

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

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

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

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

332 (8)

333 (e) The commission shall adopt rules to administer
 334 ~~implement~~ this subsection, ~~which rules~~ must be in substantial
 335 conformity with the 2006 Annual Financial Reporting Model
 336 Regulation ~~1998 Model Rule requiring annual audited financial~~
 337 ~~reports~~ adopted by the NAIC ~~National Association of Insurance~~
 338 ~~Commissioners~~ or subsequent amendments, except where

339 inconsistent with the requirements of this subsection. Any
340 exception to, waiver of, or interpretation of accounting
341 requirements of the commission must be in writing and signed by
342 an authorized representative of the office. An ~~No~~ insurer may
343 not raise an as a defense in any action, any exception to,
344 waiver of, or interpretation of accounting requirements as a
345 defense in an action, unless previously issued in writing by an
346 authorized representative of the office.

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

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

357 (b) Insurers must:

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

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

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

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

373 625.121 Standard Valuation Law; life insurance.—

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

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

413 (3) ACTUARIAL OPINION OF RESERVES.—

414 (a) ~~1.~~ Each life insurer ~~insurance company~~ doing business
 415 in this state shall annually submit the opinion of a qualified
 416 actuary as to whether the reserves and related actuarial items

417 held in support of the policies and contracts specified by the
418 commission by rule are computed appropriately, are based on
419 assumptions that ~~which~~ satisfy contractual provisions, are
420 consistent with prior reported amounts, and comply with
421 applicable laws of this state. The commission by rule shall
422 define the specifics of this opinion and add any other items
423 determined ~~to be~~ necessary to its scope.

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

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

434 ~~3.4.~~ The commission may adopt rules providing the
435 standards of the actuarial opinion consistent with standards
436 adopted by the Actuarial Standards Board on December 31, 2013
437 ~~2002~~, and subsequent revisions thereto if, ~~provided that~~ the
438 standards remain substantially consistent.

439 ~~4.5.~~ ~~In the case of an opinion required to be submitted by~~
440 ~~a foreign or alien company,~~ The office may accept an ~~the~~ opinion
441 filed by a foreign or alien insurer ~~that company~~ with the
442 insurance supervisory official of another state if the office

443 determines that the opinion reasonably meets the requirements
444 applicable to an insurer ~~a company~~ domiciled in this state.

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

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

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

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

463 ~~9.10.~~ Except as otherwise provided in this subparagraph
464 ~~paragraph~~, any memorandum or other material in support of the
465 opinion is confidential and exempt from ~~the provisions of~~ s.
466 119.07(1) and is not subject to subpoena or discovery or
467 admissible in evidence in any private civil action; however, the
468 memorandum or other material may be released by the office with

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

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

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

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

521 percent interest for such policies issued on or after October 1,
 522 1979; and the following tables:

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

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

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

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

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

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

551 2. For ~~such~~ policies issued on or after that date, the
 552 ~~commissioners'~~ 1961 Commissioners Standard Industrial Mortality
 553 Table; and

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

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

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

572 (e) For total and permanent disability benefits in or

573 supplementary to ordinary policies or contracts:

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

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

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

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

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

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

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

598 2. For policies issued on or after January 1, 1961, and

599 before ~~prior to~~ January 1, 1966, the 1959 Accidental Death
 600 Benefits ~~either that~~ Table or, at the option of the insurer, the
 601 Intercompany Double Indemnity Mortality Table;

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

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

609
 610 Either table shall be combined with a mortality table permitted
 611 for calculating the reserves for life insurance policies.

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

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

624 1. For individual annuity and pure endowment contracts

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

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

641 3. For individual annuity and pure endowment contracts
642 issued on or after October 1, 1979, and before ~~prior to~~ October
643 1, 1986, other than single-premium immediate annuity contracts,
644 excluding any disability and accidental death benefits in such
645 contracts, the 1971 Individual Annuity Mortality Table, or any
646 modification of this table approved by the office, and 5.5
647 percent interest for single-premium deferred annuity and pure
648 endowment contracts and 4.5 percent interest for all other such
649 individual annuity and pure endowment contracts. For such
650 contracts issued on or after October 1, 1986, the 1983

651 Individual Annual Mortality Table, or any modification of such
652 table approved by the office, and the applicable calendar year
653 statutory valuation interest rate as described in subsection
654 (6).

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

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

672
673 After July 1, 1973, an ~~any~~ insurer may have filed with the
674 former Department of Insurance a written notice of its election
675 to comply with ~~the provisions of~~ this paragraph after a
676 specified date before January 1, 1979, which shall be the

677 operative date of this paragraph for such insurer. However, an
 678 insurer may elect a different operative date for individual
 679 annuity and pure endowment contracts from that elected for group
 680 annuity and pure endowment contracts. If an insurer does not
 681 make ~~makes no~~ such election, the operative date of this
 682 paragraph for such insurer is ~~shall be~~ January 1, 1979.

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

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

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

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

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

702 (j) The commission may adopt by rule the model regulation

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

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

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

723 (6) MINIMUM STANDARD OF VALUATION.—

724 (e) The interest rate index shall be the Moody's Corporate
 725 Bond Yield Average-Monthly Average Corporates as published by
 726 Moody's Investors Service, Inc., if the ~~as long as this~~ index is
 727 calculated by using substantially the same methodology ~~as~~ used
 728 by Moody's ~~it~~ on January 1, 1981. If Moody's corporate bond

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

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

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

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

781 ~~and rate of interest referred to in this subsection are those~~
 782 ~~standards stated in subsections (5) and (6). However,~~ For any
 783 life insurance policy that ~~which~~ is issued on or after January
 784 1, 1985, for which the gross premium in the first policy year
 785 exceeds that of the second year and for which no comparable
 786 additional benefit is provided in the first year for such
 787 excess, and which provides an endowment benefit, a cash
 788 surrender value, or a combination thereof in an amount greater
 789 than such excess premium, the foregoing provisions of this
 790 subsection shall be applied as if the method actually used in
 791 calculating the reserve for such policy were the method
 792 described in subsection (7), the provisions of subparagraph
 793 (7) (a)2. being ignored. The minimum premium reserve amount ~~of~~
 794 ~~the deficiency reserve~~, if any, at each policy anniversary of
 795 such a policy is ~~shall be~~ the excess, if any, of the amount
 796 determined by the foregoing provisions of this subsection plus
 797 the reserve calculated by the method described in subsection
 798 (7), the provisions of subparagraph (7) (a)2. being ignored, over
 799 the reserve actually calculated by the method described in
 800 subsection (7), the provisions of subparagraph (7) (a)2. being
 801 taken into account.

802 (12) RESERVE CALCULATION FOR INDETERMINATE PREMIUM PLANS
 803 ~~ALTERNATE METHOD FOR DETERMINING RESERVES IN CERTAIN CASES.~~—In
 804 the case of a ~~any~~ plan of life insurance which provides for
 805 future premium determination, the amounts of which are to be
 806 determined by the insurer based on then estimates of future

807 experience, or in the case of a ~~any~~ plan of life insurance or
 808 annuity for ~~which is of such a nature that~~ the minimum reserves
 809 cannot be determined by the methods described in subsections (7)
 810 and (11) ~~subsection (7)~~, the reserves that ~~which~~ are held under
 811 ~~any~~ such plan must ~~shall~~:

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

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

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

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

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

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

831 (a) "Accident and health insurance" means contracts that
 832 incorporate morbidity risk and provide protection against

833 economic loss resulting from accident, sickness, or medical
834 conditions and as may be specified in the valuation manual.

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

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

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

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

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

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

855 2. The Standard Valuation Law, as amended by the NAIC in
856 2009, or substantially similar legislation, has been enacted in
857 states representing more than 75 percent of the direct premiums
858 written as reported in the 2008 annual statements for life,

859 accident and health, health, or fraternal society insurance; and

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

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

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

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

884 (j) "Tail risk" means a risk that occurs when the

885 frequency of low probability events is higher than expected
886 under a normal probability distribution or when there are
887 observed events of very significant size or magnitude.

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

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

900 (4) ACTUARIAL OPINION OF RESERVES.—

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

911 prescribed by the valuation manual.

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

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

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

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

955 (5) MINIMUM STANDARD OF VALUATION.—

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

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

962 2. That an insurer domiciled in a state that does not

963 require the insurer to apply the standards prescribed in the
964 valuation manual as the minimum standard of valuation, including
965 the principle-based valuation of reserves, may not apply such
966 standards in this state.

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

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

988 (d) The office may require an insurer to change any

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

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

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

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

1015 appointed actuary to be necessary to render the opinion required
 1016 by subsection (4) may not be deemed to be the adoption of a
 1017 higher standard of valuation.

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

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

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

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

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

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

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

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

1040 b. For assumptions that are not prescribed, the

1041 assumptions must:

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

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

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

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

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

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

1066 3. Upon request, develop and file with the office a

1067 principle-based valuation report that complies with standards
 1068 prescribed in the valuation manual.

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

1071 (7) EXPERIENCE REPORTING.—An insurer shall submit
 1072 mortality, morbidity, policyholder behavior, or expense
 1073 experience and other data as prescribed in the valuation manual
 1074 to the office.

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

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

1083 625.1214 Use of confidential information.—

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

1093 of confidentiality or privilege may not occur as a result of a
 1094 disclosure to the office under this section, any other section
 1095 of the insurance code, or as a result of sharing under s.
 1096 624.4212.

1097 (2) Neither the office nor any person who received
 1098 confidential and exempt information while acting under the
 1099 authority of the office, or with whom such information is shared
 1100 pursuant to s. 624.4212, may be permitted or required to testify
 1101 in a private civil action concerning any confidential and exempt
 1102 information subject to s. 624.4212. If any portion of the
 1103 confidential memorandum is cited by the insurer in its
 1104 marketing, is cited before a governmental agency other than a
 1105 state insurance department, or is released by the insurer to the
 1106 news media, no portion of the memorandum is confidential.

1107 (3) A privilege established under the law of any state or
 1108 jurisdiction that is substantially similar to the privilege
 1109 established under subsection (1) shall be available and enforced
 1110 in any proceeding in, and in any court of, this state.

1111 Section 9. Paragraphs (h) and (i) of subsection (9) and
 1112 subsection (14) of section 627.476, Florida Statutes, are
 1113 amended to read:

1114 627.476 Standard Nonforfeiture Law for Life Insurance.—

1115 (9) CALCULATION OF ADJUSTED PREMIUMS AND PRESENT VALUES
 1116 FOR POLICIES ISSUED AFTER OPERATIVE DATE OF THIS SUBSECTION.—

1117 (h) All adjusted premiums and present values referred to
 1118 in this section shall, for all policies of ordinary insurance,

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

1131 1. At the option of the insurer, calculations for all
 1132 policies issued in a particular calendar year may be made on the
 1133 basis of a rate of interest not exceeding the nonforfeiture
 1134 interest rate, as defined in this subsection, for policies
 1135 issued in the immediately preceding calendar year.

1136 2. Under any paid-up nonforfeiture benefit, including any
 1137 paid-up dividend additions, any cash surrender value available,
 1138 whether required or not required by subsection (2), shall be
 1139 calculated on the basis of the mortality table and rate of
 1140 interest used in determining the amount of such paid-up
 1141 nonforfeiture benefit and paid-up dividend additions, if any.

1142 3. An insurer may calculate the amount of any guaranteed
 1143 paid-up nonforfeiture benefit, including any paid-up additions
 1144 under the policy, on the basis of an interest rate no lower than

1145 that specified in the policy for calculating cash surrender
 1146 values.

1147 4. In calculating the present value of any paid-up term
 1148 insurance with accompanying pure endowment, if any, offered as a
 1149 nonforfeiture benefit, the rates of mortality assumed may be not
 1150 more than those shown in the ~~Commissioners'~~ 1980 Extended Term
 1151 Insurance Table adopted by the NAIC for policies of ordinary
 1152 insurance and not more than the ~~Commissioners'~~ 1961 Industrial
 1153 Extended Term Insurance Table adopted by the NAIC for policies
 1154 of industrial insurance.

1155 5. In lieu of the mortality tables specified in this
 1156 section, at the option of the insurance company and subject to
 1157 rules adopted by the commission, the insurance company may
 1158 substitute:

1159 a. The 1958 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 and before January 1,
 1162 1989;

1163 b. The 1980 CSO or CET Smoker and Nonsmoker Mortality
 1164 Tables, whichever is applicable, for policies issued on or after
 1165 the operative date of this subsection;

1166 c. A mortality table that is a blend of the sex-distinct
 1167 1980 CSO or CET mortality table standard, whichever is
 1168 applicable, or a mortality table that is a blend of the sex-
 1169 distinct 1980 CSO or CET smoker and nonsmoker mortality table
 1170 standards, whichever is applicable, for policies that are

1171 subject to the United States Supreme Court decision in *Arizona*
 1172 *Governing Committee v. Norris* to prevent unfair discrimination
 1173 in employment situations.

1174 6. For policies issued:

1175 a. Before the operative date of the valuation manual,
 1176 ordinary mortality tables, adopted after 1980 by the NAIC
 1177 ~~National Association of Insurance Commissioners,~~ adopted by rule
 1178 by the commission for use in determining the minimum
 1179 nonforfeiture standard may be substituted for the ~~Commissioners'~~
 1180 1980 Standard Ordinary Mortality Table with or without Ten-Year
 1181 Select Mortality Factors or ~~for the Commissioners'~~ 1980 Extended
 1182 Term Insurance Table adopted by the NAIC.

1183 b. On or after the operative date of the valuation manual,
 1184 the valuation manual shall provide the Standard Mortality Table
 1185 for use in determining the minimum nonforfeiture standard that
 1186 may be substituted for:

1187 (I) The 1980 Standard Ordinary Mortality Table with or
 1188 without Ten-Year Select Mortality Factors or the 1980 Extended
 1189 Term Insurance Table adopted by the NAIC. If the commission
 1190 approves by rule a Standard Ordinary Mortality Table adopted by
 1191 the NAIC for use in determining the minimum nonforfeiture
 1192 standard for policies issued on or after the operative date of
 1193 the valuation manual, the minimum nonforfeiture standard
 1194 supersedes the minimum nonforfeiture standard provided by the
 1195 valuation manual.

1196 (II) The 1961 Standard Industrial Mortality Table or 1961

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

1204 7. For insurance issued on a substandard basis, the
 1205 calculation of any such adjusted premiums and present values may
 1206 be based on appropriate modifications of the aforementioned
 1207 tables.

1208 (i) The nonforfeiture interest rate per year for a ~~any~~
 1209 policy issued in a particular calendar year for policies issued:

1210 1. Before the operative date of the valuation manual shall
 1211 be equal to 125 percent of the calendar year statutory valuation
 1212 interest rate for such policy as defined in the Standard
 1213 Valuation Law, rounded to the nearest one-fourth of 1 percent;
 1214 however, the nonforfeiture interest rate may not be less than 4
 1215 percent.

1216 2. On or after the operative date of the valuation manual
 1217 shall be as provided by the valuation manual.

1218 (14) OPERATIVE DATE.—

1219 (a) After the effective date of this code, an ~~any~~ insurer
 1220 may file with the office a written notice or notices of its
 1221 election to comply with ~~the provisions of~~ this section on and
 1222 after a specified date or dates before January 1, 1966, as to

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

1238 (b) As used in subsection (9), the term "operative date of
 1239 the valuation manual" has the same meaning as provided in s.
 1240 625.1212(2).

1241 Section 10. Subsections (1), (3), (10), (12), and (13) of
 1242 section 628.461, Florida Statutes, are amended to read:

1243 628.461 Acquisition of controlling stock.—

1244 (1) A person may not, individually or in conjunction with
 1245 any affiliated person of such person, acquire directly or
 1246 indirectly, conclude a tender offer or exchange offer for, enter
 1247 into any agreement to exchange securities for, or otherwise
 1248 finally acquire 10 ~~5~~ percent or more of the outstanding voting

1249 securities of a domestic stock insurer or of a controlling
 1250 company, unless:

1251 (a) The person or affiliated person has filed with the
 1252 office and sent to the insurer and controlling company a letter
 1253 of notification regarding the transaction or proposed
 1254 transaction within ~~no later than~~ 5 days after any form of tender
 1255 offer or exchange offer is proposed, or within ~~no later than~~ 5
 1256 days after the acquisition of the securities if no tender offer
 1257 or exchange offer is involved. The notification must be provided
 1258 on forms prescribed by the commission containing information
 1259 determined necessary to understand the transaction and identify
 1260 all purchasers and owners involved;

1261 (b) The person or affiliated person has filed with the
 1262 office the ~~a~~ statement as specified in subsection (3). The
 1263 statement must be completed and filed within 30 days after:

- 1264 1. Any definitive acquisition agreement is entered;
- 1265 2. Any form of tender offer or exchange offer is proposed;
- 1266 or
- 1267 3. The acquisition of the securities, if no definitive
 1268 acquisition agreement, tender offer, or exchange offer is
 1269 involved; and

1270 (c) The office has approved the tender or exchange offer,
 1271 or acquisition if no tender offer or exchange offer is involved,
 1272 and approval is in effect.

1273
 1274 ~~In lieu of a filing as required under this subsection, a party~~

1275 ~~acquiring less than 10 percent of the outstanding voting~~
1276 ~~securities of an insurer may file a disclaimer of affiliation~~
1277 ~~and control. The disclaimer shall fully disclose all material~~
1278 ~~relationships and basis for affiliation between the person and~~
1279 ~~the insurer as well as the basis for disclaiming the affiliation~~
1280 ~~and control. After a disclaimer has been filed, the insurer~~
1281 ~~shall be relieved of any duty to register or report under this~~
1282 ~~section which may arise out of the insurer's relationship with~~
1283 ~~the person unless and until the office disallows the disclaimer.~~
1284 ~~The office shall disallow a disclaimer only after furnishing all~~
1285 ~~parties in interest with notice and opportunity to be heard and~~
1286 ~~after making specific findings of fact to support the~~
1287 ~~disallowance. A filing as required under this subsection must be~~
1288 ~~made for ~~as to~~ any acquisition that equals or exceeds 10 percent~~
1289 ~~of the outstanding voting securities.~~

1290 (3) The statement to be filed with the office under
1291 subsection (1) and furnished to the insurer and controlling
1292 company must ~~shall~~ contain all the following information and any
1293 additional information that ~~as~~ the office deems necessary to
1294 determine the character, experience, ability, and other
1295 qualifications of the person or affiliated person of such person
1296 for the protection of the policyholders and shareholders of the
1297 insurer and the public:

1298 (a) The identity of, and the background information
1299 specified in subsection (4) on, each natural person by whom, or
1300 on whose behalf, the acquisition is to be made; and, if the

1301 acquisition is to be made by, or on behalf of, a corporation,
 1302 association, or trust, as to the corporation, association, or
 1303 trust and as to any person who controls, either directly or
 1304 indirectly, the corporation, association, or trust, the identity
 1305 of, and the background information specified in subsection (4)
 1306 on, each director, officer, trustee, or other natural person
 1307 performing duties similar to those of a director, officer, or
 1308 trustee for the corporation, association, or trust. ~~†~~

1309 (b) The source and amount of the funds or other
 1310 consideration used, or to be used, in making the acquisition. ~~†~~

1311 (c) Any plans or proposals that ~~which~~ such persons may
 1312 have made to liquidate such insurer, to sell any of its assets
 1313 or merge or consolidate it with any person, or to make any other
 1314 major change in its business or corporate structure or
 1315 management; and any plans or proposals that ~~which~~ such persons
 1316 may have made to liquidate any controlling company of such
 1317 insurer, to sell any of its assets or merge or consolidate it
 1318 with any person, or to make any other major change in its
 1319 business or corporate structure or management. ~~†~~

1320 (d) The number of shares or other securities that ~~which~~
 1321 the person or affiliated person of such person proposes to
 1322 acquire, the terms of the proposed acquisition, and the manner
 1323 in which the securities are to be acquired. ~~†~~ ~~and~~

1324 (e) Information as to any contract, arrangement, or
 1325 understanding with any party with respect to any of the
 1326 securities of the insurer or controlling company, including, but

1327 not limited to, information relating to the transfer of any of
 1328 the securities, option arrangements, puts or calls, or the
 1329 giving or withholding of proxies, which information names the
 1330 party with whom the contract, arrangement, or understanding has
 1331 been entered into and gives the details thereof.

1332 (f) Effective January 1, 2015, an agreement by the person
 1333 required to file the statement that the person will provide the
 1334 annual report specified in s. 628.801(2) if control exists.

1335 (g) Effective January 1, 2015, an acknowledgement by the
 1336 person required to file the statement that the person and all
 1337 subsidiaries within the person's control in the insurance
 1338 holding company system will provide, as necessary, information
 1339 to the office upon request to evaluate enterprise risk to the
 1340 insurer.

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

1353 person, individually or in connection with any affiliated person
1354 of such person, has acquired ~~10~~ 5 percent or more of the
1355 outstanding voting securities of a domestic stock insurer or
1356 controlling company. Upon the failure of the person or
1357 affiliated person to request a hearing within 7 days, or upon a
1358 determination at a hearing convened pursuant to this subsection
1359 that the person or affiliated person has acquired voting
1360 securities of a domestic stock insurer or controlling company in
1361 violation of this section, the office may order the person and
1362 affiliated person to divest themselves of any voting securities
1363 so acquired.

1364 (12) (a) A presumption of control may be rebutted by any
1365 person by filing a disclaimer of control with the office. The
1366 disclaimer must fully disclose all material relationships and
1367 bases for affiliation between the person and the insurer as well
1368 as the basis for disclaiming the affiliation. The disclaimer of
1369 control shall be filed on a form prescribed by the office. A
1370 person or acquiring party may file a disclaimer of control by
1371 filing with the office a copy of a Schedule 13G filed with the
1372 Securities and Exchange Commission pursuant to rules 13d-1(b) or
1373 13d-1(c) under the Securities Exchange Act of 1934, as amended.
1374 After a disclaimer has been filed, the insurer is relieved of
1375 any duty to register or report under this section which may
1376 arise out of the insurer's relationship with the person unless
1377 the office disallows the disclaimer.

1378 (b) A controlling person of a domestic insurer who seeks

1379 to divest the person's controlling interest in the domestic
 1380 insurer in any manner shall file with the office, with a copy
 1381 provided to the insurer, confidential notice, not subject to
 1382 public inspection as provided under s. 624.4212, of the person's
 1383 proposed divestiture at least 30 days before the cessation of
 1384 control. The office shall determine those instances in which the
 1385 party seeking to divest or to acquire a controlling interest in
 1386 an insurer must file for and obtain approval of the transaction.
 1387 The information remains confidential until the conclusion of the
 1388 transaction unless the office, in its discretion, determines
 1389 that confidential treatment interferes with enforcement of this
 1390 section. If the statement referred to in subsection (1) is
 1391 otherwise filed, this paragraph does not apply ~~For the purpose~~
 1392 ~~of this section, the term "affiliated person" of another person~~
 1393 ~~means:~~

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

1405 ~~indirectly control, are controlled by, or are under common~~
 1406 ~~control with such other person;~~

1407 ~~6. Any officer, director, partner, copartner, or employee~~
 1408 ~~of such other person;~~

1409 ~~7. If such other person is an investment company, any~~
 1410 ~~investment adviser of such company or any member of an advisory~~
 1411 ~~board of such company;~~

1412 ~~8. If such other person is an unincorporated investment~~
 1413 ~~company not having a board of directors, the depositor of such~~
 1414 ~~company; or~~

1415 ~~9. Any person who has entered into an agreement, written~~
 1416 ~~or unwritten, to act in concert with such other person in~~
 1417 ~~acquiring or limiting the disposition of securities of a~~
 1418 ~~domestic stock insurer or controlling company.~~

1419 ~~(b) For the purposes of this section, the term~~
 1420 ~~"controlling company" means any corporation, trust, or~~
 1421 ~~association owning, directly or indirectly, 25 percent or more~~
 1422 ~~of the voting securities of one or more domestic stock insurance~~
 1423 ~~companies.~~

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

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

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

1431 (1) ~~An Every~~ insurer that is authorized to do business in
1432 this state and that is a member of an insurance holding company
1433 shall, on or before April 1 of each year, register with the
1434 office and file a registration statement and be subject to
1435 regulation with respect to its relationship to the holding
1436 company as provided by law or rule ~~or statute~~. The commission
1437 shall adopt rules establishing the information and statement
1438 form required for registration and the manner in which
1439 registered insurers and their affiliates are regulated. The
1440 rules apply to domestic insurers, foreign insurers, and
1441 commercially domiciled insurers, except for ~~a foreign~~ insurers
1442 ~~insurer~~ domiciled in states that are currently accredited by the
1443 ~~NAIC National Association of Insurance Commissioners by December~~
1444 ~~31, 1995~~. Except to the extent of any conflict with this code,
1445 the rules must include all requirements and standards of ss. 4
1446 and 5 of the Insurance Holding Company System Regulatory Act and
1447 the Insurance Holding Company System Model Regulation of the
1448 ~~NAIC National Association of Insurance Commissioners,~~ as adopted
1449 in December 2010. The commission may adopt subsequent amendments
1450 thereto if the methodology remains substantially consistent. The
1451 rules ~~Regulatory Act and the Model Regulation existed on~~
1452 ~~November 30, 2001,~~ and may include a prohibition on oral
1453 contracts between affiliated entities. Material transactions
1454 between an insurer and its affiliates shall be filed with the
1455 office as provided by rule ~~Upon request, the office may waive~~
1456 ~~filing requirements under this section for a domestic insurer~~

1457 ~~that is the subsidiary of an insurer that is in full compliance~~
1458 ~~with the insurance holding company registration laws of its~~
1459 ~~state of domicile, which state is accredited by the National~~
1460 ~~Association of Insurance Commissioners.~~

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

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

1479 (b) The term "enterprise risk" means an activity,
1480 circumstance, event, or series of events involving one or more
1481 affiliates of an insurer which, if not remedied promptly, is
1482 likely to have a materially adverse effect upon the financial

1483 condition or liquidity of the insurer or its insurance holding
1484 company system as a whole, including anything that would cause
1485 the insurer's risk-based capital to fall into company action
1486 level as set forth in s. 624.4085 or would cause the insurer to
1487 be in a hazardous financial condition.

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

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

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

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

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

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

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

1535
 1536 A waiver granted pursuant to this subsection is valid for 2
 1537 years unless sooner withdrawn due to a change in the
 1538 circumstances under which the waiver was granted.

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

1543 628.803 Sanctions.—

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

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

1551 628.804 Groupwide supervision for international insurance
 1552 groups.—

1553 (1) As used in this section:

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

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

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

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

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

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

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

1580 (4) The commission may adopt rules to administer this
1581 section, including rules establishing the criteria for making a
1582 determination under paragraph (3) (a), such as the extent of
1583 insurance operations in this state and nation; the location of
1584 the executive offices, assets and liabilities, and business
1585 operations of the international insurance group; the domicile of
1586 the ultimate controlling person of the international insurance

1587 group; and the similarity of the regulatory systems of other
1588 jurisdictions acting or seeking to act as lead groupwide
1589 supervisor.

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

1592 628.805 Supervisory colleges.—In order to assess the
1593 business strategy, financial position, legal and regulatory
1594 position, risk exposure, risk management, and governance
1595 processes, and as part of the examination of individual insurers
1596 in accordance with ss. 628.801 and 624.316, the office may
1597 participate in a supervisory college with other regulators
1598 charged with supervision of the insurer or its affiliates,
1599 including other state, federal, and international regulatory
1600 agencies. In accordance with s. 624.4212 regarding confidential
1601 information sharing, the office may enter into agreements that
1602 provide the basis for cooperation between the office and the
1603 other regulatory agencies and the activities of the supervisory
1604 college. This section does not delegate to the supervisory
1605 college the office's authority to regulate or supervise the
1606 insurer or its affiliates under its jurisdiction.

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

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

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

1612 (c) Clarify the functions of the supervisory college and

1613 the role of other regulators, including the establishment of a
 1614 groupwide supervisor.

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

1618 (e) Establish a crisis management plan.

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

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

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

1635 636.045 Minimum surplus requirements.—

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

1639 624.40851.

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

1642 641.225 Surplus requirements.—

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

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

1648 641.255 Acquisition, merger, or consolidation.—

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

1652 Section 18. Except as otherwise expressly provided in this
 1653 act, this act shall take effect October 1, 2014, if HB 1273 or
 1654 similar legislation is adopted in the same legislative session
 1655 or an extension thereof and becomes law.