office ~~it~~ may use its ~~the~~ actuary ~~of the office~~ or~~  
 398 ~~employ an actuary for that ~~the~~ purpose; and the reasonable~~  
 399 ~~compensation of the actuary, at a rate approved by the office,~~  
 400 ~~plus ~~and~~ reimbursement of travel expenses pursuant to s. 624.320~~  
 401 ~~upon demand by the office, supported by an itemized statement of~~  
 402 ~~such compensation and expenses, shall be paid by the insurer~~  
 403 ~~upon demand of the office. If ~~When~~ a domestic insurer furnishes~~  
 404 ~~the office with a valuation of its outstanding policies as~~  
 405 ~~computed by its own actuary or by an actuary deemed satisfactory~~  
 406 ~~for that ~~the~~ purpose by the office, the valuation shall be~~  
 407 ~~verified by the actuary of the office without cost to the~~  
 408 ~~insurer. This subsection applies to the calculation of reserves~~  
 409 ~~for policies and contracts not subject to s. 625.1212.~~

410 (3) ACTUARIAL OPINION OF RESERVES.—

411 (a) ~~1.~~ Each life insurer ~~insurance company~~ doing business  
 412 in this state shall annually submit the opinion of a qualified  
 413 actuary as to whether the reserves and related actuarial items  
 414 held in support of the policies and contracts specified by the  
 415 commission by rule are computed appropriately, are based on  
 416 assumptions that ~~which~~ satisfy contractual provisions, are



417 consistent with prior reported amounts, and comply with  
 418 applicable laws of this state. The commission by rule shall  
 419 define the specifics of this opinion and add any other items  
 420 determined ~~to be~~ necessary to its scope.

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

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

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

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

442 5.6. As used in ~~For the purposes of~~ this subsection, the

443 term "qualified actuary" means a member in good standing of the  
444 American Academy of Actuaries who also meets the requirements  
445 specified by rule of the commission.

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

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

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

460 ~~9.10.~~ Except as otherwise provided in this subparagraph  
461 ~~paragraph~~, any memorandum or other material in support of the  
462 opinion is confidential and exempt from ~~the provisions of s.~~  
463 119.07(1) and is not subject to subpoena or discovery or  
464 admissible in evidence in any private civil action; however, the  
465 memorandum or other material may be released by the office with  
466 the written consent of the insurer ~~company~~, or to the American  
467 Academy of Actuaries upon request stating that the memorandum or  
468 other material is required for the purpose of professional

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

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

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

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

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

521 the standard basis, excluding any disability and accidental  
 522 death benefits in such policies:

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

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

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

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

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

547 the 1941 Standard Industrial Mortality Table; and

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

551 3. For policies issued on or after October 1, 2014, an  
 552 Industrial Mortality Table adopted after 1980 by the NAIC which  
 553 is adopted by rule of the commission for use in determining the  
 554 minimum standard of valuation for such policies.

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

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

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

570 1. For policies or contracts issued on or after January 1,  
 571 1966, the tables of period 2 disablement rates and the 1930 to  
 572 1950 termination rates of the 1952 disability study of the

573 Society of Actuaries, with due regard to the type of benefit;  
 574 2. For policies or contracts issued on or after January 1,  
 575 1961, and before ~~prior to~~ January 1, 1966, either of the tables  
 576 specified in subparagraph 1. ~~those tables~~ or, at the option of  
 577 the insurer, the class three disability table (1926);  
 578 3. For policies issued before ~~prior to~~ January 1, 1961,  
 579 the class three disability table (1926); and  
 580 4. For policies or contracts issued on or after July 1,  
 581 2004, tables of disablement rates and termination rates adopted  
 582 after 1980 by the NAIC ~~National Association of Insurance~~  
 583 ~~Commissioners~~, adopted by rule by the commission for use in  
 584 determining the minimum standard of valuation for those policies  
 585 or contracts.

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

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

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

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

598 3. For policies issued before ~~prior to~~ January 1, 1961,

599 the Intercompany Double Indemnity Mortality Table; and

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

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

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

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

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



625 premium immediate annuity contracts and 4 percent interest for  
626 all other individual annuity and pure endowment contracts.

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

637 3. For individual annuity and pure endowment contracts  
638 issued on or after October 1, 1979, and before ~~prior~~ ~~to~~ October  
639 1, 1986, other than single-premium immediate annuity contracts,  
640 excluding any disability and accidental death benefits in such  
641 contracts, the 1971 Individual Annuity Mortality Table, or any  
642 modification of this table approved by the office, and 5.5  
643 percent interest for single-premium deferred annuity and pure  
644 endowment contracts and 4.5 percent interest for all other such  
645 individual annuity and pure endowment contracts. For such  
646 contracts issued on or after October 1, 1986, the 1983  
647 Individual Annual Mortality Table, or any modification of such  
648 table approved by the office, and the applicable calendar year  
649 statutory valuation interest rate as described in subsection  
650 (6).

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

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

668  
669 After July 1, 1973, an ~~any~~ insurer may have filed with the  
670 former Department of Insurance a written notice of its election  
671 to comply with ~~the provisions of~~ this paragraph after a  
672 specified date before January 1, 1979, which shall be the  
673 operative date of this paragraph for such insurer. However, an  
674 insurer may elect a different operative date for individual  
675 annuity and pure endowment contracts from that elected for group  
676 annuity and pure endowment contracts. If an insurer does not

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677 make ~~makes no~~ such election, the operative date of this  
678 paragraph for such insurer is ~~shall be~~ January 1, 1979.

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

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

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

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

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

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

703 2000.

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

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

719 (6) MINIMUM STANDARD OF VALUATION.—

720 (e) The interest rate index shall be the Moody's Corporate  
 721 Bond Yield Average-Monthly Average Corporates as published by  
 722 Moody's Investors Service, Inc., if the ~~as long as this~~ index is  
 723 calculated by using substantially the same methodology ~~as~~ used  
 724 by Moody's ~~it~~ on January 1, 1981. If Moody's corporate bond  
 725 yield average ceases to be calculated in substantially the same  
 726 ~~this~~ manner, the interest rate index shall be the index  
 727 specified in the valuation manual, as applicable, as provided  
 728 under s. 625.1212, or an index adopted by the NAIC and approved

729 by rule adopted ~~promulgated~~ by the commission. The methodology  
 730 used in determining the index approved by rule must ~~shall~~ be  
 731 substantially the same as the methodology employed on January 1,  
 732 1981, for determining Moody's Corporate Bond Yield Average-  
 733 Monthly Average Corporates as published by Moody's Investors  
 734 Service, Inc.

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

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

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

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

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

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807 ~~any~~ such plan must ~~shall~~:

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

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

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

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

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

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

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

831 (b) "Appointed actuary" means a qualified actuary who is  
832 appointed in accordance with the valuation manual to prepare the



833 actuarial opinion required in subsection (4).

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

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

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

843 (f) "Operative date of the valuation manual" means the  
844 latter of January 1, 2017, or the first January 1 after the  
845 first July 1 in which the following conditions, as certified in  
846 writing by the Commissioner of Insurance Regulation to the  
847 Financial Services Commission, have been met:

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

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

856 3. The Standard Valuation Law as amended by the NAIC in  
857 2009, or substantially similar legislation, has been enacted in  
858 at least 42 of the following 55 jurisdictions: the 50 states of

859 the United States, the District of Columbia, American Samoa, the  
860 American Virgin Islands, Guam, and Puerto Rico.

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

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

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

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

884 (k) "Valuation manual" means the manual of valuation

885 instructions adopted by the NAIC, or as subsequently amended.

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

896 (4) ACTUARIAL OPINION OF RESERVES.—

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

908 (b) Except as exempted in the valuation manual, each  
909 insurer that has outstanding life insurance contracts, accident  
910 and health insurance contracts, or deposit-type contracts in

911 this state shall also annually include an opinion by the same  
912 appointed actuary as to whether the reserves and related  
913 actuarial items held in support of the policies and contracts  
914 specified in the valuation manual, when considered in light of  
915 the assets held by the insurer with respect to the reserves and  
916 related actuarial items, including but not limited to, the  
917 investment earnings on the assets and the considerations  
918 anticipated to be received and retained under the policies and  
919 contracts, make adequate provision for the insurer's obligations  
920 under the policies and contracts, including, but not limited to,  
921 the benefits under and expenses associated with the policies and  
922 contracts.

923 (c) The insurer shall prepare a memorandum to support each  
924 actuarial opinion in such form and substance as specified in the  
925 valuation manual and acceptable to the office. If the insurer  
926 fails to provide a supporting memorandum within the period  
927 specified in the valuation manual, or if the office determines  
928 that the supporting memorandum fails to meet the standards  
929 required by the manual or is otherwise unacceptable to the  
930 office, the office may engage a qualified actuary at the expense  
931 of the insurer to review the opinion and the basis for the  
932 opinion and to prepare the supporting memorandum.

933 (d) Each opinion subject to this subsection must be  
934 submitted with the annual statement in such form and substance  
935 as specified in the valuation manual and acceptable to the  
936 office, must reflect the valuation of the reserve liabilities

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

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

951 (5) MINIMUM STANDARD OF VALUATION.—

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

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

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

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

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

984 (d) The office may require an insurer to change any  
985 assumption or method that, in the opinion of the office, is  
986 necessary to comply with the valuation manual or this section.  
987 The insurer shall adjust the reserves as required by the office.  
988 The office may take other disciplinary action pursuant to

989 applicable state law and rules.

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

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

1004 (g) An insurer that adopted a standard of valuation  
1005 producing greater aggregate reserves than those calculated  
1006 according to the minimum standard provided under this section  
1007 may, with the approval of the office, adopt a lower standard of  
1008 valuation, but such standard may not be lower than the minimum  
1009 provided in this subsection. For purposes of this subsection,  
1010 holding additional reserves previously determined by an  
1011 appointed actuary to be necessary to render the opinion required  
1012 by subsection (4) may not be deemed to be the adoption of a  
1013 higher standard of valuation.

1014 (6) REQUIREMENTS OF A PRINCIPLE-BASED VALUATION OF

1015 RESERVES.—

1016 (a) Insurers required to use a principle-based valuation

1017 of reserves for specified product forms and product lines and

1018 associated policies and contracts, pursuant to subparagraph

1019 (5) (a)2., must:

1020 1. Quantify the benefits and guarantees, and the funding

1021 associated with the policies or contracts and their risks at a

1022 level of conservatism that reflects conditions that:

1023 a. Include unfavorable events that have a reasonable

1024 probability of occurring during the lifetime of the policies or

1025 contracts; and

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

1027 2. Incorporate assumptions, risk analysis methods, and

1028 financial models and management techniques that are consistent

1029 with, but not necessarily identical to, those used within the

1030 insurer's overall risk assessment process while recognizing

1031 potential differences in financial reporting structures and any

1032 prescribed assumptions or methods.

1033 3. Incorporate assumptions that are derived in one of the

1034 following manners:

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

1036 b. For assumptions that are not prescribed, the

1037 assumptions must:

1038 (I) Be established using the insurer's available

1039 experience, to the extent that it is relevant and statistically

1040 credible; or



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

1044 4. Provide margins for uncertainty including adverse  
1045 deviation and estimation error, such that the greater the  
1046 uncertainty, the larger the margin and resulting reserve.

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

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

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

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

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

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

1071 (8) RULE ADOPTION.—The commission may adopt rules as  
 1072 necessary to administer this section, including rules requiring  
 1073 the use of the NAIC 2009 Standard Valuation Law and the NAIC  
 1074 2012 Valuation Manual. The adoption of such rules is not subject  
 1075 to s. 120.541(3), and the rules do not take effect until the  
 1076 operative date of the valuation manual.

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

1079 625.1214 Use of confidential information.—

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

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

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

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

1110           627.476 Standard Nonforfeiture Law for Life Insurance.—

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

1113           (h) All adjusted premiums and present values referred to  
 1114 in this section shall, for all policies of ordinary insurance,  
 1115 be calculated on the basis of the ~~Commissioners'~~ 1980 Standard  
 1116 Ordinary Mortality Table adopted by the NAIC or, at the election  
 1117 of the insurer for any one or more specified plans of life  
 1118 insurance, the ~~Commissioners'~~ 1980 Standard Ordinary Mortality

1119 Table with Ten-Year Select Mortality Factors adopted by the  
 1120 NAIC; ~~shall~~ for all policies of industrial insurance be  
 1121 calculated on the basis of the ~~Commissioners'~~ 1961 Standard  
 1122 Industrial Mortality Table adopted by the NAIC; and ~~shall~~ for  
 1123 all policies issued in a particular calendar year be calculated  
 1124 on the basis of a rate of interest not exceeding the  
 1125 nonforfeiture interest rate as defined in this subsection for  
 1126 policies issued in that calendar year. However:

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

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

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

1143         4. In calculating the present value of any paid-up term  
 1144 insurance with accompanying pure endowment, if any, offered as a

1145 nonforfeiture benefit, the rates of mortality assumed may be not  
 1146 more than those shown in the ~~Commissioners'~~ 1980 Extended Term  
 1147 Insurance Table adopted by the NAIC for policies of ordinary  
 1148 insurance and not more than the ~~Commissioners'~~ 1961 Industrial  
 1149 Extended Term Insurance Table adopted by the NAIC for policies  
 1150 of industrial insurance.

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

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

1159 b. The 1980 CSO or CET Smoker and Nonsmoker Mortality  
 1160 Tables, whichever is applicable, for policies issued on or after  
 1161 the operative date of this subsection;

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

1170 6. For policies issued:

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

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

1183 (I) The 1980 Standard Ordinary Mortality Table with or  
 1184 without Ten-Year Select Mortality Factors or the 1980 Extended  
 1185 Term Insurance Table adopted by the NAIC. If the commission  
 1186 approves by rule a Standard Ordinary Mortality Table adopted by  
 1187 the NAIC for use in determining the minimum nonforfeiture  
 1188 standard for policies issued on or after the operative date of  
 1189 the valuation manual, the minimum nonforfeiture standard  
 1190 supersedes the minimum nonforfeiture standard provided by the  
 1191 valuation manual.

1192 (II) The 1961 Standard Industrial Mortality Table or 1961  
 1193 Industrial Extended Term Insurance Table adopted by the NAIC. If  
 1194 the commission approves by rule any Standard Industrial  
 1195 Mortality Table adopted by the NAIC for use in determining the  
 1196 minimum nonforfeiture standard for policies issued on or after

1197 the operative date of the valuation manual, the minimum  
 1198 nonforfeiture standard supersedes the minimum nonforfeiture  
 1199 standard provided by the valuation manual.

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

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

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

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

1214 (14) OPERATIVE DATE.—

1215 (a) After the effective date of this code, an ~~any~~ insurer  
 1216 may file with the office a written notice or notices of its  
 1217 election to comply with ~~the provisions of~~ this section on and  
 1218 after a specified date or dates before January 1, 1966, as to  
 1219 either or both of its policies of ordinary and industrial  
 1220 insurance, in which case such specified date or dates shall be  
 1221 the operative date of this section with respect to such  
 1222 policies. The operative date of this section for policies of

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

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

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

1239 628.461 Acquisition of controlling stock.—

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

1247 (a) The person or affiliated person has filed with the  
 1248 office and sent to the insurer and controlling company a letter



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

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

- 1260 1. Any definitive acquisition agreement is entered;
- 1261 2. Any form of tender offer or exchange offer is proposed;
- 1262 or
- 1263 3. The acquisition of the securities, if no definitive  
 1264 acquisition agreement, tender offer, or exchange offer is  
 1265 involved; and

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

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

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1275 ~~the insurer as well as the basis for disclaiming the affiliation~~  
1276 ~~and control. After a disclaimer has been filed, the insurer~~  
1277 ~~shall be relieved of any duty to register or report under this~~  
1278 ~~section which may arise out of the insurer's relationship with~~  
1279 ~~the person unless and until the office disallows the disclaimer.~~  
1280 ~~The office shall disallow a disclaimer only after furnishing all~~  
1281 ~~parties in interest with notice and opportunity to be heard and~~  
1282 ~~after making specific findings of fact to support the~~  
1283 ~~disallowance.~~ A filing ~~as~~ required under this subsection must be  
1284 made for ~~as to~~ any acquisition that equals or exceeds 10 percent  
1285 of the outstanding voting securities.

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

1294 (a) The identity of, and the background information  
1295 specified in subsection (4) on, each natural person by whom, or  
1296 on whose behalf, the acquisition is to be made; and, if the  
1297 acquisition is to be made by, or on behalf of, a corporation,  
1298 association, or trust, as to the corporation, association, or  
1299 trust and as to any person who controls, either ~~either~~ directly or  
1300 indirectly, the corporation, association, or trust, the identity

1301 of, and the background information specified in subsection (4)  
 1302 on, each director, officer, trustee, or other natural person  
 1303 performing duties similar to those of a director, officer, or  
 1304 trustee for the corporation, association, or trust.~~†~~

1305 (b) The source and amount of the funds or other  
 1306 consideration used, or to be used, in making the acquisition.~~†~~

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

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

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

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1327 | been entered into and gives the details thereof.

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

1331 |       (g) Effective January 1, 2015, an acknowledgement by the  
1332 | person required to file the statement that the person and all  
1333 | subsidiaries within the person's control in the insurance  
1334 | holding company system will provide, as necessary, information  
1335 | to the office upon request to evaluate enterprise risk to the  
1336 | insurer.

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

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1353 affiliated person to request a hearing within 7 days, or upon a  
1354 determination at a hearing convened pursuant to this subsection  
1355 that the person or affiliated person has acquired voting  
1356 securities of a domestic stock insurer or controlling company in  
1357 violation of this section, the office may order the person and  
1358 affiliated person to divest themselves of any voting securities  
1359 so acquired.

1360       (12) (a) A presumption of control may be rebutted by any  
1361 person by filing a disclaimer of control with the office. The  
1362 disclaimer must fully disclose all material relationships and  
1363 bases for affiliation between the person and the insurer as well  
1364 as the basis for disclaiming the affiliation. The disclaimer of  
1365 control shall be filed on a form prescribed by the office. A  
1366 person or acquiring party may file a disclaimer of control by  
1367 filing with the office a copy of a Schedule 13G filed with the  
1368 Securities and Exchange Commission pursuant to rules 13d-1(b) or  
1369 13d-1(c) under the Securities Exchange Act of 1934, as amended.  
1370 After a disclaimer has been filed, the insurer is relieved of  
1371 any duty to register or report under this section which may  
1372 arise out of the insurer's relationship with the person unless  
1373 the office disallows the disclaimer.

1374       (b) A controlling person of a domestic insurer who seeks  
1375 to divest the person's controlling interest in the domestic  
1376 insurer in any manner shall file with the office, with a copy  
1377 provided to the insurer, confidential notice, not subject to  
1378 public inspection as provided under s. 624.4212, of the person's

1379 proposed divestiture at least 30 days before the cessation of  
1380 control. The office shall determine those instances in which the  
1381 party seeking to divest or to acquire a controlling interest in  
1382 an insurer must file for and obtain approval of the transaction.  
1383 The information remains confidential until the conclusion of the  
1384 transaction unless the office, in its discretion, determines  
1385 that confidential treatment interferes with enforcement of this  
1386 section. If the statement referred to in subsection (1) is  
1387 otherwise filed, this paragraph does not apply ~~For the purpose~~  
1388 ~~of this section, the term "affiliated person" of another person~~  
1389 ~~means:~~

- 1390 ~~1. The spouse of such other person;~~
- 1391 ~~2. The parents of such other person and their lineal~~  
1392 ~~descendants and the parents of such other person's spouse and~~  
1393 ~~their lineal descendants;~~
- 1394 ~~3. Any person who directly or indirectly owns or controls,~~  
1395 ~~or holds with power to vote, 5 percent or more of the~~  
1396 ~~outstanding voting securities of such other person;~~
- 1397 ~~4. Any person 5 percent or more of the outstanding voting~~  
1398 ~~securities of which are directly or indirectly owned or~~  
1399 ~~controlled, or held with power to vote, by such other person;~~
- 1400 ~~5. Any person or group of persons who directly or~~  
1401 ~~indirectly control, are controlled by, or are under common~~  
1402 ~~control with such other person;~~
- 1403 ~~6. Any officer, director, partner, copartner, or employee~~  
1404 ~~of such other person;~~

1405 ~~7. If such other person is an investment company, any~~  
 1406 ~~investment adviser of such company or any member of an advisory~~  
 1407 ~~board of such company;~~

1408 ~~8. If such other person is an unincorporated investment~~  
 1409 ~~company not having a board of directors, the depositor of such~~  
 1410 ~~company; or~~

1411 ~~9. Any person who has entered into an agreement, written~~  
 1412 ~~or unwritten, to act in concert with such other person in~~  
 1413 ~~acquiring or limiting the disposition of securities of a~~  
 1414 ~~domestic stock insurer or controlling company.~~

1415 ~~(b) For the purposes of this section, the term~~  
 1416 ~~"controlling company" means any corporation, trust, or~~  
 1417 ~~association owning, directly or indirectly, 25 percent or more~~  
 1418 ~~of the voting securities of one or more domestic stock insurance~~  
 1419 ~~companies.~~

1420 (13) The commission may adopt, ~~amend, or repeal~~ rules that  
 1421 are necessary to administer ~~implement the provisions of~~ this  
 1422 section, ~~pursuant to chapter 120.~~

1423 Section 11. Section 628.801, Florida Statutes, is amended  
 1424 to read:

1425 628.801 Insurance holding companies; registration;  
 1426 regulation.—

1427 (1) An ~~Every~~ insurer that is authorized to do business in  
 1428 this state and that is a member of an insurance holding company  
 1429 shall, on or before April 1 of each year, register with the  
 1430 office and file a registration statement and be subject to

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1431 regulation with respect to its relationship to the holding  
1432 company as provided by law or rule ~~or statute~~. The commission  
1433 shall adopt rules establishing the information and statement  
1434 form required for registration and the manner in which  
1435 registered insurers and their affiliates are regulated. The  
1436 rules apply to domestic insurers, foreign insurers, and  
1437 commercially domiciled insurers, except for a foreign insurer  
1438 domiciled in states that were ~~are~~ accredited by the NAIC  
1439 ~~National Association of Insurance Commissioners~~ by December 31,  
1440 1995. Except to the extent of any conflict with this code, the  
1441 rules must include all requirements and standards of ss. 4 and 5  
1442 of the Insurance Holding Company System Regulatory Act and the  
1443 Insurance Holding Company System Model Regulation of the NAIC  
1444 ~~National Association of Insurance Commissioners~~, as adopted in  
1445 December 2010. The commission may adopt subsequent amendments  
1446 thereto if the methodology remains substantially consistent. The  
1447 rules ~~Regulatory Act and the Model Regulation existed on~~  
1448 ~~November 30, 2001~~, and may include a prohibition on oral  
1449 contracts between affiliated entities. Material transactions  
1450 between an insurer and its affiliates shall be filed with the  
1451 office as provided by rule ~~Upon request, the office may waive~~  
1452 ~~filing requirements under this section for a domestic insurer~~  
1453 ~~that is the subsidiary of an insurer that is in full compliance~~  
1454 ~~with the insurance holding company registration laws of its~~  
1455 ~~state of domicile, which state is accredited by the National~~  
1456 ~~Association of Insurance Commissioners.~~

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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1457 (2) Effective January 1, 2015, the ultimate controlling  
1458 person of every insurer subject to registration shall also file  
1459 an annual enterprise risk report on or before April 1. As used  
1460 in this subsection, the term "ultimate controlling person" means  
1461 a person who is not controlled by any other person. The report,  
1462 to the best of the ultimate controlling person's knowledge and  
1463 belief, must identify the material risks within the insurance  
1464 holding company system that could pose enterprise risk to the  
1465 insurer. The report shall be filed with the lead state office of  
1466 the insurance holding company system as determined by the  
1467 procedures within the Financial Analysis Handbook adopted by the  
1468 NAIC and is confidential and exempt from public disclosure as  
1469 provided in s. 624.4212.

1470 (a) An insurer may satisfy this requirement by providing  
1471 the office with the most recently filed parent corporation  
1472 reports that have been filed with the Securities and Exchange  
1473 Commission which provide the appropriate enterprise risk  
1474 information.

1475 (b) The term "enterprise risk" means an activity,  
1476 circumstance, event, or series of events involving one or more  
1477 affiliates of an insurer which, if not remedied promptly, is  
1478 likely to have a materially adverse effect upon the financial  
1479 condition or liquidity of the insurer or its insurance holding  
1480 company system as a whole, including anything that would cause  
1481 the insurer's risk-based capital to fall into company action  
1482 level as set forth in s. 624.4085 or would cause the insurer to

1483 be in a hazardous financial condition.

1484 (3) Effective January 1, 2015, pursuant to chapter 624  
1485 relating to the examination of insurers, the office may examine  
1486 any insurer registered under this section and its affiliates to  
1487 ascertain the financial condition of the insurer, including the  
1488 enterprise risk to the insurer by the ultimate controlling  
1489 party, or by any entity or combination of entities within the  
1490 insurance holding company system, or by the insurance holding  
1491 company system on a consolidated basis.

1492 (4) The filings and related documents filed pursuant to  
1493 this section are confidential and exempt as provided in s.  
1494 624.4212 and are not subject to subpoena or discovery or  
1495 admissible in evidence in any private civil action. A waiver of  
1496 any applicable privilege or claim of confidentiality in the  
1497 filings and related documents may not occur as a result of any  
1498 disclosure to the office under this section or any other section  
1499 of the insurance code as authorized under s. 624.4212. Neither  
1500 the office nor any person who received the filings and related  
1501 documents while acting under the authority of the office or with  
1502 whom such information is shared pursuant to s. 624.4212 is  
1503 permitted or required to testify in any private civil action  
1504 concerning any confidential documents, materials, or information  
1505 subject to s. 624.4212. However, the department or office may  
1506 use the confidential and exempt information in the furtherance  
1507 of any regulatory or legal action brought against an insurer as  
1508 a part of the official duties of the department or office.

1509 (5) Effective January 1, 2015, the failure to file a  
1510 registration statement, or a summary of the registration  
1511 statement, or the enterprise risk filing report required by this  
1512 section within the time specified for filing is a violation of  
1513 this section.

1514 (6) Upon request, the office may waive the filing  
1515 requirements of this section:

1516 (a) If the insurer is a domestic insurer that is the  
1517 subsidiary of an insurer that is in full compliance with the  
1518 insurance holding company registration laws of its state of  
1519 domicile, which state is accredited by the NAIC; or

1520 (b) If the insurer is a domestic insurer that writes only  
1521 in this state and has annual direct written and assumed premium  
1522 of less than \$300 million, excluding premiums reinsured with the  
1523 Federal Crop Insurance Corporation and Federal Flood Program,  
1524 and demonstrates that compliance with this section would not  
1525 provide substantial regulatory or consumer benefit. In  
1526 evaluating a waiver request made under this paragraph, the  
1527 office may consider various factors including, but not limited  
1528 to, the type of business entity, the volume of business written,  
1529 the ownership or organizational structure of the entity, or  
1530 whether the company is in run-off.

1531  
1532 A waiver granted pursuant to this subsection is valid for 2  
1533 years unless sooner withdrawn due to a change in the  
1534 circumstances under which the waiver was granted.

1535 Section 12. Effective January 1, 2015, present subsection  
 1536 (4) of section 628.803, Florida Statutes, is renumbered as  
 1537 subsection (5), and a new subsection (4) is added to that  
 1538 section to read:

1539 628.803 Sanctions.—

1540 (4) If the office determines that any person violated s.  
 1541 628.461 or s. 628.801, the violation may serve as an independent  
 1542 basis for disapproving dividends or distributions and for  
 1543 placing the insurer under an order of supervision in accordance  
 1544 with part VI of chapter 624.

1545 Section 13. Effective January 1, 2015, section 628.804,  
 1546 Florida Statutes, is created to read:

1547 628.804 Groupwide supervision for international insurance  
 1548 groups.—

1549 (1) As used in this section:

1550 (a) "Groupwide supervisor" means the chief insurance  
 1551 regulatory official for the jurisdiction who is determined by  
 1552 the office to have significant contacts with the international  
 1553 insurance group sufficient to conduct and coordinate groupwide  
 1554 supervision activities.

1555 (b) "International insurance group" means an insurance  
 1556 group operating internationally which includes an insurer.

1557 (2) The office may act as the groupwide supervisor for an  
 1558 international insurance group in which the ultimate controlling  
 1559 person of the group is domiciled in this state.

1560 (3) (a) If the ultimate controlling person is domiciled

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1561 outside this state, the office, in cooperation with other  
1562 groupwide supervisors, may:

1563 1. Determine that the office is the appropriate groupwide  
1564 supervisor for an international insurance group with substantial  
1565 operations concentrated in this state or in insurance operations  
1566 conducted by subsidiary insurance companies domiciled in this  
1567 state; or

1568 2. Acknowledge that another chief insurance regulatory  
1569 official is the appropriate groupwide supervisor for the  
1570 international insurance group.

1571 (b) Before issuing a determination, the office must notify  
1572 the insurer and the ultimate controlling person within the  
1573 international insurance group and provide the international  
1574 insurance group with at least 30 days to submit information  
1575 pertinent to the pending determination.

1576 (4) The commission may adopt rules to administer this  
1577 section, including rules establishing the criteria for making a  
1578 determination under paragraph (3) (a), such as the extent of  
1579 insurance operations in this state and nation; the location of  
1580 the executive offices, assets and liabilities, and business  
1581 operations of the international insurance group; the domicile of  
1582 the ultimate controlling person of the international insurance  
1583 group; and the similarity of the regulatory systems of other  
1584 jurisdictions acting or seeking to act as lead groupwide  
1585 supervisor.

1586 Section 14. Effective January 1, 2015, section 628.805,

1587 Florida Statutes, is created to read:

1588 628.805 Supervisory colleges.—In order to assess the  
1589 business strategy, financial position, legal and regulatory  
1590 position, risk exposure, risk management, and governance  
1591 processes, and as part of the examination of individual insurers  
1592 in accordance with ss. 628.801 and 624.316, the office may  
1593 participate in a supervisory college with other regulators  
1594 charged with supervision of the insurer or its affiliates,  
1595 including other state, federal, and international regulatory  
1596 agencies. In accordance with s. 624.4212 regarding confidential  
1597 information sharing, the office may enter into agreements that  
1598 provide the basis for cooperation between the office and the  
1599 other regulatory agencies and the activities of the supervisory  
1600 college. This section does not delegate to the supervisory  
1601 college the office's authority to regulate or supervise the  
1602 insurer or its affiliates under its jurisdiction.

1603 (1) With respect to participation in a supervisory  
1604 college, the office may:

1605 (a) Initiate the establishment of a supervisory college.

1606 (b) Clarify the membership and participation of other  
1607 supervisors in the supervisory college.

1608 (c) Clarify the functions of the supervisory college and  
1609 the role of other regulators, including the establishment of a  
1610 groupwide supervisor.

1611 (d) Coordinate the ongoing activities of the supervisory  
1612 college, including planning meetings, supervisory activities,

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1613 and processes for information sharing.

1614 (e) Establish a crisis management plan.

1615 (2) With respect to an insurer registered under s.

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

1621 (3) Each registered insurer subject to this section is  
1622 liable for and shall pay reasonable expenses for the office's  
1623 participation in a supervisory college, including reasonable  
1624 travel expenses. A supervisory college may be convened as a  
1625 temporary or permanent forum for communication and cooperation  
1626 between the regulators charged with the supervision of the  
1627 insurer or its affiliates, and the office may impose a regular  
1628 assessment on the insurer for the payment of these expenses.

1629 Section 15. Effective January 1, 2015, subsection (3) is  
1630 added to section 636.045, Florida Statutes, to read:

1631 636.045 Minimum surplus requirements.—

1632 (3) A prepaid limited health service organization that is  
1633 authorized in this state and one or more other states,  
1634 jurisdictions, or countries is subject to ss. 624.4085 and  
1635 624.40851.

1636 Section 16. Effective January 1, 2015, subsection (7) is  
1637 added to section 641.225, Florida Statutes, to read:

1638 641.225 Surplus requirements.—

1639 (7) A health maintenance organization that is authorized  
 1640 in this state and one or more other states, jurisdictions, or  
 1641 countries is subject to ss. 624.4085 and 624.40851.

1642 Section 17. Effective January 1, 2015, subsection (3) is  
 1643 added to section 641.255, Florida Statutes, to read:

1644 641.255 Acquisition, merger, or consolidation.—

1645 (3) A health maintenance organization that is a member of  
 1646 a holding company system is subject to s. 628.461 but not s.  
 1647 628.4615.

1648 Section 18. Except as otherwise expressly provided in this  
 1649 act, this act shall take effect October 1, 2014, if HB 1273 or  
 1650 similar legislation is adopted in the same legislative session  
 1651 or an extension thereof and becomes law.