

Committee Substitute for Senate Bill No. 658

An act relating to insurance; amending s. 624.610, F.S.; updating a cross-reference; creating s. 625.011, F.S.; defining the term "statutory accounting principles"; amending s. 625.012, F.S.; providing for what constitutes an asset of an insurer; amending s. 625.031, F.S.; providing for assets not allowed in determining the financial condition of an insurer; amending s. 625.041, F.S.; revising a provision concerning liability; amending s. 625.141, F.S.; providing for the valuation of bonds; amending s. 625.161, F.S.; revising requirements for new appraisals in the valuation of real property; amending s. 625.322, F.S.; revising requirements for collateral loans; creating s. 641.183, F.S.; providing a transition selection for statutory accounting principles; amending s. 641.19, F.S.; redefining the terms "reporting period," "statutory accounting principles," "surplus," and "surplus notes" for purposes of the Health Maintenance Organization Act; amending s. 641.35, F.S.; redefining certain assets or liabilities in the determination of the financial condition of a health maintenance organization; providing applicability; amending ss. 626.916, 626.918, 626.921, 626.923, 626.930, 626.931, 626.932, 626.933, 626.935, 626.936, 626.9361, 626.938, F.S.; revising certain requirements for surplus lines insurance to provide the Florida Surplus Lines Service Office with the same authority granted to the Department of Insurance; revising limits on fees that may be charged with respect to certain policies certified for export; revising certain quarterly reporting requirements; providing for collection of a service fee; providing a penalty for failure to make certain reports and pay service fees; providing for an administrative fine for such failure; providing for disposition of surplus lines taxes and service fees; providing a retroactive effective date.

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

Section 1. Subsection (4) of section 626.916, Florida Statutes, is amended to read:

626.916 Eligibility for export.—

(4) A reasonable per-policy fee, not to exceed ~~\$35~~ \$25, may be charged by the filing surplus lines agent for each policy certified for export.

Section 2. Subsection (2) of section 626.918, Florida Statutes, is amended to read:

626.918 Eligible surplus lines insurers.—

(2) No unauthorized insurer shall be or become an eligible surplus lines insurer unless made eligible by the department in accordance with the following conditions:

(a) Eligibility of the insurer must be requested in writing by the Florida Surplus Lines Service Office ~~a Florida-licensed surplus lines agent~~;

(b) The insurer must be currently an authorized insurer in the state or country of its domicile as to the kind or kinds of insurance proposed to be so placed and must have been such an insurer for not less than the 3 years next preceding or must be the wholly owned subsidiary of such authorized insurer or must be the wholly owned subsidiary of an already eligible surplus lines insurer as to the kind or kinds of insurance proposed for a period of not less than the 3 years next preceding. However, the department may waive the 3-year requirement if the insurer provides a product or service not readily available to the consumers of this state or has operated successfully for a period of at least 1 year next preceding and has capital and surplus of not less than \$25 million;

(c) Before granting eligibility, the requesting surplus lines agent or the insurer shall furnish the department with a duly authenticated copy of its current annual financial statement in the English language and with all monetary values therein expressed in United States dollars, at an exchange rate (in the case of statements originally made in the currencies of other countries) then-current and shown in the statement, and with such additional information relative to the insurer as the department may request;

(d)1. The insurer must have and maintain surplus as to policyholders of not less than \$15 million; in addition, an alien insurer must also have and maintain in the United States a trust fund for the protection of all its policyholders in the United States under terms deemed by the department to be reasonably adequate, in an amount not less than \$5.4 million. Any such surplus as to policyholders or trust fund shall be represented by investments consisting of eligible investments for like funds of like domestic insurers under part II of chapter 625 provided, however, that in the case of an alien insurance company, any such surplus as to policyholders may be represented by investments permitted by the domestic regulator of such alien insurance company if such investments are substantially similar in terms of quality, liquidity, and security to eligible investments for like funds of like domestic insurers under part II of chapter 625;

2. For those surplus lines insurers that were eligible on January 1, 1994, and that maintained their eligibility thereafter, the required surplus as to policyholders shall be:

- a. On December 31, 1994, and until December 30, 1995, \$2.5 million.
- b. On December 31, 1995, and until December 30, 1996, \$3.5 million.
- c. On December 31, 1996, and until December 30, 1997, \$4.5 million.
- d. On December 31, 1997, and until December 30, 1998, \$5.5 million.
- e. On December 31, 1998, and until December 30, 1999, \$6.5 million.
- f. On December 31, 1999, and until December 30, 2000, \$8 million.

- g. On December 31, 2000, and until December 30, 2001, \$9.5 million.
- h. On December 31, 2001, and until December 30, 2002, \$11 million.
- i. On December 31, 2002, and until December 30, 2003, \$13 million.
- j. On December 31, 2003, and thereafter, \$15 million.

3. The capital and surplus requirements as set forth in subparagraph 2. do not apply in the case of an insurance exchange created by the laws of individual states, where the exchange maintains capital and surplus pursuant to the requirements of that state, or maintains capital and surplus in an amount not less than \$50 million in the aggregate. For an insurance exchange which maintains funds in the amount of at least \$12 million for the protection of all insurance exchange policyholders, each individual syndicate shall maintain minimum capital and surplus in an amount not less than \$3 million. If the insurance exchange does not maintain funds in the amount of at least \$12 million for the protection of all insurance exchange policyholders, each individual syndicate shall meet the minimum capital and surplus requirements set forth in subparagraph 2.;

4. A surplus lines insurer which is a member of an insurance holding company that includes a member which is a Florida domestic insurer as set forth in its holding company registration statement, as set forth in s. 628.801 and rules adopted thereunder, may elect to maintain surplus as to policyholders in an amount equal to the requirements of s. 624.408, subject to the requirement that the surplus lines insurer shall at all times be in compliance with the requirements of chapter 625.

The election shall be submitted to the department and shall be effective upon the department's being satisfied that the requirements of subparagraph 4. have been met. The initial date of election shall be the date of department approval. The election approval application shall be on a form adopted by department rule. The department may approve an election form submitted pursuant to subparagraph 4. only if it was on file with the department before February 28, 1998;

(e) The insurer must be of good reputation as to the providing of service to its policyholders and the payment of losses and claims;

(f) The insurer must be eligible, as for authority to transact insurance in this state, under s. 624.404(3); and

(g) This subsection does not apply as to unauthorized insurers made eligible under s. 626.917 as to wet marine and aviation risks.

Section 3. Subsection (2) of section 626.921, Florida Statutes, is amended to read:

626.921 Florida Surplus Lines Service Office.—

(2) All surplus lines agents shall, as a condition of holding a license as a surplus lines agent in this state, be deemed to be members of this associa-

tion and shall report to and file with the service office a copy of or information on each surplus lines insurance policy or document as provided in the plan of operation adopted under subsection (5). ~~Upon receipt of any claim notice reported under a surplus lines policy which is subject to the filing requirements of this section, the insurer, or an adjuster representing the insurer, must advise the service office of such claim, identifying the policy under which coverage is claimed, and the service office shall determine whether the policy has been filed as required by this section.~~ The service office shall immediately report the particulars of any unfiled policy to the department for enforcement of compliance with the Florida Surplus Lines Law.

Section 4. Section 626.923, Florida Statutes, is amended to read:

626.923 Filing copy of policy or certificate.—A surplus lines agent shall, within 30 days after the date of a request by the department or the Florida Surplus Lines Service Office, furnish the department an exact copy of any and all requested policies, including applications, certificates, cover notes, or other forms of confirmation of insurance coverage or any substitutions thereof or endorsements thereto. The department or the Florida Surplus Lines Service Office may also request and the agent shall furnish, within 30 days after the date of the request, the agent's memorandum as to the substance of any change represented by a substitute certificate, cover note, other form of confirmation of insurance coverage, or endorsement as compared with the coverage as originally placed or issued.

Section 5. Subsection (2) of section 626.930, Florida Statutes, is amended to read:

626.930 Records of surplus lines agent.—

(2) The record shall at all times be open to examination by the department or the Florida Surplus Lines Service Office without notice and shall be so kept available and open to the department for 5 years next following expiration or cancellation of the contract.

Section 6. Section 626.931, Florida Statutes, is amended to read:

626.931 Agent affidavit and insurer reporting requirements ~~Quarterly report.~~—

(1) Each surplus lines agent shall on or before the end of the month next following each calendar quarter file with the Florida Surplus Lines Service Office an affidavit, on forms as prescribed and furnished by the Florida Surplus Lines Service Office, ~~stating that a verified report of all surplus lines insurance transacted by him or her during such calendar quarter has been submitted to the Florida Surplus Lines Service Office as required.~~

~~(2) The reports and supporting information shall be in a computer-readable format as determined by the department or shall be submitted on forms prescribed by the department and shall show:~~

(a) ~~Aggregate gross premiums charged;~~

~~(b) Aggregate of returned premiums and taxes paid to insureds;~~

~~(c) Aggregate of net premiums;~~

~~(d) A listing of all policies, certificates, cover notes, or other forms of confirmation of insurance coverage or any substitutions thereof or endorsements thereto; and~~

~~(e) Additional information as required by the department.~~

~~(2)(3) The report shall include~~ The affidavit of the surplus lines agent ~~shall include, on forms as prescribed and furnished by the department, as to efforts made to place coverages with authorized insurers and the results thereof.~~

~~(3)(4) Each foreign insurer accepting premiums which are subject to taxes and which are described in this section shall, on or before the end of the month following each calendar quarter, file with the Florida Surplus Lines Service Office a verified report of all surplus lines insurance transacted by such insurer for insurance risks located in this state during such calendar quarter.~~

~~(4)(5) Each alien insurer accepting premiums which are subject to taxes and which are described in this section shall, on or before June 30 of each year, file with the Florida Surplus Lines Service Office a verified report of all surplus lines insurance transacted by such insurer for insurance risks located in this state during the preceding calendar year, provided the first such report shall be with respect to calendar year 1994.~~

~~(5)(6) The Insurance Commissioner shall have the authority to waive the filing requirements described in subsections (3) (4) and (4) (5).~~

~~(6)(7) Each insurer's report and supporting information shall be in a computer-readable format as determined by the Florida Surplus Lines Service Office department or shall be submitted on forms prescribed by the Florida Surplus Lines Service Office department and shall show for each applicable agent:~~

~~(a) The aggregate gross Florida premiums charged;~~

~~(b) The aggregate of returned Florida premiums;~~

~~(c) The aggregate of net Florida premiums;~~

~~(a)(d) A listing of all policies, certificates, cover notes, or other forms of confirmation of insurance coverage or any substitutions thereof or endorsements thereto and the identifying number; and~~

~~(b)(e) Any additional information required by the department or Florida Surplus Lines Service Office.~~

Section 7. Paragraph (a) of subsection (2) of section 626.932, Florida Statutes, is amended to read:

626.932 Surplus lines tax.—

(2)(a) The surplus lines agent shall make payable pay to the Department of Insurance Florida Surplus Lines Service Office the tax related to each calendar quarter's business as reported to the Florida Surplus Lines Service Office, and remit the tax to the Florida Surplus Lines Service Office at the same time as provided for the filing of the quarterly affidavit report, under s. 626.931. The Florida Surplus Lines Service Office shall forward to the department the taxes and any interest collected pursuant to paragraph (b), within 10 days of receipt, ~~along with a copy of the quarterly reports received.~~

Section 8. Section 626.933, Florida Statutes, is amended to read:

626.933 Collection of tax and service fee.—If the tax or service fee payable by a surplus lines agent under this Surplus Lines Law is not so paid within the time prescribed, the same shall be recoverable in a suit brought by the department against the surplus lines agent and the surety or sureties on the bond filed by the surplus lines agent under s. 626.928.

Section 9. Paragraphs (d) and (e) of subsection (1) of section 626.935, Florida Statutes, are amended to read:

626.935 Suspension, revocation, or refusal of surplus lines agent's license.—

(1) The department shall deny an application for, suspend, revoke, or refuse to renew the appointment of a surplus lines agent and all other licenses and appointments held by the licensee under this code, upon any of the following grounds:

(d) Failure to make and file his or her affidavit or quarterly reports when due as required by s. 626.931.

(e) Failure to pay the tax or service fee on surplus lines premiums, as provided for in this Surplus Lines Law.

Section 10. Section 626.936, Florida Statutes, is amended to read:

626.936 Failure to file reports report or pay tax or service fee; administrative penalty.—

(1) Any licensed surplus lines agent who neglects to file a quarterly report or an affidavit in the form and within the time required or provided for in the Surplus Lines Law may be fined up to \$50 per day for each day the neglect continues, beginning the day after the quarterly report or affidavit was due until the date the report or affidavit is received ~~by the department~~. ~~The department shall deposit~~ All sums collected ~~by it~~ under this section shall be deposited into the Insurance Commissioner's Regulatory Trust Fund.

(2) Any licensed surplus lines agent who neglects to pay the taxes or service fees as required under the Surplus Lines Law and within the time required may be fined up to \$500 per day for each day the failure to pay continues, beginning the day after the tax or service fees were ~~was~~ due. The

agent shall pay interest on the amount of any delinquent tax due, at the rate of 9 percent per year, compounded annually, beginning the day the amount becomes delinquent. The department shall deposit all sums collected by it under this section into the Insurance Commissioner's Regulatory Trust Fund.

Section 11. Section 626.9361, Florida Statutes, is amended to read:

626.9361 Failure to file report; administrative penalty.—Any eligible surplus lines insurer who fails to file a ~~quarterly~~ report in the form and within the time required or provided for in the Surplus Lines Law may be fined up to \$500 per day for each day such failure continues, beginning the day after the report was due, until the date the report is received by the ~~department~~. Failure to file a ~~quarterly~~ report may also result in withdrawal of eligibility as a surplus lines insurer in this state. All sums collected by the department under this section shall be deposited into the Insurance Commissioner's Regulatory Trust Fund.

Section 12. Subsections (1), (3), (4), and (10) of section 626.938, Florida Statutes, are amended to read:

626.938 Report and tax of independently procured coverages.—

(1) Every insured who in this state procures or causes to be procured or continues or renews insurance with an unauthorized foreign or alien insurer, or any self-insurer who in this state so procures or continues excess loss, catastrophe, or other insurance, upon a subject of insurance resident, located, or to be performed within this state, other than insurance procured through a surplus lines agent pursuant to the Surplus Lines Law of this state or exempted from tax under s. 626.932(4), shall, within 30 days after the date such insurance was so procured, continued, or renewed, file a report of the same with the Florida Surplus Lines Service Office department in writing and upon forms designated by the Florida Surplus Lines Service Office department and furnished to such an insured upon request, or in a computer readable format as determined by the Florida Surplus Lines Service Office. The report shall show the name and address of the insured or insureds, the name and address of the insurer, the subject of the insurance, a general description of the coverage, the amount of premium currently charged therefor, and such additional pertinent information as is reasonably requested by the Florida Surplus Lines Service Office department.

(3) For the general support of the government of this state, there is levied upon the obligation, chose in action, or right represented by the premium charged for such insurance a tax at the rate of 5 percent of the gross amount of such premium and a 0.3 percent service fee pursuant to s. 626.9325. The insured shall withhold the amount of the tax and service fee from the amount of premium charged by and otherwise payable to the insurer for such insurance; ~~and, Within 30 days after the insurance is was so procured, continued, or renewed, and simultaneously coincidentally with the filing of the report provided for in subsection (1) with the Florida Surplus Lines Service Office department of the report provided for in subsection (1), the insured shall make payable to the Department of Insurance pay the amount of the tax and make payable to the Florida Surplus Lines Service Office the~~

amount of the service fee. The insured shall remit the tax and the service fee to the Florida Surplus Lines Service Office department. The Florida Surplus Lines Service Office shall forward to the department the taxes, and any interest collected pursuant to subsection (5), within 10 days after receipt.

(4) If the insured fails to withhold from the premium the amount of tax and the service fee herein levied, the insured shall be liable for the amount thereof and shall pay that amount ~~the same~~ to the Florida Surplus Lines Service Office department within the time stated in subsection (3).

(10) Each report and supporting information shall be in a computer-readable format as determined by the Florida Surplus Lines Service Office department or shall be submitted on forms prescribed by the Florida Surplus Lines Service Office department.

Section 13. Subsection (14) of section 624.610, Florida Statutes, is amended to read:

624.610 Reinsurance.—

(14) The department may adopt rules implementing the provisions of this section. Rules are authorized to protect the interests of insureds, claimants, ceding insurers, assuming insurers, and the public. These rules shall be in substantial compliance with:

(a) The National Association of Insurance Commissioners model regulations relating to credit for reinsurance;

(b) Version ~~2001~~ 1999 of the National Association of Insurance Commissioners Accounting Practices and Procedures Manual; and

(c) The National Association of Insurance Commissioners model regulation for Credit for Reinsurance and Life and Health Reinsurance Agreements.

The department may further adopt rules to provide for transition from existing requirements for the approval of reinsurers to the accreditation of reinsurers pursuant to this section.

Section 14. Section 625.011, Florida Statutes, is created to read:

625.011 Definitions.—As used in this chapter, the term “statutory accounting principles” means accounting principles as defined in the National Association of Insurance Commissioners Accounting Practices and Procedures Manual effective January 1, 2001.

Section 15. Subsections (1) and (11) of section 625.012, Florida Statutes, are amended, present subsection (12) of that section is redesignated as subsection (16), and new subsections (12), (13), (14), and (15) are added to that section to read:

625.012 “Assets” defined.—In any determination of the financial condition of an insurer, there shall be allowed as “assets” only such assets as are owned by the insurer and which consist of:

(1) Cash or cash equivalents, in the possession of the insurer, or in transit under its control, and including the true balance of any deposit in a solvent bank, savings and loan association, or trust company. Cash equivalents are short-term, highly liquid investments, with original maturities of 3 months or less, which are both readily convertible to known amounts of cash and so near their maturity that they present insignificant risk of changes in value because of changes in interest rates.

(11) Electronic and mechanical machines, including computer-operating software equipment and system software constituting a data processing and accounting system, if the cost of which such system is at least \$25,000, which cost shall be amortized in full over a period not to exceed 3 7 calendar years. The aggregate amount admitted under this subsection shall be limited to 3 percent of the insurer's capital and surplus, adjusted to exclude any electronic data processing equipment and operating software, net deferred tax assets, and net positive goodwill, as reported on the insurer's most recently filed annual statement.

(12) Goodwill arising from acquisitions and mergers occurring after January 1, 2001.

(13) Loans or advances by an insurer to its parent or principal owner if approved by the department.

(14) Current income tax recoverables.

(15) Capitalized interest.

(16)(12) Other assets, not inconsistent with the provisions of this section, deemed by the department to be available for the payment of losses and claims, at values to be determined by it.

Section 16. Section 625.031, Florida Statutes, is amended to read:

625.031 Assets not allowed.—In addition to assets impliedly excluded by the provisions of s. 625.012, the following expressly shall not be allowed as assets in any determination of the financial condition of an insurer:

(1) ~~Good will, Trade names, patents, agreements not to compete,~~ and other like intangible assets.

(2) ~~Advances (other than policy loans) to officers and, directors, and controlling stockholders,~~ whether secured or not, and advances to employees, agents, and other persons on personal security only.

(3) Stock of such insurer, owned by it, or any material equity therein or loans secured thereby, or any material proportionate interest in such stock acquired or held through the ownership by such insurer of an interest in another firm, corporation, or business unit.

(4) Furniture, fixtures, furnishings, safes, vehicles, libraries, stationery, literature, and supplies, other than data processing and accounting systems authorized under s. 625.012(11), except in the case of title insurers such materials and plants as the insurer is expressly authorized to invest in

under s. 625.330 and except, in the case of any insurer, such personal property as the insurer is permitted to hold pursuant to part II of this chapter, or which is acquired through foreclosure of chattel mortgages acquired pursuant to s. 625.329, or which is reasonably necessary for the maintenance and operation of real estate lawfully acquired and held by the insurer other than real estate used by it for home office, branch office, and similar purposes.

(5) The amount, if any, by which the aggregate book value of investments as carried in the ledger assets of the insurer exceeds the aggregate value thereof as determined under this code.

(6) Bonds, notes, or other evidences of indebtedness which are secured by mortgages or deeds of trust which are in default.

(7) Prepaid and deferred expenses.

~~(8) Federal income tax refunds when a refund is not assured.~~

Section 17. Paragraph (d) of subsection (2) of section 625.041, Florida Statutes, is amended to read:

625.041 Liabilities, in general.—In any determination of the financial condition of an insurer, liabilities to be charged against its assets shall include:

(2) With reference to life and health insurance and annuity contracts:

(d) Any additional reserves ~~that~~ ~~which~~ may be required by the department consistent with practice formulated or approved by the National Association of Insurance Commissioners or its successor organization, on account of such insurance, including contract and premium deficiency reserves.

Section 18. Subsection (2) of section 625.141, Florida Statutes, is amended to read:

625.141 Valuation of bonds.—

(2) The department shall have full discretion in determining the method of calculating values according to the rules set forth in this section, but no such method or valuation shall be inconsistent with the method formulated or approved by the National Association of Insurance Commissioners or its successor organization and set forth in the latest edition of its publication "Valuation of Securities"; provided that such valuation methodology is substantially similar to the methodology used by the National Association of Insurance Commissioners in its 2001 ~~1988~~ edition of such publication. Amortization of bond premium or discount must be calculated using the scientific (constant yield) interest method taking into consideration specified interest and principal provisions over the life of the bond. Bonds containing call provisions shall be amortized to the call or maturity value or date that produces the lowest asset value.

Section 19. Section 625.161, Florida Statutes, is amended to read:

625.161 Valuation of property.—

(1) Real property owned by an insurer which is reported in financial statements filed with the department shall be valued at the lower of depreciated cost or fair market value.

~~(2)~~⁽⁴⁾ Real property acquired pursuant to a mortgage loan or contract for sale, in the absence of a recent appraisal deemed by the department to be reliable, shall not be valued at an amount greater than the unpaid principal and accrued interest of the defaulted loan or contract at the date of such acquisition, together with any taxes and expenses paid or incurred in connection with such acquisition, and the cost of improvements thereafter made by the insurer and any amounts thereafter paid by the insurer on assessments levied for improvements in connection with the property.

~~(3)~~⁽²⁾ Other real property held by an insurer shall not be valued at an amount in excess of fair value as determined by recent appraisal. If the valuation of real property is based on an appraisal more than 5 3 years old, the department may, at its discretion, call for and require a new appraisal in order to determine fair market value.

~~(4)~~⁽³⁾ Personal property acquired pursuant to chattel mortgages made in accordance with s. 625.329 shall not be valued at an amount greater than the unpaid balance of principal and accrued interest on the defaulted loan at the date of acquisition, together with taxes and expenses incurred in connection with such acquisition, or the fair value of such property, whichever amount is the lesser.

~~(5)~~⁽⁴⁾ In carrying out its responsibilities under this section, in the event that the department and the insurer do not agree on the value of real or personal property of such insurer, the department may retain the services of a qualified real or personal property appraiser. In the event it is subsequently determined that the insurer has overvalued assets, the department shall be reimbursed for the costs of the services of any such appraiser incurred with respect to its responsibilities under this section regarding an insurer by said insurer and any reimbursement shall be deposited in the Insurance Commissioner's Regulatory Trust Fund.

(6) Any insurer that reported real estate as of December 31, 2000, with a value in excess of that allowed by subsection (1) shall comply with the requirements of that subsection beginning January 1, 2001.

Section 20. Section 625.322, Florida Statutes, is amended to read:

625.322 Collateral loans.—An insurer may invest in loans with a maturity not in excess of 12 years from the date thereof which are secured by the pledge of assets permitted by part I of this chapter ~~securities eligible for investment under this chapter or by the pledge or assignment of life insurance policies issued by other insurers authorized to transact insurance in this state. On the date made, no such loan shall exceed in amount 80 percent of the market value of the collateral pledged, except that loans upon pledge of United States Government bonds and loans upon the pledge or assignment of life insurance policies shall not exceed 95 percent of the market~~

~~value of the bonds or the cash surrender value of the policies pledged. Loans made pursuant to this section shall not be admitted as an asset when it is considered probable that any portion of the amounts due under the contractual terms of the loan will not be collected renewable beyond a period of 12 years from the date of the loan. Collateral loans reported in financial statements filed with the department shall not exceed the value of the collateral held by the company.~~

Section 21. Section 641.183, Florida Statutes, is created to read:

641.183 Statutory accounting procedures; transition provisions.—All health maintenance organizations, authorized to do business under this chapter on January 1, 2001, shall elect a transition method for compliance with statutory accounting principles as follows:

(1) Report assets acquired prior to June 30, 2001 in accordance with s. 641.35, Florida Statutes (2000), through December 31, 2005. Assets acquired on or after June 30, 2001 shall be accounted for in accordance with the National Association of Insurance Commissioners Accounting Practices and Procedures Manual effective January 1, 2001. A health maintenance organization electing to report assets pursuant to this subsection shall maintain complete and detailed records reflecting such accounting treatment; or

(2) Report all assets in accordance with the NAIC Accounting Practices and Procedures Manual effective January 1, 2001.

Section 22. Subsections (16), (17), and (20) of section 641.19, Florida Statutes, are amended to read:

641.19 Definitions.—As used in this part, the term:

(16) “Reporting period” means the annual calendar year accounting period or any part thereof ~~or the fiscal year of the health maintenance organization.~~

(17) “Statutory accounting principles” means accounting principles as defined in the National Association of Insurance Commissioners Accounting Practices and Procedures Manual effective January 1, 2001 generally accepted accounting principles, except as modified by this part.

~~(20) “Surplus notes” means debt which has been guaranteed by the United States Government or its agencies, or debt which has been subordinated to all claims of subscribers and general creditors of the organization.~~

Section 23. Subsections (1), (2), and (3) of section 641.35, Florida Statutes, are amended to read:

641.35 Assets, liabilities, and investments.—

(1) ASSETS.—In any determination of the financial condition of a health maintenance organization, there shall be allowed as “assets” only those assets that are owned by the health maintenance organization and that ~~which~~ assets consist of:

(a) Cash or cash equivalents in the possession of the health maintenance organization, or in transit under its control, including the true balance of any deposit in a solvent bank, savings and loan association, or trust company which is domiciled in the United States. Cash equivalents are short-term, highly liquid investments, with original maturities of 3 months or less, which are both readily convertible to known amounts of cash and so near their maturity that they present insignificant risk of changes in value because of changes in interest rates.

(b) Investments, securities, properties, and loans acquired or held in accordance with this part, and in connection therewith the following items:

1. Interest due or accrued on any bond or evidence of indebtedness which is not in default and which is not valued on a basis including accrued interest.

2. Declared and unpaid dividends on stock and shares, unless the amount of the dividends has otherwise been allowed as an asset.

3. Interest due or accrued upon a collateral loan which is not in default in an amount not to exceed 1 year's interest thereon.

4. Interest due or accrued on deposits or certificates of deposit in solvent banks, savings and loan associations, and trust companies domiciled in the United States, and interest due or accrued on other assets, if such interest is in the judgment of the department a collectible asset.

5. Interest due or accrued on current mortgage loans, in an amount not exceeding in any event the amount, if any, of the excess of the value of the property less delinquent taxes thereon over the unpaid principal; but in no event shall interest accrued for a period in excess of 90 days be allowed as an asset.

~~6. Rent due or accrued on real property if such rent is not in arrears for more than 3 months. However, in no event shall rent accrued for a period in excess of 90 days be allowed as an asset.~~

~~7. The unaccrued portion of taxes paid prior to the due date on real property.~~

(c) Premiums in the course of collection, not more than 3 months past due, less commissions payable thereon. The foregoing limitation shall not apply to premiums payable directly or indirectly by any governmental body in the United States or by any of their instrumentalities.

(d) The full amount of reinsurance recoverable from a solvent reinsurer, which reinsurance is authorized under s. 624.610.

~~(e) Furniture, fixtures, furnishings, vehicles, medical libraries, and equipment, if the original cost of each item is at least \$200, which cost shall be amortized in full over a period not to exceed 5 calendar years, unless otherwise approved by the department.~~

~~(e)(f)~~ Pharmaceutical and medical supply inventories.

~~(g)~~ The liquidation value of prepaid expenses.

(f) Goodwill created by acquisitions and mergers occurring on or after January 1, 2001.

(g) Loans or advances by a health maintenance organization to its parent or principal owner if approved by the department.

(h) Other assets, not inconsistent with the provisions of this section, deemed by the department to be available for the payment of losses and claims, at values to be determined by it.

The department, upon determining that a health maintenance organization's asset has not been evaluated according to applicable law or that it does not qualify as an asset, shall require the health maintenance organization to properly reevaluate the asset or replace the asset with an asset suitable to the department within 30 days of receipt of written notification by the department of this determination, if the removal of the asset from the organization's assets would impair the organization's solvency.

(2) ASSETS NOT ALLOWED.—In addition to assets impliedly excluded by the provisions of subsection (1), the following assets expressly shall not be allowed as assets in any determination of the financial condition of a health maintenance organization:

(a) ~~Goodwill~~, Subscriber lists, patents, trade names, agreements not to compete, and other like intangible assets.

(b) Any note or account receivable from or advances to officers, directors, or controlling stockholders, whether secured or not, and advances to employees, agents, or other persons on personal security only, other than those transactions authorized under paragraph (1)(g).

(c) Stock of the health maintenance organization owned by it directly or owned by it through any entity in which the organization owns or controls, directly or indirectly, more than 25 percent of the ownership interest.

(d) Leasehold improvements, nonmedical libraries, stationery, literature, and nonmedical supply inventories, except that leasehold improvements made prior to October 1, 1985, shall be allowed as an asset and shall be amortized over the shortest of the following periods:

1. The life of the lease.
2. The useful life of the improvements.
3. The 3-year period following October 1, 1985.

(e) Furniture, fixtures, furnishings, vehicles, medical libraries, and equipment, ~~other than those items authorized under paragraph (1)(e).~~

(f) Notes or other evidences of indebtedness which are secured by mortgages or deeds of trust which are in default and beyond the express period specified in the instrument for curing the default.

(g) Bonds in default for more than 60 days.

(h) ~~Deferred costs other than the liquidation value of Prepaid and deferred~~ expenses.

(i) Any note, account receivable, advance, or other evidence of indebtedness, or investment in:

1. The parent of the health maintenance organization;
2. Any entity directly or indirectly controlled by the health maintenance organization parent; or
3. An affiliate of the parent or the health maintenance organization,

except as allowed in subsections (1), (11), and (12). The department may, however, allow all or a portion of such asset, at values to be determined by the department, if deemed by the department to be available for the payment of losses and claims.

(3) LIABILITIES.—In any determination of the financial condition of a health maintenance organization, liabilities to be charged against its assets shall include:

(a) The amount, estimated consistently with the provisions of this part, necessary to pay all of its unpaid losses and claims incurred for or on behalf of a subscriber, on or prior to the end of the reporting period, whether reported or unreported, including contract and premium deficiency reserves.

(b) The amount equal to the unearned portions of the gross premiums charged on health maintenance contracts in force.

(c) Taxes, expenses, and other obligations due or accrued at the date of the statement.

The department, upon determining that a health maintenance organization has failed to report liabilities that should have been reported, shall require a corrected report which reflects the proper liabilities to be submitted by the organization to the department within 10 working days of receipt of written notification.

Section 24. Any quarterly or annual statement that is required to be filed after the effective date of this act shall be prepared in accordance with the provisions of this act.

Section 25. This act shall take effect upon becoming a law and section 24 of this act shall apply retroactively to January 1, 2001.

Approved by the Governor June 13, 2001.

Filed in Office Secretary of State June 13, 2001.