

1                                   A bill to be entitled  
2           An act relating to insurer solvency; creating s.  
3           624.085, F.S.; providing definitions applicable to the  
4           Florida Insurance Code; amending s. 624.4085, F.S.;  
5           revising a definition; providing additional  
6           calculations for determining whether an insurer has a  
7           company action level event; revising provisions  
8           relating to mandatory control level events; amending  
9           s. 624.424, F.S.; requiring an insurer's annual  
10          statement to include an actuarial opinion summary;  
11          providing criteria for such summary; providing an  
12          exception for life and health insurers; updating  
13          provisions; amending s. 625.121, F.S.; protecting  
14          material supporting an insurer's annual actuarial  
15          opinion from subpoena, discovery, or admissibility in  
16          a civil action; amending s. 628.461, F.S.; revising  
17          the amount of outstanding voting securities of a  
18          domestic stock insurer or a controlling company that a  
19          person is prohibited from acquiring unless certain  
20          requirements have been met; deleting a provision  
21          authorizing an insurer to file a disclaimer of  
22          affiliation and control in lieu of a letter notifying  
23          the Office of Insurance Regulation of the Financial  
24          Services Commission of the acquisition of the voting  
25          securities of a domestic stock company under certain  
26          circumstances; requiring the statement notifying the  
27          office to include additional information; conforming a  
28          provision to changes made by the act; providing that

29 control is presumed to exist under certain conditions;  
30 specifying how control may be rebutted and how a  
31 controlling interest may be divested; deleting a  
32 definition; amending s. 628.801, F.S.; requiring an  
33 insurer to file annually by a specified date a  
34 registration statement; revising the requirements and  
35 standards for the rules establishing the information  
36 and statement form for the registration; requiring an  
37 insurer to file an annual enterprise risk report;  
38 authorizing the office to conduct examinations to  
39 determine the financial condition of registrants;  
40 providing that failure to file a registration or  
41 report is a violation of the section; providing  
42 additional grounds, requirements, and conditions with  
43 respect to a waiver from the registration  
44 requirements; amending s. 628.803, F.S.; providing for  
45 sanctions for persons who violate s. 628.461, F.S.,  
46 relating to the acquisition of controlling stock or s.  
47 628.801, F.S., relating to the registration and  
48 regulation of insurance holding companies; creating s.  
49 628.805, F.S.; authorizing the office to participate  
50 in supervisory colleges; authorizing the office to  
51 assess fees on insurers for participation; amending  
52 ss. 636.045 and 641.225, F.S.; applying certain  
53 statutes related to solvency to prepaid limited health  
54 service organizations and health maintenance  
55 organizations; amending s. 641.255, F.S.; providing  
56 for applicability of specified provisions to a health

57 maintenance organization that is a member of a holding  
 58 company; providing a contingent effective date.

59

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

61

62 Section 1. Section 624.085, Florida Statutes, is created  
 63 to read:

64 624.085 Other definitions.—As used in the Florida  
 65 Insurance Code, the term:

66 (1) "Affiliate" means any entity that exercises control  
 67 over or is controlled by the insurer, directly or indirectly,  
 68 through:

69 (a) Equity ownership of voting securities;

70 (b) Common managerial control; or

71 (c) Collusive participation by the management of the  
 72 insurer and affiliate in the management of the insurer or the  
 73 affiliate.

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

75 (a) The spouse of such other person;

76 (b) The parents of such other person and their lineal  
 77 descendants, or the parents of such other person's spouse and  
 78 their lineal descendants;

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

82 (d) Any person 10 percent or more of whose outstanding  
 83 voting securities are directly or indirectly owned or  
 84 controlled, or held with power to vote, by such other person;

85 (e) Any person or group of persons who directly or  
 86 indirectly control, are controlled by, or are under common  
 87 control with such other person;

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

90 (g) If such other person is an investment company, any  
 91 investment adviser of such company, or any member of an advisory  
 92 board of such company;

93 (h) If such other person is an unincorporated investment  
 94 company not having a board of directors, the depositor of such  
 95 company; or

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

100 (3) "Control," including the terms "controlling,"  
 101 "controlled by," and "under common control with," means the  
 102 possession, direct or indirect, of the power to direct or cause  
 103 the direction of the management and policies of a person,  
 104 whether through the ownership of voting securities, by contract  
 105 other than a commercial contract for goods or nonmanagement  
 106 services, or otherwise. Control is presumed to exist if any  
 107 person, directly or indirectly, owns, controls, holds with the  
 108 power to vote, or holds proxies representing 10 percent or more  
 109 of the voting securities of any other person.

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

113 |           624.4085 Risk-based capital requirements for insurers.—  
 114 |           (1) As used in this section, the term:  
 115 |           (g) "Life and health insurer" means any insurer authorized  
 116 | or eligible under the Florida Insurance Code to underwrite life  
 117 | or health insurance. The term includes a property and casualty  
 118 | insurer that writes accident and health insurance only; a health  
 119 | maintenance organization that is authorized in this state and  
 120 | one or more other states, jurisdictions, or countries; and a  
 121 | prepaid health service organization that is authorized in this  
 122 | state and one or more other states, jurisdictions, or countries.  
 123 |           (3) (a) A company action level event includes:  
 124 |           1. The filing of a risk-based capital report by an insurer  
 125 | which indicates that:  
 126 |           a. The insurer's total adjusted capital is greater than or  
 127 | equal to its regulatory action level risk-based capital but less  
 128 | than its company action level risk-based capital; ~~or~~  
 129 |           b. If a life and health insurer that reports using the  
 130 | life and health annual statement instructions, the insurer has  
 131 | total adjusted capital that is greater than or equal to its  
 132 | company action level risk-based capital, but is less than the  
 133 | product of its authorized control level risk-based capital and  
 134 | 3.0 ~~2.5~~, and has a negative trend;  
 135 |           c. If a life and health or property and casualty insurer  
 136 | that reports using the health annual statement instructions, the  
 137 | insurer or organization has total adjusted capital that is  
 138 | greater than or equal to its company action level risk-based  
 139 | capital, but is less than the product of its authorized control  
 140 | level risk-based capital and 3.0, and triggers the trend test

141 determined in accordance with the trend test calculation  
142 included in the Risk-Based Capital Forecasting and Instructions,  
143 Health, updated annually by the National Association of  
144 Insurance Commissioners; or

145 d. If a property and casualty insurer that reports using  
146 the property and casualty annual statement instructions, the  
147 insurer has total adjusted capital that is greater than or equal  
148 to its company action level risk-based capital, but is less than  
149 the product of its authorized control level risk-based capital  
150 and 3.0, and triggers the trend test determined in accordance  
151 with the trend test calculation included in the Risk-Based  
152 Capital Forecasting and Instructions, Property/Casualty, updated  
153 annually by the National Association of Insurance Commissioners;

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

158 3. If, under subsection (7), an insurer challenges an  
159 adjusted risk-based capital report that indicates an event in  
160 subparagraph 1., the notification by the office to the insurer  
161 that the office has, after a hearing, rejected the insurer's  
162 challenge.

163 (6)

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

165 1. With respect to a life and health insurer, the office  
166 shall, after due consideration of s. 624.408, take any action  
167 necessary to place the insurer under regulatory control,  
168 including any remedy available under chapter 631. A mandatory

169 control level event is sufficient ground for the department to  
170 be appointed as receiver as provided in chapter 631. The office  
171 may forego taking action for up to 90 days after the mandatory  
172 control level event if the office finds there is a reasonable  
173 expectation that the ~~mandatory control level~~ event may be  
174 eliminated within the 90-day period.

175 2. With respect to a property and casualty insurer, the  
176 office shall, after due consideration of s. 624.408, s. 641.225  
177 for a health maintenance organization, or s. 636.045 for a  
178 prepaid limited health service organization, take any action  
179 necessary to place the insurer under regulatory control,  
180 including any remedy available under chapter 631, or, in the  
181 case of an insurer that is not writing new business, may allow  
182 the insurer to continue to operate under the supervision of the  
183 office. In either case, the mandatory control level event is  
184 sufficient ground for the department to be appointed as receiver  
185 as provided in chapter 631. The office may forego taking action  
186 for up to 90 days after the mandatory control level event if the  
187 office finds there is a reasonable expectation that the  
188 ~~mandatory control level~~ event may ~~will~~ be eliminated within the  
189 90-day period.

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

192 624.424 Annual statement and other information.—

193 (1) (a) Each authorized insurer shall file with the office  
194 full and true statements of its financial condition,  
195 transactions, and affairs. An annual statement covering the  
196 preceding calendar year shall be filed on or before March 1, and

197 quarterly statements covering the periods ending on March 31,  
198 June 30, and September 30 shall be filed within 45 days after  
199 each such date. The office may, for good cause, grant an  
200 extension of time for filing ~~of~~ an annual or quarterly  
201 statement. The statements must ~~shall~~ contain information  
202 generally included in insurers' financial statements prepared in  
203 accordance with generally accepted insurance accounting  
204 principles and practices and in a form generally used ~~utilized~~  
205 by insurers for financial statements, sworn to by at least two  
206 executive officers of the insurer or, if a reciprocal insurer,  
207 by ~~the~~ oath of the attorney in fact or its like officer if a  
208 corporation. To facilitate uniformity in financial statements  
209 and to facilitate office analysis, the commission may by rule  
210 adopt the form for financial statements approved by the National  
211 Association of Insurance Commissioners in 2002, and ~~may adopt~~  
212 subsequent amendments thereto if the methodology remains  
213 substantially consistent, and may by rule require each insurer  
214 to submit to the office, or such organization as the office may  
215 designate, all or part of the information contained in the  
216 financial statement in a computer-readable form compatible with  
217 the electronic data processing system specified by the office.

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

219 1. A statement of opinion on loss and loss adjustment  
220 expense reserves made by a member of the American Academy of  
221 Actuaries or by a qualified loss reserve specialist, pursuant to  
222 ~~under~~ criteria established by rule of the commission. In  
223 adopting the rule, the commission shall ~~must~~ consider any  
224 criteria established by the National Association of Insurance

225 Commissioners. The office may require semiannual updates of the  
226 annual statement of opinion for ~~as to~~ a particular insurer if  
227 the office has reasonable cause to believe that such reserves  
228 are understated to the extent of materially misstating the  
229 financial position of the insurer. Workpapers in support of the  
230 statement of opinion must be provided to the office upon  
231 request. This paragraph does not apply to life insurance, health  
232 insurance, or title insurance.

233 2. An actuarial opinion summary written by the insurer's  
234 appointed actuary. The summary must be filed in accordance with  
235 the appropriate National Association of Insurance Commissioners  
236 property and casualty annual statement instructions. Proprietary  
237 business information contained in the summary is confidential  
238 and exempt under s. 624.4212, and the summary and related  
239 information are not subject to subpoena or discovery or  
240 admissible in evidence in any private civil action. Neither the  
241 office nor any person who received documents, materials, or any  
242 other information while acting under the authority of the office  
243 or with whom such information is shared pursuant to s. 624.4212  
244 may testify in a private civil action concerning such  
245 confidential information. A waiver of any other applicable claim  
246 of confidentiality or privilege may not occur as a result of a  
247 disclosure to the office under this section or any other section  
248 of the insurance code. This paragraph does not apply to life and  
249 health insurers subject to s. 625.121(3).

250 (c) The commission may by rule require reports or filings  
251 required under the insurance code to be submitted by electronic  
252 means in a computer-readable form compatible with the electronic

253 data processing equipment specified by the commission.

254 (8)

255 (e) The commission shall adopt rules to administer  
 256 ~~implement~~ this subsection, which rules must be in substantial  
 257 conformity with the 2006 Annual Financial Reporting Model  
 258 Regulation ~~1998 Model Rule requiring annual audited financial~~  
 259 ~~reports~~ adopted by the National Association of Insurance  
 260 Commissioners or subsequent amendments, except where  
 261 inconsistent with the requirements of this subsection. Any  
 262 exception to, waiver of, or interpretation of accounting  
 263 requirements of the commission must be in writing and signed by  
 264 an authorized representative of the office. An ~~No~~ insurer may  
 265 not ~~raise as a defense in any action,~~ any exception to, waiver  
 266 of, or interpretation of accounting requirements as a defense in  
 267 an action, unless previously issued in writing by an authorized  
 268 representative of the office.

269 Section 4. Paragraphs (a) and (b) of subsection (3) of  
 270 section 625.121, Florida Statutes, are amended to read:

271 625.121 Standard Valuation Law; life insurance.—

272 (3) ACTUARIAL OPINION OF RESERVES.—

273 (a) ~~1.~~ Each life insurance company doing business in this  
 274 state shall annually submit the opinion of a qualified actuary  
 275 as to whether the reserves and related actuarial items held in  
 276 support of the policies and contracts specified by the  
 277 commission by rule are computed appropriately, are based on  
 278 assumptions that ~~which~~ satisfy contractual provisions, are  
 279 consistent with prior reported amounts, and comply with  
 280 applicable laws of this state. The commission by rule shall

281 define the specifics of this opinion and add any other items  
282 determined to be necessary to its scope.

283 ~~1.2.~~ The opinion shall be submitted with the annual  
284 statement reflecting the valuation of such reserve liabilities  
285 ~~for each year ending on or after December 31, 1992.~~

286 ~~2.3.~~ The opinion applies ~~shall apply~~ to all business in  
287 force, including individual and group health insurance plans, in  
288 the form and substance acceptable to the office as specified by  
289 rule of the commission.

290 ~~3.4.~~ The commission may adopt rules providing the  
291 standards of the actuarial opinion consistent with standards  
292 adopted by the Actuarial Standards Board on December 31, 2002,  
293 and subsequent revisions thereto, if ~~provided that~~ the standards  
294 remain substantially consistent.

295 ~~4.5.~~ ~~In the case of an opinion required to be submitted by~~  
296 ~~a foreign or alien company,~~ The office may accept an ~~the~~ opinion  
297 filed by a foreign or alien ~~that~~ company with the insurance  
298 supervisory official of another state if the office determines  
299 that the opinion reasonably meets the requirements applicable to  
300 a company domiciled in this state.

301 ~~5.6.~~ As used in ~~For the purposes of~~ this subsection, the  
302 term "qualified actuary" means a member in good standing of the  
303 American Academy of Actuaries who also meets the requirements  
304 specified by rule of the commission.

305 ~~6.7.~~ Disciplinary action by the office against the company  
306 or the qualified actuary shall be in accordance with the  
307 insurance code and related rules adopted by the commission.

308 ~~7.8.~~ A memorandum in the form and substance specified by

309 rule shall be prepared to support each actuarial opinion.

310 ~~8.9.~~ If the insurance company fails to provide a  
 311 supporting memorandum at the request of the office within a  
 312 period specified by rule of the commission, or if the office  
 313 determines that the supporting memorandum provided by the  
 314 insurance company fails to meet the standards prescribed by rule  
 315 of the commission, the office may engage a qualified actuary at  
 316 the expense of the company to review the opinion and the basis  
 317 for the opinion and prepare such supporting memorandum as ~~is~~  
 318 required by the office.

319 ~~9.10.~~ Except as otherwise provided in this paragraph, any  
 320 memorandum or other material in support of the opinion is  
 321 confidential and exempt from ~~the provisions of~~ s. 119.07(1) and  
 322 is not subject to subpoena or discovery or admissible in  
 323 evidence in any private civil action; however, the memorandum or  
 324 other material may be released by the office with the written  
 325 consent of the company, or to the American Academy of Actuaries  
 326 upon request stating that the memorandum or other material is  
 327 required for the purpose of professional disciplinary  
 328 proceedings and setting forth procedures satisfactory to the  
 329 office for preserving the confidentiality of the memorandum or  
 330 other material. If any portion of the confidential memorandum is  
 331 cited by the company in its marketing, ~~or~~ is cited before any  
 332 governmental agency other than a state insurance department, or  
 333 is released by the company to the news media, no portion of the  
 334 memorandum is confidential. Neither the office nor any person  
 335 who received documents, materials, or any other information  
 336 while acting under the authority of the office or with whom such

337 information is shared pursuant to this paragraph may testify in  
338 any private civil action concerning the confidential documents,  
339 materials, or information. No waiver of any applicable privilege  
340 or claim of confidentiality in the documents, materials, or  
341 information shall occur as a result of disclosure to the office  
342 under this section or any other section of the insurance code or  
343 as a result of sharing as authorized in s. 624.4212.

344 (b) In addition to the opinion required by paragraph (a)  
345 ~~subparagraph (a)1.~~, the office may, pursuant to commission rule,  
346 require an opinion of the same qualified actuary as to whether  
347 the reserves and related actuarial items held in support of the  
348 policies and contracts specified by the commission by rule, when  
349 considered in light of the assets held by the company with  
350 respect to the reserves and related actuarial items, including,  
351 but not limited to, the investment earnings on the assets and  
352 considerations anticipated to be received and retained under the  
353 policies and contracts, make adequate provision for the  
354 company's obligations under the policies and contracts,  
355 including, but not limited to, the benefits under, and expenses  
356 associated with, the policies and contracts.

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

359 628.461 Acquisition of controlling stock.—

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

365 securities of a domestic stock insurer or of a controlling  
366 company, unless:

367 (a) The person or affiliated person has filed with the  
368 office and sent to the insurer and controlling company a letter  
369 of notification regarding the transaction or proposed  
370 transaction within ~~no later than~~ 5 days after any form of tender  
371 offer or exchange offer is proposed, or within ~~no later than~~ 5  
372 days after the acquisition of the securities if no tender offer  
373 or exchange offer is involved. The notification must be provided  
374 on forms prescribed by the commission containing information  
375 determined necessary to understand the transaction and identify  
376 all purchasers and owners involved;

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

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

382 or

383 3. The acquisition of the securities, if no definitive  
384 acquisition agreement, tender offer, or exchange offer is  
385 involved; and

386 (c) The office has approved the tender or exchange offer,  
387 or acquisition if no tender offer or exchange offer is involved,  
388 and approval is in effect.

389

390 ~~In lieu of a filing as required under this subsection, a party~~  
391 ~~acquiring less than 10 percent of the outstanding voting~~  
392 ~~securities of an insurer may file a disclaimer of affiliation~~

393 | ~~and control. The disclaimer shall fully disclose all material~~  
394 | ~~relationships and basis for affiliation between the person and~~  
395 | ~~the insurer as well as the basis for disclaiming the affiliation~~  
396 | ~~and control. After a disclaimer has been filed, the insurer~~  
397 | ~~shall be relieved of any duty to register or report under this~~  
398 | ~~section which may arise out of the insurer's relationship with~~  
399 | ~~the person unless and until the office disallows the disclaimer.~~  
400 | ~~The office shall disallow a disclaimer only after furnishing all~~  
401 | ~~parties in interest with notice and opportunity to be heard and~~  
402 | ~~after making specific findings of fact to support the~~  
403 | ~~disallowance.~~ A filing ~~as~~ required under this subsection must be  
404 | made for ~~as to~~ any acquisition that equals or exceeds 10 percent  
405 | of the outstanding voting securities.

406 |       (3) The statement to be filed with the office under  
407 | subsection (1) and furnished to the insurer and controlling  
408 | company must ~~shall~~ contain all the following information and any  
409 | additional information that ~~as~~ the office deems necessary to  
410 | determine the character, experience, ability, and other  
411 | qualifications of the person or affiliated person of such person  
412 | for the protection of the policyholders and shareholders of the  
413 | insurer and the public:

414 |       (a) The identity of, and the background information  
415 | specified in subsection (4) on, each natural person by whom, or  
416 | on whose behalf, the acquisition is to be made; and, if the  
417 | acquisition is to be made by, or on behalf of, a corporation,  
418 | association, or trust, as to the corporation, association, or  
419 | trust and as to any person who controls, either ~~either~~ directly or  
420 | indirectly, the corporation, association, or trust, the identity

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

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

427 (c) Any plans or proposals that ~~which~~ such persons may  
428 have made to liquidate such insurer, to sell any of its assets  
429 or merge or consolidate it with any person, or to make any other  
430 major change in its business or corporate structure or  
431 management; and any plans or proposals that ~~which~~ such persons  
432 may have made to liquidate any controlling company of such  
433 insurer, to sell any of its assets or merge or consolidate it  
434 with any person, or to make any other major change in its  
435 business or corporate structure or management.~~†~~

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

440 (e) Information as to any contract, arrangement, or  
441 understanding with any party with respect to any of the  
442 securities of the insurer or controlling company, including, but  
443 not limited to, information relating to the transfer of any of  
444 the securities, option arrangements, puts or calls, or the  
445 giving or withholding of proxies, which information names the  
446 party with whom the contract, arrangement, or understanding has  
447 been entered into and gives the details thereof.

448 (f) An agreement by the person required to file the

449 statement that the person will provide the annual report  
450 specified in s. 628.801(2) if control exists.

451 (g) An acknowledgement by the person required to file the  
452 statement that the person and all subsidiaries within the  
453 person's control in the insurance holding company system will  
454 provide, as necessary, information to the office upon request to  
455 evaluate enterprise risk to the insurer.

456 (10) Upon notification to the office by the domestic stock  
457 insurer or a controlling company that any person or any  
458 affiliated person of such person has acquired 10 ~~5~~ percent or  
459 more of the outstanding voting securities of the domestic stock  
460 insurer or controlling company without complying with the  
461 provisions of this section, the office shall order that the  
462 person and any affiliated person of such person cease  
463 acquisition of any further securities of the domestic stock  
464 insurer or controlling company; however, the person or any  
465 affiliated person of such person may request a proceeding, which  
466 proceeding shall be convened within 7 days after the rendering  
467 of the order for the sole purpose of determining whether the  
468 person, individually or in connection with any affiliated person  
469 of such person, has acquired 10 ~~5~~ percent or more of the  
470 outstanding voting securities of a domestic stock insurer or  
471 controlling company. Upon the failure of the person or  
472 affiliated person to request a hearing within 7 days, or upon a  
473 determination at a hearing convened pursuant to this subsection  
474 that the person or affiliated person has acquired voting  
475 securities of a domestic stock insurer or controlling company in  
476 violation of this section, the office may order the person and

CS/CS/HB 821

2013

477 affiliated person to divest themselves of any voting securities  
478 so acquired.

479 (12) (a) A presumption of control may be rebutted by filing  
480 a disclaimer of control. Any person may file a disclaimer of  
481 control with the office. The disclaimer must fully disclose all  
482 material relationships and bases for affiliation between the  
483 person and the insurer as well as the basis for disclaiming the  
484 affiliation. After a disclaimer has been filed, the insurer is  
485 relieved of any duty to register or report under this section  
486 that may arise out of the insurer's relationship with the person  
487 unless the office disallows the disclaimer.

488 (b) Any controlling person of a domestic insurer who seeks  
489 to divest the person's controlling interest in the domestic  
490 insurer in any manner shall file with the office, with a copy to  
491 the insurer, confidential notice, not subject to public  
492 inspection as provided under s. 624.4212, of the person's  
493 proposed divestiture at least 30 days before the cessation of  
494 control. The office shall determine those instances in which the  
495 party seeking to divest or to acquire a controlling interest in  
496 an insurer must file for and obtain approval of the transaction.  
497 The information remains confidential until the conclusion of the  
498 transaction unless the office, in its discretion, determines  
499 that confidential treatment interferes with enforcement of this  
500 section. If the statement referred to in subsection (1) is  
501 otherwise filed, this paragraph does not apply. For the purpose  
502 of this section, the term "affiliated person" of another person  
503 means:

504 ~~1. The spouse of such other person;~~

505           ~~2. The parents of such other person and their lineal~~  
 506 ~~descendants and the parents of such other person's spouse and~~  
 507 ~~their lineal descendants;~~

508           ~~3. Any person who directly or indirectly owns or controls,~~  
 509 ~~or holds with power to vote, 5 percent or more of the~~  
 510 ~~outstanding voting securities of such other person;~~

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

514           ~~5. Any person or group of persons who directly or~~  
 515 ~~indirectly control, are controlled by, or are under common~~  
 516 ~~control with such other person;~~

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

519           ~~7. If such other person is an investment company, any~~  
 520 ~~investment adviser of such company or any member of an advisory~~  
 521 ~~board of such company;~~

522           ~~8. If such other person is an unincorporated investment~~  
 523 ~~company not having a board of directors, the depositor of such~~  
 524 ~~company; or~~

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

529           (c)(b) For the purposes of this section, the term  
 530 "Controlling company" means any corporation, trust, or  
 531 association owning, directly or indirectly, 25 percent or more  
 532 of the voting securities of one or more domestic stock insurance

533 | companies.

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

537 |       Section 6. Section 628.801, Florida Statutes, is amended  
 538 | to read:

539 |       628.801 Insurance holding companies; registration;  
 540 | regulation.—

541 |       (1) An ~~Every~~ insurer that is authorized to do business in  
 542 | this state and that is a member of an insurance holding company  
 543 | shall, on or before April 1 of each year, register with the  
 544 | office and file a registration statement and be subject to  
 545 | regulation with respect to its relationship to the holding  
 546 | company as provided by law or rule ~~or statute~~. The commission  
 547 | shall adopt rules establishing the information and statement  
 548 | form required for registration and the manner in which  
 549 | registered insurers and their affiliates are regulated. The  
 550 | rules apply to domestic insurers, foreign insurers, and  
 551 | commercially domiciled insurers, except for a foreign insurer  
 552 | domiciled in states that were ~~are~~ accredited by the National  
 553 | Association of Insurance Commissioners by December 31, 1995.  
 554 | Except to the extent of any conflict with this code, the rules  
 555 | must include all requirements and standards of ss. 4 and 5 of  
 556 | the Insurance Holding Company System Regulatory Act and the  
 557 | Insurance Holding Company System Model Regulation of the  
 558 | National Association of Insurance Commissioners, as adopted on  
 559 | December 2010. The commission may adopt subsequent amendments  
 560 | thereto if the methodology remains substantially consistent. The

561 ~~rules Regulatory Act and the Model Regulation existed on~~  
562 ~~November 30, 2001, and may include a prohibition on oral~~  
563 ~~contracts between affiliated entities. Material transactions~~  
564 ~~between an insurer and its affiliates shall be filed with the~~  
565 ~~office as provided by rule Upon request, the office may waive~~  
566 ~~filing requirements under this section for a domestic insurer~~  
567 ~~that is the subsidiary of an insurer that is in full compliance~~  
568 ~~with the insurance holding company registration laws of its~~  
569 ~~state of domicile, which state is accredited by the National~~  
570 ~~Association of Insurance Commissioners.~~

571 (2) The ultimate controlling person of every insurer  
572 subject to registration must also file an annual enterprise risk  
573 report on or before April 1. As used in this subsection, the  
574 term "ultimate controlling person" means a person who is not  
575 controlled by any other person. The report, to the best of the  
576 ultimate controlling person's knowledge and belief, must  
577 identify the material risks within the insurance holding company  
578 system that could pose enterprise risk to the insurer. The  
579 report shall be filed with the lead state office of the  
580 insurance holding company system as determined by the procedures  
581 within the Financial Analysis Handbook adopted by the National  
582 Association of Insurance Commissioners and is confidential and  
583 exempt from public disclosure as provided in s. 624.4212.

584 (a) An insurer may satisfy this requirement by providing  
585 the office with the most recently filed parent corporation  
586 reports that have been filed with the Securities and Exchange  
587 Commission which provide the appropriate enterprise risk  
588 information.

589        (b) The term "enterprise risk" means any activity,  
590 circumstance, event, or series of events involving one or more  
591 affiliates of an insurer which, if not remedied promptly, is  
592 likely to have a materially adverse effect upon the financial  
593 condition or liquidity of the insurer or its insurance holding  
594 company system as a whole, including anything that would cause  
595 the insurer's risk-based capital to fall into company action  
596 level as set forth in s. 624.4085 or would cause the insurer to  
597 be in hazardous financial condition.

598        (3) Pursuant to the provisions of chapter 624 relating to  
599 the examination of insurers, the office may examine any insurer  
600 registered under this section and its affiliates to ascertain  
601 the financial condition of the insurer, including the enterprise  
602 risk to the insurer by the ultimate controlling party, or by any  
603 entity or combination of entities within the insurance holding  
604 company system, or by the insurance holding company system on a  
605 consolidated basis.

606        (4) The filings and related documents filed pursuant to  
607 this section are confidential and exempt as provided in s.  
608 624.4212 and are not subject to subpoena or discovery or  
609 admissible in evidence in any private civil action. No waiver of  
610 any applicable privilege or claim of confidentiality in the  
611 filings and related documents may occur as a result of any  
612 disclosure to the office under this section or any other section  
613 of the insurance code as authorized under s. 624.4212. Neither  
614 the office nor any person who received the filings and related  
615 documents while acting under the authority of the office or with  
616 whom such information is shared pursuant to s. 624.4212 is

617 permitted or required to testify in any private civil action  
618 concerning any confidential documents, materials, or information  
619 subject to s. 624.4212.

620 (5) The failure to file a registration statement, or a  
621 summary of the registration statement, or the enterprise risk  
622 filing report required by this section within the time specified  
623 for filing is a violation of this section.

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

626 (a) If the insurer is a domestic insurer that is the  
627 subsidiary of an insurer that is in full compliance with the  
628 insurance holding company registration laws of its state of  
629 domicile, which state is accredited by the National Association  
630 of Insurance Commissioners; or

631 (b) If the insurer is a domestic insurer that writes only  
632 in this state and has annual direct written and assumed premium  
633 of less than \$300 million, excluding premiums reinsured with the  
634 Federal Crop Insurance Corporation and Federal Flood Program,  
635 and demonstrates that compliance with this section would not  
636 provide substantial regulatory or consumer benefit. In  
637 evaluating a waiver request made under this paragraph, the  
638 office may consider various factors including, but not limited  
639 to, the type of business entity, the volume of business written,  
640 the ownership or organizational structure of the entity, or  
641 whether the company is in run-off.

642  
643 A waiver granted pursuant to this subsection is valid for 2  
644 years unless sooner withdrawn due to a change in the

645 circumstances under which the waiver was granted.

646 Section 7. Subsection (4) of section 628.803, Florida  
 647 Statutes, is renumbered as subsection (5), and a new subsection  
 648 (4) is added to that section to read:

649 628.803 Sanctions.—

650 (4) If the office determines that any person has committed  
 651 a violation of s. 628.461 or s. 628.801, the violation may serve  
 652 as an independent basis for disapproving dividends or  
 653 distributions and for placing the insurer under an order of  
 654 supervision in accordance with part VI of chapter 624.

655 Section 8. Section 628.805, Florida Statutes, is created  
 656 to read:

657 628.805 Supervisory colleges.—In order to assess the  
 658 business strategy, financial position, legal and regulatory  
 659 position, risk exposure, risk management, and governance  
 660 processes, and as part of the examination of individual insurers  
 661 in accordance with ss. 628.801 and 624.316, the office may  
 662 participate in a supervisory college with other regulators  
 663 charged with supervision of the insurer or its affiliates,  
 664 including other state, federal, and international regulatory  
 665 agencies. In accordance with s. 624.4212 regarding confidential  
 666 information sharing, the office may enter into agreements that  
 667 provide the basis for cooperation between the office and the  
 668 other regulatory agencies and the activities of the supervisory  
 669 college. This section does not delegate to the supervisory  
 670 college the office's authority to regulate or supervise the  
 671 insurer or its affiliates under its jurisdiction.

672 (1) With respect to participation in a supervisory

673 college, the office may:

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

675 (b) Clarify the membership and participation of other  
676 supervisors in the supervisory college.

677 (c) Clarify the functions of the supervisory college and  
678 the role of other regulators, including the establishment of a  
679 group-wide supervisor.

680 (d) Coordinate the ongoing activities of the supervisory  
681 college, including planning meetings, supervisory activities,  
682 and processes for information sharing.

683 (e) Establish a crisis management plan.

684 (2) With respect to an insurer registered under s.  
685 628.801, and in accordance with this section, the office may  
686 participate in a supervisory college for any domestic insurer  
687 that is part of an insurance holding company system that has  
688 international operations in order to determine the insurer's  
689 compliance with this chapter.

690 (3) Each registered insurer subject to this section is  
691 liable for and shall pay reasonable expenses for the office's  
692 participation in a supervisory college, including reasonable  
693 travel expenses. A supervisory college may be convened as a  
694 temporary or permanent forum for communication and cooperation  
695 between the regulators charged with the supervision of the  
696 insurer or its affiliates, and the office may impose a regular  
697 assessment on the insurer for the payment of these expenses.

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

700 636.045 Minimum surplus requirements.—

701           (3) A prepaid limited health service organization that is  
 702 authorized in this state and one or more other states,  
 703 jurisdictions, or countries is subject to ss. 624.4085 and  
 704 624.40851.

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

707           641.225 Surplus requirements.—

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

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

713           641.255 Acquisition, merger, or consolidation.—

714           (3) A health maintenance organization that is a member of  
 715 a holding company system is subject to s. 628.461 but not s.  
 716 628.4615.

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