

Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

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WITHDRAWN (Y/N)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

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

3 Representative Ingram offered the following:

4
5 **Amendment (with title amendment)**

6 Remove everything after the enacting clause and insert:
7 Section 1. Section 624.085, Florida Statutes, is created to
8 read:

9 624.085 Other definitions.—As used in the Florida
10 Insurance Code, the term:

11 (1) "Affiliate" means any entity that exercises control
12 over or is controlled by the insurer, directly or indirectly,
13 through:

14 (a) Equity ownership of voting securities;

15 (b) Common managerial control; or

16 (c) Collusive participation by the management of the
17 insurer and affiliate in the management of the insurer or the
18 affiliate.

19 (2) "Affiliated person" of another person means:

20 (a) The spouse of such other person;

Amendment No. 1

21 (b) The parents of such other person and their lineal
22 descendants, or the parents of such other person's spouse and
23 their lineal descendants;

24 (c) Any person who directly or indirectly owns or
25 controls, or holds with the power to vote, 10 percent or more of
26 the outstanding voting securities of such other person;

27 (d) Any person 10 percent or more of the outstanding
28 voting securities of which are directly or indirectly owned or
29 controlled, or held with power to vote, by such other person;

30 (e) Any person or group of persons who directly or
31 indirectly control, are controlled by, or are under common
32 control with such other person;

33 (f) Any officer, director, partner, copartner, or employee
34 of such other person;

35 (g) If such other person is an investment company, any
36 investment adviser of such company, or any member of an advisory
37 board of such company;

38 (h) If such other person is an unincorporated investment
39 company not having a board of directors, the depositor of such
40 company; or

41 (i) Any person who has entered into an agreement, written
42 or unwritten, to act in concert with such other person in
43 acquiring or limiting the disposition of securities of a
44 domestic stock insurer or controlling company.

45 (3) "Control," including the terms "controlling,"
46 "controlled by," and "under common control with" means the
47 possession, direct or indirect, of the power to direct or cause
48 the direction of the management and policies of a person,

Amendment No. 1

49 whether through the ownership of voting securities, by contract
50 other than a commercial contract for goods or nonmanagement
51 services, or otherwise. Control is presumed to exist if any
52 person, directly or indirectly, owns, controls, holds with the
53 power to vote, or holds proxies representing 10 percent or more
54 of the voting securities of any other person.

55 Section 2. Paragraph (g) of subsection (1), paragraph (a)
56 of subsection (3), and paragraph (b) of subsection (6) of
57 section 624.4085, Florida Statutes, are amended to read:

58 624.4085 Risk-based capital requirements for insurers.—

59 (1) As used in this section, the term:

60 (g) "Life and health insurer" means any insurer authorized
61 or eligible under the Florida Insurance Code to underwrite life
62 or health insurance. The term includes a property and casualty
63 insurer that writes accident and health insurance only; a health
64 maintenance organization that is authorized in this state and
65 one or more other states, jurisdictions, or countries; and a
66 prepaid health service organization that is authorized in this
67 state and one or more other states, jurisdictions, or countries.

68 (3) (a) A company action level event includes:

69 1. The filing of a risk-based capital report by an insurer
70 which indicates that:

71 a. The insurer's total adjusted capital is greater than or
72 equal to its regulatory action level risk-based capital but less
73 than its company action level risk-based capital; ~~or~~

74 b. If a life and health insurer that reports using the
75 life and health annual statement instructions, the insurer has
76 total adjusted capital that is greater than or equal to its

Amendment No. 1

77 company action level risk-based capital, but is less than the
78 product of its authorized control level risk-based capital and
79 3.0 ~~2.5~~, and has a negative trend;

80 c. If a life and health or property and casualty insurer
81 that reports using the health annual statement instructions, the
82 insurer or organization has total adjusted capital that is
83 greater than or equal to its company action level risk-based
84 capital, but is less than the product of its authorized control
85 level risk-based capital and 3.0, and triggers the trend test
86 determined in accordance with the trend test calculation
87 included in the Risk-Based Capital Forecasting and Instructions,
88 Health, updated annually by the National Association of
89 Insurance Commissioners; or

90 d. If a property and casualty insurer that reports using
91 the property and casualty annual statement instructions, the
92 insurer has total adjusted capital that is greater than or equal
93 to its company action level risk-based capital, but is less than
94 the product of its authorized control level risk-based capital
95 and 3.0, and triggers the trend test determined in accordance
96 with the trend test calculation included in the Risk-Based
97 Capital Forecasting and Instructions, Property/Casualty, updated
98 annually by the National Association of Insurance Commissioners;

99 2. The notification by the office to the insurer of an
100 adjusted risk-based capital report that indicates an event in
101 subparagraph 1., unless the insurer challenges the adjusted
102 risk-based capital report under subsection (7); or

103 3. If, under subsection (7), an insurer challenges an
104 adjusted risk-based capital report that indicates an event in

Amendment No. 1

105 subparagraph 1., the notification by the office to the insurer
106 that the office has, after a hearing, rejected the insurer's
107 challenge.

108 (6)

109 (b) If a mandatory control level event occurs:

110 1. With respect to a life and health insurer, the office
111 shall, after due consideration of s. 624.408, take any action
112 necessary to place the insurer under regulatory control,
113 including any remedy available under chapter 631. A mandatory
114 control level event is sufficient ground for the department to
115 be appointed as receiver as provided in chapter 631. The office
116 may forego taking action for up to 90 days after the mandatory
117 control level event if the office finds there is a reasonable
118 expectation that the ~~mandatory control level~~ event may be
119 eliminated within the 90-day period.

120 2. With respect to a property and casualty insurer, the
121 office shall, after due consideration of s. 624.408, s. 641.225
122 for a health maintenance association, or s. 636.045 for a
123 prepaid limited health service organization, take any action
124 necessary to place the insurer under regulatory control,
125 including any remedy available under chapter 631, or, in the
126 case of an insurer that is not writing new business, may allow
127 the insurer to continue to operate under the supervision of the
128 office. In either case, the mandatory control level event is
129 sufficient ground for the department to be appointed as receiver
130 as provided in chapter 631. The office may forego taking action
131 for up to 90 days after the mandatory control level event if the
132 office finds there is a reasonable expectation that the

Amendment No. 1

133 ~~mandatory control level~~ event may ~~will~~ be eliminated within the
134 90-day period.

135 Section 3. Subsection (1) and paragraph (e) of subsection
136 (8) of section 624.424, Florida Statutes, are amended to read:

137 624.424 Annual statement and other information.—

138 (1)(a) Each authorized insurer shall file with the office
139 full and true statements of its financial condition,
140 transactions, and affairs. An annual statement covering the
141 preceding calendar year shall be filed on or before March 1, and
142 quarterly statements covering the periods ending on March 31,
143 June 30, and September 30 shall be filed within 45 days after
144 each such date. The office may, for good cause, grant an
145 extension of time for filing of an annual or quarterly
146 statement. The statements must ~~shall~~ contain information
147 generally included in insurers' financial statements prepared in
148 accordance with generally accepted insurance accounting
149 principles and practices and in a form generally used ~~utilized~~
150 by insurers for financial statements, sworn to by at least two
151 executive officers of the insurer or, if a reciprocal insurer,
152 by the oath of the attorney in fact or its like officer if a
153 corporation. To facilitate uniformity in financial statements
154 and to facilitate office analysis, the commission may by rule
155 adopt the form for financial statements approved by the National
156 Association of Insurance Commissioners in 2002, and ~~may adopt~~
157 subsequent amendments thereto if the methodology remains
158 substantially consistent, and may by rule require each insurer
159 to submit to the office, or such organization as the office may
160 designate, all or part of the information contained in the

Amendment No. 1

161 financial statement in a computer-readable form compatible with
162 the electronic data processing system specified by the office.

163 (b) Each insurer's annual statement must contain:

164 1. A statement of opinion on loss and loss adjustment
165 expense reserves made by a member of the American Academy of
166 Actuaries or by a qualified loss reserve specialist, pursuant to
167 ~~under~~ criteria established by rule of the commission. In
168 adopting the rule, the commission shall ~~must~~ consider any
169 criteria established by the National Association of Insurance
170 Commissioners. The office may require semiannual updates of the
171 annual statement of opinion for ~~as to~~ a particular insurer if
172 the office has reasonable cause to believe that such reserves
173 are understated to the extent of materially misstating the
174 financial position of the insurer. Workpapers in support of the
175 statement of opinion must be provided to the office upon
176 request. This paragraph does not apply to life insurance, health
177 insurance, or title insurance.

178 2. An actuarial opinion summary written by the insurer's
179 appointed actuary. The summary must be filed in accordance with
180 the appropriate National Association of Insurance Commissioners
181 property and casualty annual statement instructions. Proprietary
182 business information contained in the summary is confidential
183 and exempt under s. 624.4212, and the summary and related
184 information is not subject to subpoena or discovery, or
185 admissible in evidence in any private civil action. Neither the
186 office nor any person who received documents, materials, or any
187 other information while acting under the authority of the office
188 or with whom such information is shared pursuant to s. 624.4212

Amendment No. 1

189 may testify in a private civil action concerning such
190 confidential information. No waiver of any other applicable
191 claim of confidentiality or privilege may occur as a result of a
192 disclosure to the office under this section or any other section
193 of the insurance code. This paragraph does not apply to life and
194 health insurers subject to s. 625.121(3).

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

199 (8)

200 (e) The commission shall adopt rules to administer
201 implement this subsection, which rules must be in substantial
202 conformity with the 2006 Annual Financial Reporting Model
203 Regulation ~~1998 Model Rule requiring annual audited financial~~
204 ~~reports~~ adopted by the National Association of Insurance
205 Commissioners or subsequent amendments, except where
206 inconsistent with the requirements of this subsection. Any
207 exception to, waiver of, or interpretation of accounting
208 requirements of the commission must be in writing and signed by
209 an authorized representative of the office. An ~~No~~ insurer may
210 not ~~raise as a defense in any action,~~ any exception to, waiver
211 of, or interpretation of accounting requirements as a defense in
212 an action, unless previously issued in writing by an authorized
213 representative of the office.

214 Section 4. Paragraph (a) of subsection (3) of section
215 625.121, Florida Statutes, is amended to read:

216 625.121 Standard Valuation Law; life insurance.—

Amendment No. 1

217 (3) ACTUARIAL OPINION OF RESERVES.—

218 (a)~~4.~~ Each life insurance company doing business in this
219 state shall annually submit the opinion of a qualified actuary
220 as to whether the reserves and related actuarial items held in
221 support of the policies and contracts specified by the
222 commission by rule are computed appropriately, are based on
223 assumptions that ~~which~~ satisfy contractual provisions, are
224 consistent with prior reported amounts, and comply with
225 applicable laws of this state. The commission by rule shall
226 define the specifics of this opinion and add any other items
227 determined to be necessary to its scope.

228 ~~1.2.~~ The opinion shall be submitted with the annual
229 statement reflecting the valuation of such reserve liabilities
230 ~~for each year ending on or after December 31, 1992.~~

231 ~~2.3.~~ The opinion applies ~~shall apply~~ to all business in
232 force, including individual and group health insurance plans, in
233 the form and substance acceptable to the office as specified by
234 rule of the commission.

235 ~~3.4.~~ The commission may adopt rules providing the
236 standards of the actuarial opinion consistent with standards
237 adopted by the Actuarial Standards Board on December 31, 2002,
238 and subsequent revisions thereto, if ~~provided that~~ the standards
239 remain substantially consistent.

240 ~~4.5.~~ ~~In the case of an opinion required to be submitted by~~
241 ~~a foreign or alien company,~~ The office may accept an ~~the~~ opinion
242 filed by a foreign or alien ~~that~~ company with the insurance
243 supervisory official of another state if the office determines

Amendment No. 1

244 that the opinion reasonably meets the requirements applicable to
245 a company domiciled in this state.

246 ~~5.6.~~ As used in ~~For the purposes of~~ this subsection, the
247 term "qualified actuary" means a member in good standing of the
248 American Academy of Actuaries who also meets the requirements
249 specified by rule of the commission.

250 ~~6.7.~~ Disciplinary action by the office against the company
251 or the qualified actuary shall be in accordance with the
252 insurance code and related rules adopted by the commission.

253 ~~7.8.~~ A memorandum in the form and substance specified by
254 rule shall be prepared to support each actuarial opinion.

255 ~~8.9.~~ If the insurance company fails to provide a
256 supporting memorandum at the request of the office within a
257 period specified by rule of the commission, or if the office
258 determines that the supporting memorandum provided by the
259 insurance company fails to meet the standards prescribed by rule
260 of the commission, the office may engage a qualified actuary at
261 the expense of the company to review the opinion and the basis
262 for the opinion and prepare such supporting memorandum as is
263 required by the office.

264 ~~9.10.~~ Except as otherwise provided in this paragraph, any
265 memorandum or other material in support of the opinion is
266 confidential and exempt from ~~the provisions of~~ s. 119.07(1) and
267 is not subject to subpoena or discovery, or admissible in
268 evidence in any private civil action; however, the memorandum or
269 other material may be released by the office with the written
270 consent of the company, or to the American Academy of Actuaries
271 upon request stating that the memorandum or other material is

Amendment No. 1

272 required for the purpose of professional disciplinary
273 proceedings and setting forth procedures satisfactory to the
274 office for preserving the confidentiality of the memorandum or
275 other material. If any portion of the confidential memorandum is
276 cited by the company in its marketing, or is cited before any
277 governmental agency other than a state insurance department, or
278 is released by the company to the news media, no portion of the
279 memorandum is confidential. Neither the office nor any person
280 who received documents, materials, or any other information
281 while acting under the authority of the office or with whom such
282 information is shared pursuant to this paragraph may testify in
283 any private civil action concerning the confidential documents,
284 materials, or information.

285 Section 5. Subsections (1), (3), (10), (12), and (13) of
286 section 628.461, Florida Statutes, are amended to read:

287 628.461 Acquisition of controlling stock.-

288 (1) A person may not, individually or in conjunction with
289 any affiliated person of such person, acquire directly or
290 indirectly, conclude a tender offer or exchange offer for, enter
291 into any agreement to exchange securities for, or otherwise
292 finally acquire ~~5~~ 10% percent or more of the outstanding voting
293 securities of a domestic stock insurer or of a controlling
294 company, unless:

295 (a) The person or affiliated person has filed with the
296 office and sent to the insurer and controlling company a letter
297 of notification regarding the transaction or proposed
298 transaction within ~~no later than~~ 5 days after any form of tender
299 offer or exchange offer is proposed, or within ~~no later than~~ 5

Amendment No. 1

300 days after the acquisition of the securities if no tender offer
301 or exchange offer is involved. The notification must be provided
302 on forms prescribed by the commission containing information
303 determined necessary to understand the transaction and identify
304 all purchasers and owners involved;

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

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

310 or

311 3. The acquisition of the securities, if no definitive
312 acquisition agreement, tender offer, or exchange offer is
313 involved; and

314 (c) The office has approved the tender or exchange offer,
315 or acquisition if no tender offer or exchange offer is involved,
316 and approval is in effect.

317
318 ~~In lieu of a filing as required under this subsection, a party~~
319 ~~acquiring less than 10 percent of the outstanding voting~~
320 ~~securities of an insurer may file a disclaimer of affiliation~~
321 ~~and control. The disclaimer shall fully disclose all material~~
322 ~~relationships and basis for affiliation between the person and~~
323 ~~the insurer as well as the basis for disclaiming the affiliation~~
324 ~~and control. After a disclaimer has been filed, the insurer~~
325 ~~shall be relieved of any duty to register or report under this~~
326 ~~section which may arise out of the insurer's relationship with~~
327 ~~the person unless and until the office disallows the disclaimer.~~

Amendment No. 1

328 ~~The office shall disallow a disclaimer only after furnishing all~~
329 ~~parties in interest with notice and opportunity to be heard and~~
330 ~~after making specific findings of fact to support the~~
331 ~~disallowance.~~ A filing ~~as~~ required under this subsection must be
332 made for ~~as to~~ any acquisition that equals or exceeds 10 percent
333 of the outstanding voting securities.

334 (3) The statement to be filed with the office under
335 subsection (1) and furnished to the insurer and controlling
336 company must ~~shall~~ contain all the following information and any
337 additional information that ~~as~~ the office deems necessary to
338 determine the character, experience, ability, and other
339 qualifications of the person or affiliated person of such person
340 for the protection of the policyholders and shareholders of the
341 insurer and the public:

342 (a) The identity of, and the background information
343 specified in subsection (4) on, each natural person by whom, or
344 on whose behalf, the acquisition is to be made; and, if the
345 acquisition is to be made by, or on behalf of, a corporation,
346 association, or trust, as to the corporation, association, or
347 trust and as to any person who controls, either ~~either~~ directly or
348 indirectly, the corporation, association, or trust, the identity
349 of, and the background information specified in subsection (4)
350 on, each director, officer, trustee, or other natural person
351 performing duties similar to those of a director, officer, or
352 trustee for the corporation, association, or trust.;

353 (b) The source and amount of the funds or other
354 consideration used, or to be used, in making the acquisition.;

Amendment No. 1

355 (c) Any plans or proposals that ~~which~~ such persons may
356 have made to liquidate such insurer, to sell any of its assets
357 or merge or consolidate it with any person, or to make any other
358 major change in its business or corporate structure or
359 management; and any plans or proposals that which such persons
360 may have made to liquidate any controlling company of such
361 insurer, to sell any of its assets or merge or consolidate it
362 with any person, or to make any other major change in its
363 business or corporate structure or management.~~†~~

364 (d) The number of shares or other securities which the
365 person or affiliated person of such person proposes to acquire,
366 the terms of the proposed acquisition, and the manner in which
367 the securities are to be acquired.~~†~~ ~~and~~

368 (e) Information as to any contract, arrangement, or
369 understanding with any party with respect to any of the
370 securities of the insurer or controlling company, including, but
371 not limited to, information relating to the transfer of any of
372 the securities, option arrangements, puts or calls, or the
373 giving or withholding of proxies, which information names the
374 party with whom the contract, arrangement, or understanding has
375 been entered into and gives the details thereof.

376 (f) An agreement by the person required to file the
377 statement that the person will provide the annual report
378 specified in s. 628.801(2) if control exists.

379 (g) An acknowledgement by the person required to file the
380 statement that the person and all subsidiaries within its
381 control in the insurance holding company system will provide, as

Amendment No. 1

382 necessary, information to the office upon request to evaluate
383 enterprise risk to the insurer.

384 (10) Upon notification to the office by the domestic stock
385 insurer or a controlling company that any person or any
386 affiliated person of such person has acquired 510 percent or
387 more of the outstanding voting securities of the domestic stock
388 insurer or controlling company without complying with the
389 provisions of this section, the office shall order that the
390 person and any affiliated person of such person cease
391 acquisition of any further securities of the domestic stock
392 insurer or controlling company; however, the person or any
393 affiliated person of such person may request a proceeding, which
394 proceeding shall be convened within 7 days after the rendering
395 of the order for the sole purpose of determining whether the
396 person, individually or in connection with any affiliated person
397 of such person, has acquired 510 percent or more of the
398 outstanding voting securities of a domestic stock insurer or
399 controlling company. Upon the failure of the person or
400 affiliated person to request a hearing within 7 days, or upon a
401 determination at a hearing convened pursuant to this subsection
402 that the person or affiliated person has acquired voting
403 securities of a domestic stock insurer or controlling company in
404 violation of this section, the office may order the person and
405 affiliated person to divest themselves of any voting securities
406 so acquired.

407 (12) (a) A presumption of control may be rebutted by filing
408 a disclaimer of control. Any person may file a disclaimer of
409 control with the office. The disclaimer must fully disclose all

Amendment No. 1

410 material relationships and bases for affiliation between the
411 person and the insurer as well as the basis for disclaiming the
412 affiliation. After a disclaimer has been filed, the insurer is
413 relieved of any duty to register or report under this section
414 which may arise out of the insurer's relationship with the
415 person unless the office disallows the disclaimer.

416 (b) Any controlling person of a domestic insurer that
417 seeks to divest its controlling interest in the domestic insurer
418 in any manner, shall file with the office, with a copy to the
419 insurer, confidential notice, not subject to public inspection
420 as provided under s. 624.4212, of its proposed divestiture at
421 least 30 days before the cessation of control. The office shall
422 determine those instances in which the party seeking to divest
423 or to acquire a controlling interest in an insurer must file for
424 and obtain approval of the transaction. The information remains
425 confidential until the conclusion of the transaction unless the
426 office, in its discretion, determines that confidential
427 treatment interferes with enforcement of this section. If the
428 statement referred to in subsection (1) is otherwise filed, this
429 paragraph does not apply. For the purpose of this section, the
430 term "affiliated person" of another person means:

- 431 ~~1. The spouse of such other person;~~
432 ~~2. The parents of such other person and their lineal~~
433 ~~descendants and the parents of such other person's spouse and~~
434 ~~their lineal descendants;~~
435 ~~3. Any person who directly or indirectly owns or controls,~~
436 ~~or holds with power to vote, 5 percent or more of the~~
437 ~~outstanding voting securities of such other person;~~

Amendment No. 1

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

441 ~~5. Any person or group of persons who directly or~~
442 ~~indirectly control, are controlled by, or are under common~~
443 ~~control with such other person;~~

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

446 ~~7. If such other person is an investment company, any~~
447 ~~investment adviser of such company or any member of an advisory~~
448 ~~board of such company;~~

449 ~~8. If such other person is an unincorporated investment~~
450 ~~company not having a board of directors, the depositor of such~~
451 ~~company; or~~

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

456 ~~(b) For the purposes of this section, the term~~
457 ~~"Controlling company" means any corporation, trust, or~~
458 ~~association owning, directly or indirectly, 25 percent or more~~
459 ~~of the voting securities of one or more domestic stock insurance~~
460 ~~companies.~~

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

464 Section 6. Section 628.801, Florida Statutes, is amended
465 to read:

Amendment No. 1

466 628.801 Insurance holding companies; registration;
467 regulation.-

468 (1) An ~~Every~~ insurer that is authorized to do business in
469 this state and that is a member of an insurance holding company
470 shall, on or before April 1 of each year, register with the
471 office and file a registration statement and be subject to
472 regulation with respect to its relationship to the holding
473 company as provided by law or rule ~~or statute~~. The commission
474 shall adopt rules establishing the information and statement
475 form required for registration and the manner in which
476 registered insurers and their affiliates are regulated. The
477 rules apply to domestic insurers, foreign insurers, and
478 commercially domiciled insurers, except for a foreign insurer
479 domiciled in states that were ~~are~~ accredited by the National
480 Association of Insurance Commissioners by December 31, 1995.
481 Except to the extent of any conflict with this code, the rules
482 must include all requirements and standards of ss. 4 and 5 of
483 the Insurance Holding Company System Regulatory Act and the
484 Insurance Holding Company System Model Regulation of the
485 National Association of Insurance Commissioners, as adopted on
486 December 2010, and may adopt subsequent amendments thereto if
487 562 the methodology remains substantially consistent ~~the~~
488 ~~Regulatory Act and the Model Regulation existed on November 30,~~
489 2001, and may include a prohibition on oral contracts between
490 affiliated entities. Material transactions between an insurer
491 and its affiliates shall be filed with the office as provided by
492 rule.

Amendment No. 1

493 (2) The ultimate controlling person of every insurer
494 subject to registration must also file an annual enterprise risk
495 report, on or before April 1. As used in this subsection, the
496 term "ultimate controlling person" means a person that is not
497 controlled by any other person. The report, to the best of the
498 ultimate controlling person's knowledge and belief, must
499 identify the material risks within the insurance holding company
500 system which could pose enterprise risk to the insurer. The
501 report shall be filed with the lead state office of the
502 insurance holding company system as determined by the procedures
503 within the Financial Analysis Handbook adopted by the National
504 Association of Insurance Commissioners and is confidential and
505 exempt from public disclosure as provided in s. 624.4212.

506 (a) No waiver of any applicable privilege or claim of
507 confidentiality in the annual enterprise risk report and related
508 documents may occur as a result of any disclosure to the office
509 under this section or any other section of the insurance code as
510 authorized under s. 624.4212. Neither the office nor any person
511 who received the report and related documents while acting under
512 the authority of the office or with whom such information is
513 shared pursuant to s. 624.4212 is permitted or required to
514 testify in any private civil action concerning any confidential
515 documents, materials, or information subject to s. 624.4212. An
516 insurer may satisfy this requirement by providing the office
517 with the most recently filed parent corporation reports that
518 have been filed with the Securities and Exchange Commission
519 which provide the appropriate enterprise risk information.

Amendment No. 1

520 (b) The term "enterprise risk" means any activity,
521 circumstance, event, or series of events involving one or more
522 affiliates of an insurer which, if not remedied promptly, is
523 likely to have a materially adverse effect upon the financial
524 condition or liquidity of the insurer or its insurance holding
525 company system as a whole, including anything that would cause
526 the insurer's risk-based capital to fall into company action
527 level as set forth in s. 624.4085 or would cause the insurer to
528 be in hazardous financial condition.

529 (3) Pursuant to chapter 624 relating to the examination of
530 insurers, the office may examine any insurer registered under
531 this section and its affiliates to ascertain the financial
532 condition of the insurer, including the enterprise risk to the
533 insurer by the ultimate controlling party, or by any entity or
534 combination of entities within the insurance holding company
535 system, or by the insurance holding company system on a
536 consolidated basis.

537 (4) The failure to file a registration statement, or a
538 summary of the registration statement, or the enterprise risk
539 filing report required by this section within the time specified
540 for filing is a violation of this section.

541 (5) Upon request, the office may waive the filing
542 requirements of this section:

543 (a) If the insurer is a domestic insurer that is the
544 subsidiary of an insurer that is in full compliance with the
545 insurance holding company registration laws of its state of
546 domicile, which state is accredited by the National Association
547 of Insurance Commissioners; or

Amendment No. 1

548 (b) If the insurer is a domestic insurer, which writes
549 only in this state, and which has annual direct written and
550 assumed premium of less than \$300,000,000, excluding premiums
551 reinsured with the Federal Crop Insurance Corporation and
552 Federal Flood Program, and the insurer demonstrates that
553 compliance with this section would not provide substantial
554 regulatory or consumer benefit. In evaluating a waiver request
555 made under this paragraph, the office may consider various
556 factors including, but not limited to, the type of business
557 entity, volume of business written, whether the company is in
558 run-off, or the ownership or organizational structure of the
559 entity.

560 A waiver granted pursuant to this subsection shall be valid for
561 a period of two years, unless sooner withdrawn due to a change
562 in the circumstances under which it was granted.

563 Section 7. Present subsection (4) of section 628.803,
564 Florida Statutes, is renumbered as subsection (5), and a new
565 subsection (4) is added to that section, to read:

566 628.803 Sanctions.—

567 (4) If it appears to the office that any person has
568 committed a violation of s. 628.461 which prevents the full
569 understanding of the enterprise risk to the insurer by
570 affiliates or by the insurance holding company system, the
571 violation may serve as an independent basis for disapproving
572 dividends or distributions and for placing the insurer under an
573 order of supervision in accordance with part VI of chapter 624.

574 Section 8. Section 628.805, Florida Statutes, is created
575 to read:

Amendment No. 1

576 628.805 Supervisory colleges.—In order to assess the
577 business strategy, financial position, legal and regulatory
578 position, risk exposure, risk management and governance
579 processes, and as part of the examination of individual insurers
580 in accordance with ss. 628.801 and 624.316, the office may
581 participate in a supervisory college with other regulators
582 charged with supervision of the insurer or its affiliates,
583 including other state, federal, and international regulatory
584 agencies. In accordance with s. 624.4212 regarding confidential
585 information sharing, the office may enter into agreements that
586 provide the basis for cooperation between the office and the
587 other regulatory agencies, and the activities of the supervisory
588 college. This section does not delegate to the supervisory
589 college the office's authority to regulate or supervise the
590 insurer or its affiliates under its jurisdiction.

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

593 (a) Initiate the establishment of a supervisory college;

594 (b) Clarify the membership and participation of other
595 supervisors in the supervisory college;

596 (c) Clarify the functions of the supervisory college and
597 the role of other regulators, including the establishment of a
598 group-wide supervisor;

599 (d) Coordinate the ongoing activities of the supervisory
600 college, including planning meetings, supervisory activities,
601 and processes for information sharing; and

602 (e) Establish a crisis management plan.

Amendment No. 1

603 (2) With respect to an insurer registered under s.
604 628.801, and in accordance with this section, the office may
605 participate in a supervisory college for any domestic insurer
606 that is part of an insurance holding company system in order to
607 determine the insurer's compliance with this chapter.

608 (3) Each registered insurer subject to this section is
609 liable for and shall pay reasonable expenses for the office's
610 participation in a supervisory college, including reasonable
611 travel expenses. A supervisory college may be convened as a
612 temporary or permanent forum for communication and cooperation
613 between the regulators charged with the supervision of the
614 insurer or its affiliates, and the office may impose a regular
615 assessment on the insurer for the payment of these expenses.

616 Section 9. Subsection (3) is added to section 636.045,
617 Florida Statutes, to read:

618 636.045 Minimum surplus requirements.—

619 (3) A prepaid limited health service organization that is
620 authorized in this state and one or more other states,
621 jurisdictions, or countries is subject to ss. 624.4085 and
622 624.40851.

623 Section 10. Subsection (7) is added to section 641.225,
624 Florida Statutes, to read:

625 641.225 Surplus requirements.—

626 (7) A health maintenance organization which is authorized
627 in Florida and one or more other states, jurisdictions or
628 countries shall be subject to s. 624.4085 and 624.40851.

629 Section 11. Subsection (3) is added to section 641.255,
630 Florida Statutes, to read:

Amendment No. 1

631 641.255 Acquisition, merger, or consolidation.—

632 (3) A health maintenance organization which is a member of
633 a holding company system shall be subject to s. 628.461 and is
634 not subject to s. 628.4615.

635 Section 12. This act shall take effect October 1, 2013, if
636 HB 823 or similar legislation is adopted in the same legislative
637 session or an extension thereof and becomes a law.

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

642 Remove lines 39-46 and insert:

643 from the filing requirements; amending s. 628.803, F.S.;

644 providing for sanctions for persons who violate the provisions

645 of s. 628.461, F.S., relating to the acquisition of controlling

646 stock; creating s. 628.805, F.S.; authorizing the office to

647 participate in supervisory colleges; authorizing the office to

648 assess fees on insurers for participation; amending ss. 636.045,

649 641.225 and 641.255 F.S.; applying certain

650

651