

House Bill No. 1549

An act relating to examination of insurers; amending s. 624.316, F.S.; extending the interval at which insurers must be examined by the Office of Insurance Regulation; deleting provisions allowing the office to accept an audit report from a certified public accountant in lieu of conducting its own examination; revising guidelines for conducting such examinations; providing an effective date.

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

Section 1. Subsection (2) of section 624.316, Florida Statutes, is amended to read:

624.316 Examination of insurers.—

(2)(a) Except as provided in paragraph (f), the office may examine each insurer as often as may be warranted for the protection of the policyholders and in the public interest, and shall examine each domestic insurer not less frequently than once every 5 ~~3~~ years. The examination shall cover the preceding 5 ~~3~~ fiscal years of the insurer and shall be commenced within 12 months after the end of the most recent fiscal year being covered by the examination. The examination may cover any period of the insurer's operations since the last previous examination. The examination may include examination of events subsequent to the end of the most recent fiscal year and the events of any prior period that affect the present financial condition of the insurer. ~~In lieu of making its own examination, the office may accept an independent certified public accountant's audit report prepared on a statutory basis consistent with the Florida Insurance Code on that specific company. The office may not accept the report in lieu of the requirement imposed by paragraph (1)(b). When an examination is conducted by the office for the sole purpose of examining the 3 preceding fiscal years of the insurer within 12 months after the opinion date of an independent certified public accountant's audit report prepared on a statutory basis on that specific company consistent with the Florida Insurance Code, the cost of the examination as charged to the insurer pursuant to s. 624.320 shall be reduced by the cost to the insurer of the independent certified public accountant's audit reports. Requests for the reduction in cost of examination must be submitted to the office in writing no later than 90 days after the conclusion of the examination and shall include sufficient documentation to support the charges incurred for the statutory audit performed by the independent certified public accountant.~~

(b) The office shall examine each insurer applying for an initial certificate of authority to transact insurance in this state before granting the initial certificate.

(c) In lieu of making its own examination, the office may accept a full report of the last recent examination of a foreign insurer, certified to by the insurance supervisory official of another state.

(d) The examination by the office of an alien insurer shall be limited to the alien insurer's insurance transactions and affairs in the United States, except as otherwise required by the office.

(e) The commission shall adopt rules providing that, ~~upon agreement between the office and the insurer,~~ an examination under this section may be conducted by independent certified public accountants, actuaries, investment specialists, information technology specialists meeting criteria specified by rule, and reinsurance specialists meeting criteria specified by rule. The rules shall provide:

1. That the rates charged to the insurer being examined are consistent with rates charged by other firms in a similar profession and are comparable with the rates charged for comparable examinations ~~agreement of the insurer is not required if the office reasonably suspects criminal misconduct on the part of the insurer.~~

2. That the firm selected by the office to perform the examination has no conflicts of interest that might affect its ability to independently perform its responsibilities on the examination ~~office shall provide the insurer with a list of three firms acceptable to the office, and that the insurer shall select the firm to conduct the examination from the list provided by the office.~~

3. That the insurer being examined must make payment for the examination pursuant to s. 624.320(2) directly to the firm performing the examination in accordance with the rates and terms established ~~agreed to~~ by the office, the insurer, and the firm performing the examination.

4. ~~That if the examination is conducted without the consent of the insurer, the insurer must pay all reasonable charges of the examining firm if the examination finds impairment, insolvency, or criminal misconduct on the part of the insurer.~~

(f)1.a. An examination under this section must be conducted at least once every year with respect to a domestic insurer that has continuously held a certificate of authority for less than 3 years. The examination must cover the preceding fiscal year or the period since the last examination of the insurer. The office may limit the scope of the examination.

b. ~~The office may not accept an independent certified public accountant's audit report in lieu of an examination required by this subparagraph.~~

c. ~~An insurer may not be required to pay more than \$25,000 to cover the costs of any one examination under this subparagraph.~~

2. ~~An examination under this section must be conducted not less frequently than once every 5 years with respect to an insurer that has continuously held a certificate of authority, without a change in ownership subject to s. 624.4245 or s. 628.461, for more than 15 years. The examination must cover the preceding 5 fiscal years of the insurer or the period since the last examination of the insurer. This subparagraph does not limit the ability of the office to conduct more frequent examinations.~~

Section 2. This act shall take effect July 1, 2007.

Approved by the Governor June 26, 2007.

Filed in Office Secretary of State June 26, 2007.