

CHAPTER 97-292

Senate Bill No. 840

An act relating to insurance; amending s. 627.215, F.S.; prescribing a minimum value for profit and contingencies factor for the purpose of calculating the anticipated underwriting profit; providing clarification on the application of excess profits; requiring certain insurers to file reports concerning their risk based capital; requiring the Department of Insurance to request such reports under certain circumstances; providing for hearings; providing definitions and reporting requirements; requiring certain insurers to file reports of material transactions concerning their assets or their ceded reinsurance agreements; providing definitions and reporting requirements; prescribing authority of the Department of Insurance with respect to such reports; amending s. 624.3161, F.S.; deleting a limitation on frequency of certain market conduct examinations; deleting requirement for mutual agreement by department and insurer for an independent examination; amending s. 626.321, F.S.; authorizing persons who hold a limited license for credit insurance to hold certain additional licenses; amending s. 624.424, F.S.; increasing the time limitation on insurers using certain accounting services for certain purposes; creating s. 624.5094, F.S.; providing for offset of dividends or premium refunds in calculating the annual assessment for the Special Disability Trust Fund and expenses of administration; amending s. 625.121, F.S.; providing for the use of additional mortality tables; amending s. 627.476, F.S.; providing for the use of additional mortality tables; amending ss. 627.4555 and 627.5045, F.S.; revising provisions requiring notice to policyowners and secondary addressees of impending lapse of certain insurance policies under certain circumstances; providing procedures; providing application; amending s. 628.801, F.S.; updating a reference to the Insurance Holding Company System Regulatory Act; providing effective dates.

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

Section 1. Subsection (8) of section 627.215, Florida Statutes, is amended to read:

627.215 Excessive profits for workers' compensation, employer's liability, commercial property, and commercial casualty insurance prohibited.—

(8) As used in this section with respect to any 3-year period, or with respect to any 10-year period in the case of commercial umbrella liability insurance, "anticipated underwriting profit" means the sum of the dollar amounts obtained by multiplying, for each rate filing of the insurer group in effect during such period, the earned premiums applicable to such rate filing during such period by the percentage factor included in such rate filing for profit and contingencies, such percentage factor having been determined

with due recognition to investment income from funds generated by Florida business, except that the anticipated underwriting profit for the purposes of this section shall be calculated using a profit and contingencies factor that is not less than zero. Separate calculations need not be made for consecutive rate filings containing the same percentage factor for profits and contingencies.

Section 2. Subsection (14) of section 627.215, Florida Statutes, is amended to read:

627.215 Excessive profits for workers' compensation, employer's liability, commercial property, and commercial casualty insurance prohibited.—

(14) The application of this law to commercial property and commercial casualty insurance, which includes commercial umbrella liability insurance, ceases on January 1, 1997. The Department of Insurance shall, no later than October 1, 1995, provide a report on this law to the President of the Senate and the Speaker of the House of Representatives, which report includes a history of the excess profits law and a year-by-year listing of excess profits returned to policyholders as refunds or credits.

Section 3. Risk based capital requirements for insurers.—

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

(a) “Adjusted risk based capital report” means a risk based capital report that has been adjusted by the department in accordance with this section.

(b) “Authorized control level risk based capital” means the number determined under the risk based capital formula in the risk based capital instructions.

(c) “Company action level risk based capital” means the product of 2.0 and an insurer's authorized control level risk based capital.

(d) “Corrective order” means an order issued by the department specifying corrective actions that the department has determined are required.

(e) “Department” means the Department of Insurance.

(f) “Domestic insurer” means any insurer domiciled in this state.

(g) “Foreign insurer” means any insurer that is authorized or eligible to do business in this state but that is not domiciled in this state.

(h) “Life and health insurer” means any insurer authorized or eligible under the Florida Insurance Code to underwrite life or health insurance. The term includes a property and casualty insurer that writes accident and health insurance only.

(i) “Mandatory control level risk based capital” means the product of 0.70 and the authorized control level risk based capital.

(j) “Negative trend” means, with respect to a life and health insurer, a negative trend over a period of time, as determined in accordance with the trend test calculation included in the risk based capital instructions.

(k) “Property and casualty insurer” means any insurer licensed under the Florida Insurance Code, but does not include a single-line mortgage guaranty insurer, financial guaranty insurer, or title insurer or a life and health insurer.

(l) “Regulatory action level risk based capital” means the product of 1.5 and an insurer’s authorized control level risk based capital.

(m) “Revised risk based capital plan” means the revision of the risk based capital plan which is prepared by an insurer after the department rejects the original plan.

(n) “Risk based capital instructions” means the instructions for preparing a risk based capital report as adopted by the National Association of Insurance Commissioners.

(o) “Risk based capital level” means an insurer’s company action level risk based capital, regulatory action level risk based capital, authorized control level risk based capital, or mandatory control level risk based capital.

(p) “Risk based capital plan” means a comprehensive financial plan specified in paragraph (4)(b).

(q) “Risk based capital report” means the report required in subsection (2).

(r) “Total adjusted capital” means the sum of:

1. An insurer’s statutory capital and surplus; and
2. Any other item required by the risk based capital instructions.

(2)(a) Each domestic insurer that is subject to this section shall, on or before March 1 of each year, prepare and file with the National Association of Insurance Commissioners a report of its risk based capital levels as of the end of the calendar year just ended, in a form and containing the information required in the risk based capital instructions. In addition, each domestic insurer shall file a printed copy of its risk based capital report:

1. With the department on or before March 1 of each year.

2. With the insurance department in any other state in which the insurer is authorized to do business, if that department has notified the insurer of its request in writing, in which case the insurer shall file its risk based capital report not later than the later of:

a. Fifteen days after the receipt of notice to file its risk based capital report with that state; or

b. March 1.

(b) The comparison of an insurer’s total adjusted capital to any of its risk based capital levels is a regulatory tool that may indicate the need for

possible corrective action with respect to the insurer, and may not be used as a means to rank insurers generally. Therefore, except as otherwise required under this section, the making, publishing, disseminating, circulating, or placing before the public, or causing, directly or indirectly, to be made, published, disseminated, circulated, or placed before the public, in a newspaper, magazine, or other publication, or in the form of a notice, circular, pamphlet, letter, or poster, or over any radio or television station, or in any other way, an advertisement, announcement, or statement containing an assertion, representation, or statement with regard to the risk based capital levels of any insurer, or of any component derived in the calculation, by any insurer, agent, broker, or other person engaged in any manner in the insurance business would be misleading and is therefore prohibited; however, if any materially false statement with respect to the comparison regarding an insurer's total adjusted capital to its risk based capital levels (or any of them) or an inappropriate comparison of any other amount to the insurer's risk based capital levels is published in any written publication and the insurer is able to demonstrate to the commissioner with substantial proof the falsity or inappropriateness of the statement, the insurer may publish in a written publication an announcement the sole purpose of which is to rebut the materially false statement.

(c) The department shall use the risk based capital instructions, risk based capital reports, adjusted risk based capital reports, risk based capital plans, and revised risk based capital plans solely for monitoring the solvency of insurers and assessing the need for corrective action with respect to insurers. The department may not use that information for ratemaking, as evidence in any rate proceeding, or for calculating or deriving any elements of an appropriate premium level or rate of return for any line of insurance which an insurer or an affiliate of such insurer is authorized to write.

(d) A life and health insurer's risk based capital is determined in accordance with the formula set forth in the risk based capital instructions. The formula takes into account and may adjust for the covariance between:

1. The risk with respect to the insurer's assets;
2. The risk of adverse insurance experience with respect to the insurer's liabilities and obligations;
3. The interest rate risk with respect to the insurer's business; and
4. Any other business or other relevant risk set out in the risk based capital instructions.

determined in each case by applying the factors in the manner set forth in the risk based capital instructions.

(e) A property and casualty insurer's risk based capital is determined in accordance with the formula set forth in the risk based capital instructions. The formula takes into account and may adjust for the covariance between:

1. The asset risk;

2. The credit risk;
3. The underwriting risk; and
4. Any other business or other relevant risk set out in the risk based capital instructions.

determined in each case by applying the factors in the manner set forth in the risk based capital instructions.

(f) The Legislature finds that an excess of capital over the amount produced by the risk based capital requirements and the formulas, schedules, and instructions specified in this section is a desirable goal with respect to the business of insurance. Accordingly, insurers should seek to maintain capital above the risk based capital levels required by this section. Additional capital is used and useful in the insurance business and helps to secure an insurer against various risks inherent in, or affecting, the business of insurance and not accounted for or only partially measured by the risk based capital requirements contained in this section.

(g) If a domestic insurer files a risk based capital report that the department finds is inaccurate, the department shall adjust the risk based capital report to correct the inaccuracy and shall notify the insurer of the adjustment. The notice must state the reason for the adjustment. A risk based capital report that is so adjusted is referred to as the adjusted risk based capital report. The adjusted risk based capital report must also be filed by the insurer with the National Association of Insurance Commissioners.

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

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

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

b. If a life and health insurer, the insurer has total adjusted capital that is greater than or equal to its company action level risk based capital, but is less than the product of its authorized control level risk based capital and 2.5, and has a negative trend;

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

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

(b) If a company action level event occurs, the insurer shall prepare and submit to the department a risk based capital plan, which must:

1. Identify the conditions that contribute to the company action level event;

2. Contain proposals of corrective actions that the insurer intends to take and that are reasonably expected to result in the elimination of the company action level event;

3. Provide projections of the insurer's financial results in the current year and at least the 4 succeeding years, both in the absence of proposed corrective actions and giving effect to the proposed corrective actions, including projections of statutory operating income, net income, capital, and surplus. The projections for both new and renewal business may include separate projections for each major line of business and, if separate projections are provided, must separately identify each significant income, expense, and benefit component;

4. Identify the key assumptions affecting the insurer's projections and the sensitivity of the projections to the assumptions; and

5. Identify the quality of, and problems associated with, the insurer's business, including, but not limited to, its assets, anticipated business growth and associated surplus strain, extraordinary exposure to risk, mix of business, and any use of reinsurance.

(c) The risk based capital plan must be submitted:

1. Within 45 days after the company action level event; or

2. If the insurer challenges an adjusted risk based capital report under subsection (7), within 45 days after notification to the insurer that the department has, after a hearing, rejected the insurer's challenge.

(d) Within 60 days after the submission by an insurer of a risk based capital plan to the department, the department shall notify the insurer whether the risk based capital plan must be implemented or is, in the judgment of the department, unsatisfactory. If the department determines that the risk based capital plan is unsatisfactory, the notification to the insurer must set forth the reasons for the determination and may set forth proposed revisions. Upon notification from the department, the insurer shall prepare a revised risk based capital plan, which may incorporate by reference any revisions proposed by the department, and shall submit the revised risk based capital plan to the department:

1. Within 45 days after the notification from the department; or

2. If the insurer challenges the notification from the department under subsection (7), within 45 days after a notification to the insurer that the department has, after a hearing, rejected the insurer's challenge.

(e) If the department notifies an insurer that the insurer's risk based capital plan or revised risk based capital plan is unsatisfactory, the department may, at its discretion and subject to the insurer's right to a hearing under subsection (7), specify in the notification that the notification is a regulatory action level event.

(f) Each domestic insurer that files a risk based capital plan or a revised risk based capital plan with the department shall file a copy of the risk based capital plan or the revised risk based capital plan with the insurance department in any other state in which the insurer is authorized to do business if:

1. That state has a risk based capital law that is substantially similar to paragraph (8)(a); and

2. The insurance department of that state has notified the insurer of its request for the filing in writing, in which case the insurer shall file a copy of the risk based capital plan or the revised risk based capital plan in that state no later than the later of:

a. Fifteen days after the receipt of notice to file a copy of its risk based capital plan or revised risk based capital plan with the state; or

b. The date on which the risk based capital plan or the revised risk based capital plan is filed under paragraph (c) or paragraph (d).

(4)(a) A regulatory action level event includes:

1. The filing of a risk based capital report by the insurer which indicates that the insurer's total adjusted capital is greater than or equal to its authorized control level risk based capital but is less than its regulatory action level risk based capital;

2. The notification by the department to the insurer of an adjusted risk based capital report that indicates the event described in subparagraph 1., unless the insurer challenges the adjusted risk based capital report under subsection (7);

3. If, under subsection (7), the insurer challenges an adjusted risk based capital report that indicates the event described in subparagraph 1., the notification by the department to the insurer that the department has, after a hearing, rejected the insurer's challenge;

4. The failure of the insurer to file a risk based capital report by the filing date, unless the insurer provides an explanation for such failure which is satisfactory to the department and cures the failure within 10 days after the filing date;

5. The failure of the insurer to submit a risk based capital plan to the department within the time period set forth in paragraph (3)(c);

6. Notification by the department to the insurer that:

a. The risk based capital plan or the revised risk based capital plan submitted by the insurer is, in the judgment of the department, unsatisfactory; and

b. This notification constitutes a regulatory action level event with respect to the insurer, unless the insurer challenges the determination under subsection (7);

7. If, under subsection (7), the insurer challenges a determination by the department under subparagraph 6., the notification by the department to the insurer that the department has, after a hearing, rejected the challenge;

8. Notification by the department to the insurer that the insurer has failed to adhere to its risk based capital plan or revised risk based capital plan, but only if this failure has a substantial adverse effect on the ability of the insurer to eliminate the company action level event in accordance with its risk based capital plan or revised risk based capital plan and the department has so stated in the notification, unless the insurer challenges the determination under subsection (7); or

9. If, under subsection (7), the insurer challenges a determination by the department under subparagraph 8., the notification by the department to the insurer that the department has, after a hearing, rejected the challenge.

(b) If a regulatory action level event occurs, the department shall:

1. Require the insurer to prepare and submit a risk based capital plan or, if applicable, a revised risk based capital plan;

2. Perform an examination pursuant to section 624.316, Florida Statutes, or an analysis, as the department considers necessary, of the assets, liabilities, and operations of the insurer, including a review of the risk based capital plan or the revised risk based capital plan; and

3. After the examination or analysis, issue a corrective order specifying such corrective actions as the department determines are required.

(c) In determining corrective actions, the department shall consider any factor relevant to the insurer based upon the department's examination or analysis of the assets, liabilities, and operations of the insurer, including, but not limited to, the results of any sensitivity tests undertaken as provided in the risk based capital instructions. The risk based capital plan or the revised risk based capital plan must be submitted:

1. Within 45 days after the occurrence of the regulatory action level event;

2. If the insurer challenges an adjusted risk based capital report under subsection (7), within 45 days after the notification to the insurer that the department has, after a hearing, rejected the insurer's challenge; or

3. If the insurer challenges a revised risk based capital plan under subsection (7), within 45 days after the notification to the insurer that the department has, after a hearing, rejected the insurer's challenge.

(d) The department may retain actuaries, investment experts, and other consultants to review an insurer's risk based capital plan or revised risk based capital plan, examine or analyze the assets, liabilities, and operations of an insurer, and formulate the corrective order with respect to the insurer. The fees, costs, and expenses relating to consultants must be borne by the affected insurer or by any other party as directed by the department.

(5)(a) An authorized control level event includes:

1. The filing of a risk based capital report by the insurer which indicates that the insurer's total adjusted capital is greater than or equal to its mandatory control level risk based capital but is less than its authorized control level risk based capital;

2. The notification by the department to the insurer of an adjusted risk based capital report that indicates the event in subparagraph 1., unless the insurer challenges the adjusted risk based capital report under subsection (7);

3. If, under subsection (7), the insurer challenges an adjusted risk based capital report that indicates the event in subparagraph 1., notification by the department to the insurer that the department has, after a hearing, rejected the insurer's challenge;

4. The failure of the insurer to respond, in a manner satisfactory to the department, to a corrective order, unless the insurer challenges the corrective order under subsection (7); or

5. If the insurer challenges a corrective order under subsection (7) and the department has, after a hearing, rejected the challenge or modified the corrective order, the failure of the insurer to respond, in a manner satisfactory to the department, to the corrective order after rejection or modification by the department.

(b) If an authorized control level event occurs, the department shall:

1. Take any action required under subsection (4) regarding the insurer with respect to which a regulatory action level event has occurred; or

2. If the department considers it to be in the best interests of the policyholders and creditors of the insurer and of the public, take any action as necessary to cause the insurer to be placed under regulatory control under chapter 631, Florida Statutes. An authorized control level event is sufficient ground for the department to be appointed as receiver as provided in chapter 631, Florida Statutes.

(6)(a) A mandatory control level event includes:

1. The filing of a risk based capital report that indicates that the insurer's total adjusted capital is less than its mandatory control level risk based capital;

2. Notification by the department to the insurer of an adjusted risk based capital report that indicates the event in subparagraph 1., unless the insurer challenges the adjusted risk based capital report under subsection (7); or

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

(b) If a mandatory control level event occurs:

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

2. With respect to a property and casualty insurer, the department shall, after due consideration of s. 624.408, Florida Statutes, take any action necessary to place the insurer under regulatory control, including any remedy available under chapter 631, Florida Statutes, or, in the case of an insurer that is not writing new business, may allow the insurer to continue to operate under the supervision of the department. In either case, the mandatory control level event is sufficient ground for the department to be appointed as receiver as provided in chapter 631, Florida Statutes. The department may forego taking action for up to 90 days after the mandatory control level event if the department finds there is a reasonable expectation that the mandatory control level event will be eliminated within the 90-day period.

(7)(a) An insurer has a right to a hearing before the department upon:

1. Notification to an insurer by the department of an adjusted risk based capital report;

2. Notification to an insurer by the department that the insurer's risk based capital plan or revised risk based capital plan is unsatisfactory, and that the notification constitutes a regulatory action level event with respect to such insurer;

3. Notification to any insurer by the department that the insurer has failed to adhere to its risk based capital plan or revised risk based capital plan and that the failure has a substantial adverse effect on the ability of the insurer to eliminate the company action level event in accordance with its risk based capital plan or its revised risk based capital plan; or

4. Notification to an insurer by the department of a corrective order with respect to the insurer.

(b) At such hearing the insurer may challenge any determination or action by the department. The insurer shall notify the department of its request for a hearing within 5 days after receipt of the notification by the department under this subsection. Upon receipt of the request for a hearing, the department shall set a date for the hearing, which date must be no fewer than 10 nor more than 30 days after the date the department receives the insurer's request. The hearing must be conducted as provided in section 624.324, Florida Statutes, with the right to appellate review under section 120.68, Florida Statutes.

(8)(a) Any foreign insurer shall, upon the written request of the department, submit to the department a risk based capital report, as of the end of the calendar year just ended, no later than the later of:

1. The date a risk based capital report is required to be filed by a domestic insurer under this section; or

2. Fifteen days after the request is received by the foreign insurer.

(b) Any foreign insurer shall, upon the written request of the department, promptly submit to the department a copy of any risk based capital plan that is filed with the insurance department of another state.

(c) The department may require a foreign insurer to file a risk based capital plan if:

1. A company action level event, regulatory action level event, or authorized control level event occurs with respect to any foreign insurer as determined under the risk based capital law of the state of domicile of the insurer, or, if there is no risk based capital law in that state, under this section.

2. The insurance department of the state of domicile of the foreign insurer fails to require the foreign insurer to file a risk based capital plan in the manner specified under the risk based capital law of that state, or, if there is no risk based capital law in that state, under subsection (3).

The failure of the foreign insurer to file a risk based capital plan with the department when required under this paragraph is a ground for the department to take any action under section 624.418, Florida Statutes, which it determines is necessary.

(d) If a mandatory control level event occurs with respect to any foreign insurer and a domiciliary receiver has not been appointed with respect to the foreign insurer under the rehabilitation and liquidation law of the state of domicile of the foreign insurer, the department may apply to the Circuit Court of Leon County and such event constitutes grounds for the department to be appointed as receiver as provided in chapter 631, Florida Statutes, with respect to the liquidation of property of foreign insurers found in this state. The occurrence of a mandatory control level event is a ground for such application.

(9) There shall be no liability on the part of, and no cause of action shall arise against, the commissioner, the department, or its employees or agents for any action taken by them in the performance of their powers and duties under this section.

(10) The department shall transmit any notice that may result in regulatory action by registered mail, certified mail, or any other method of transmission. Notice is effective when the insurer receives it.

(11) For the purposes of the risk based capital reports required to be filed by life and health insurers with respect to their 1997 annual statement data and the risk based capital reports required to be filed by property and

casualty insurers with respect to their 1997 annual statement data, the following requirements apply in lieu of the provisions of subsections (3), (4), (5), and (6):

(a) If a company action level event occurs with respect to a domestic insurer, the department may not take any regulatory action.

(b) If a regulatory action level event occurs under subparagraph 1., subparagraph 2., or subparagraph 3. of paragraph (4)(a), the department shall take the actions required under subsection (3).

(c) If a regulatory action level event occurs under subparagraph 4., subparagraph 5., subparagraph 6., subparagraph 7., subparagraph 8., or subparagraph 9. of paragraph (4)(a), or an authorized control level event occurs, the department shall take the actions required under subsection (4).

(d) If a mandatory control level event occurs with respect to an insurer, the department shall take the actions required under subsection (5).

(12) This section is supplemental to the other laws of this state and does not preclude or limit any power or duty of the department under those laws or under the rules adopted under those laws.

(13) This section does not apply to a domestic property and casualty insurer that meets all of the following conditions:

(a) Writes direct business only in this state;

(b) Writes direct annual premiums of \$2 million or less; and

(c) Assumes no reinsurance in excess of 5 percent of direct premiums written.

(14) The department may adopt rules to administer this section, including, but not limited to, those regarding risk based capital reports, adjusted risk based capital reports, risk based capital plans, corrective orders and procedures to be followed in the event of a triggering of a company action level event, a regulatory action level event, an authorized control level event, or a mandatory control level event.

Section 4. Assets of insurers; reporting requirements.—

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

(a) “Material acquisition of assets” or “material disposition of assets” means one or more transactions occurring during any 30-day period which are nonrecurring and not in the ordinary course of business and involve more than 5 percent of the reporting insurer’s total admitted assets as reported in its most recent statutory statement filed with the insurance department of the insurer’s state of domicile.

(b) “Material nonrenewal, cancellation, or revision of a ceded reinsurance agreement” is one that affects:

1. With respect to property and casualty business, including accident and health business written by a property and casualty insurer:

- a. More than 50 percent of the insurer's total ceded written premium; or
- b. More than 50 percent of the insurer's total ceded indemnity and loss-adjustment reserves.

2. With respect to life, annuity, and accident and health business, more than 50 percent of the total reserve credit taken for business ceded, on an annualized basis, as indicated in the insurer's most recent annual statement.

3. With respect to property and casualty business or life, annuity, and accident and health business, a material revision includes:

- a. The replacement of an authorized reinsurer representing more than 10 percent of a total cession by one or more unauthorized reinsurers; or
- b. The reduction or waiver, with respect to one or more unauthorized insurers, of previously established collateral requirements representing more than 10 percent of a total cession.

(2) Each domestic insurer shall file a report with the Department of Insurance disclosing a material acquisition of assets, a material disposition of assets, or a material nonrenewal, cancellation, or revision of a ceded reinsurance agreement, unless the material acquisition or disposition of assets or the material nonrenewal, cancellation, or revision of a ceded reinsurance agreement has been submitted to the department for review, approval, or informational purposes under another section of the Florida Insurance Code or a rule adopted thereunder. A copy of the report and each exhibit or other attachment must be filed by the insurer with the National Association of Insurance Commissioners. The report required in this section is due within 15 days after the end of the calendar month in which the transaction occurs.

(3) An immaterial acquisition or disposition of assets need not be reported under this section.

(4)(a) Acquisitions of assets which are subject to this section include each purchase, lease, exchange, merger, consolidation, succession, or other acquisition of assets. Asset acquisitions for the construction or development of real property by or for the reporting insurer and the acquisition of construction materials for this purpose are not subject to this section.

(b) Dispositions of assets which are subject to this section include each sale, lease, exchange, merger, consolidation, mortgage, hypothecation, assignment for the benefit of a creditor or otherwise, abandonment, destruction, or other disposition of assets.

(5)(a) The following information must be disclosed in any report of a material acquisition or disposition of assets:

1. The date of the transaction;
2. The manner of acquisition or disposition;
3. The description of the assets involved;
4. The nature and amount of the consideration given or received;
5. The purpose of, or reason for, the transaction;
6. The manner by which the amount of consideration was determined;
7. The gain or loss recognized or realized as a result of the transaction;
and
8. The name of the person from whom the assets were acquired or to whom they were disposed.

(b) Insurers must report material acquisitions or dispositions on a non-consolidated basis unless the insurer is part of a consolidated group of insurers which uses a pooling arrangement or a 100-percent reinsurance agreement that affects the solvency and integrity of the insurer's reserves and the insurer has ceded substantially all of its direct and assumed business to the pool. An insurer is deemed to have ceded substantially all of its direct and assumed business to a pool if the insurer has less than \$1 million in total direct and assumed written premiums during a calendar year which are not subject to a pooling arrangement and if the net income of the business which is not subject to the pooling arrangement represents less than 5 percent of the insurer's capital and surplus.

(6) The nonrenewal, cancellation, or revision of a ceded reinsurance agreement need not be reported if the renewal or the revision is not material or if:

(a) With respect to property and casualty business, including accident and health business written by a property and casualty insurer, the insurer's total ceded written premium represents, on an annualized basis, less than 10 percent of its total written premium for direct and assumed business; or

(b) With respect to life, annuity, and accident and health business, the total reserve credit taken for business ceded represents, on an annualized basis, less than 10 percent of the statutory reserve requirement before the cession.

(7)(a) The following information must be disclosed in any report of a material nonrenewal, cancellation, or revision of a ceded reinsurance agreement:

1. The effective date of the nonrenewal, cancellation, or revision;
2. The description of the transaction and the identification of the initiator of the transaction;

3. The purpose of, or reason for, the transaction; and
4. If applicable, the identity of each replacement reinsurer.

(b) Insurers shall report the material nonrenewal, cancellation, or revision of a ceded reinsurance agreement on a nonconsolidated basis unless the insurer is part of a consolidated group of insurers which uses a pooling arrangement or a 100-percent reinsurance agreement that affects the solvency and integrity of the insurer's reserves and the insurer has ceded substantially all of its direct and assumed business to the pool. An insurer is deemed to have ceded substantially all of its direct and assumed business to a pool if the insurer has less than \$1 million in total direct and assumed written premiums during a calendar year which are not subject to a pooling arrangement and if the net income of the business not subject to the pooling arrangement represents less than 5 percent of the insurer's capital and surplus.

Section 5. Section 624.3161, Florida Statutes, is amended to read:

624.3161 Market conduct examinations.—

(1) ~~As often as it deems necessary, and not less frequently than each 5 years,~~ the department shall examine each licensed rating organization, each advisory organization, each group, association, or other organization of insurers which engages in joint underwriting or joint reinsurance, and each authorized insurer transacting in this state any class of insurance to which the provisions of ~~part I of~~ chapter 627 are applicable. The examination shall be for the purpose of ascertaining compliance by the person examined with the applicable provisions of chapters 624, 626, 627, and 635.

(2) In lieu of any such examination, the department may accept the report of a similar examination made by the insurance supervisory official of another state.

~~(3) Upon agreement between the department and the insurer, such~~ The examination may be conducted by an independent professional examiner under contract to the department, in which case payment shall be made directly to the contracted examiner by the insurer examined in accordance with the rates and terms agreed to by the department, ~~the insurer,~~ and the examiner.

(4) The reasonable cost of the examination shall be paid by the person examined, and such person shall be subject, as though an insurer, to the provisions of s. 624.320.

(5) Such examinations shall also be subject to the applicable provisions of ss. 624.318, 624.319, 624.321, and 624.322.

Section 6. Paragraph (d) of subsection (8) of section 624.424, Florida Statutes, is amended to read:

624.424 Annual statement and other information.—

(8)

(d) An insurer may not use the same accountant or partner of an accounting firm responsible for preparing the report required by this subsection for more than 7 5 consecutive years. Following this period, the insurer may not use such accountant or partner for a period of 2 years, but may use another accountant or partner of the same firm. An insurer may request the department to waive this prohibition based upon an unusual hardship to the insurer and a determination that the accountant is exercising independent judgment that is not unduly influenced by the insurer considering such factors as the number of partners, expertise of the partners or the number of insurance clients of the accounting firm; the premium volume of the insurer; and the number of jurisdictions in which the insurer transacts business.

Section 7. Section 624.5094, Florida Statutes, is created to read:

624.5094 Casualty insurance premiums.—Notwithstanding any statutory provision to the contrary, for the purposes of calculating the annual assessments for the Special Disability Trust Fund under s. 440.49 and expenses of administration under s. 440.51, any amount paid or credited as dividends or premium refunds in the same calendar year by the insurer to its policyholders must be deducted from “net premium,” “net premiums written,” “direct premium,” and “net premium collected” for the calendar year. Such offset for dividends or premium refunds paid or credited for the current year must be applied against the current year’s net premium for that year’s assessment regardless of the policy year for which the dividends or premium refunds are being reimbursed.

Section 8. Paragraph (i) is added to subsection (5) of section 625.121, Florida Statutes, 1996 Supplement, to read:

625.121 Standard Valuation Law; life insurance.—

(5) MINIMUM STANDARD FOR VALUATION OF POLICIES AND CONTRACTS ISSUED ON OR AFTER OPERATIVE DATE OF STANDARD NONFORFEITURE LAW.—Except as otherwise provided in paragraph (h) and subsections (6), (11), and (14), the minimum standard for the valuation of all such policies and contracts issued on or after the operative date of s. 627.476 (Standard Nonforfeiture Law for Life Insurance) shall be the commissioners’ reserve valuation method defined in subsections (7), (11), and (14); 5 percent interest for group annuity and pure endowment contracts and 3.5 percent interest for all other such policies and contracts, or in the case of life insurance policies and contracts, other than annuity and pure endowment contracts, issued on or after July 1, 1973, 4 percent interest for such policies issued prior to October 1, 1979, and 4.5 percent interest for such policies issued on or after October 1, 1979; and the following tables:

(i) In lieu of the mortality tables specified in this subsection, and subject to rules adopted by the department, the insurance company may, at its option:

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

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

3. Use the Annuity 2000 Mortality Table for determining the minimum standard of valuation for individual annuity and pure endowment contracts issued on or after the operative date of this section until the department, on a date certain that is on or after January 1, 1998, adopts by rule that table for determining the minimum standard for valuation purposes.

4. Use the 1994 GAR Table for determining the minimum standard of valuation for annuities and pure endowments purchased on or after the operative date of this section under group annuity and pure endowment contracts until the department, on a date certain that is on or after January 1, 1998, adopts by rule that table for determining the minimum standard for valuation purposes.

Section 9. Paragraph (e) of subsection (1) of section 626.321, Florida Statutes, is amended to read:

626.321 Limited licenses.—

(1) The department shall issue to a qualified individual, or a qualified individual or entity under paragraphs (d) and (e), a license as agent authorized to transact a limited class of business in any of the following categories:

(e) Credit life or disability insurance.—License covering only credit life or disability insurance. The license may be issued only to an individual employed by a life or health insurer as an officer or other salaried or commissioned representative, or to an individual employed by or associated with a lending or financing institution or creditor, and may authorize the sale of such insurance only with respect to borrowers or debtors of such lending or financing institution or creditor. However, only the individual or entity whose tax identification number is used in receiving or is credited with receiving the commission from the sale of such insurance shall be the licensed agent of the insurer. No individual while so licensed shall hold a license as an agent or solicitor as to any other or additional kind or class of life or health insurance coverage. An entity other than a lending or financial institution defined in s. 626.988 holding a limited license under this subsection (1)(e) shall also be authorized to sell credit property insurance.

Section 10. Paragraph (h) of subsection (9) of section 627.476, Florida Statutes, is amended to read:

627.476 Standard Nonforfeiture Law for Life Insurance.—

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

(h) All adjusted premiums and present values referred to in this section shall for all policies of ordinary insurance be calculated on the basis of the Commissioners' 1980 Standard Ordinary Mortality Table or, at the election of the insurer for any one or more specified plans of life insurance, the Commissioners' 1980 Standard Ordinary Mortality Table with Ten-Year Select Mortality Factors; shall for all policies of industrial insurance be calculated on the basis of the Commissioners' 1961 Standard Industrial Mortality Table; and shall for all policies issued in a particular calendar year be calculated on the basis of a rate of interest not exceeding the nonforfeiture interest rate as defined in this subsection for policies issued in that calendar year. However:

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

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

3. An insurer may calculate the amount of any guaranteed paid-up nonforfeiture benefit, including any paid-up additions under the policy, on the basis of an interest rate no lower than that specified in the policy for calculating cash surrender values.

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

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

a. The 1958 CSO or CET Smoker and Nonsmoker Mortality Tables, whichever is applicable, for policies issued on or after the operative date of this subsection and before January 1, 1989;

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

c. A mortality table that is a blend of the sex-distinct 1980 CSO or CET mortality table standard, whichever is applicable, or a mortality table that is a blend of the sex-distinct 1980 CSO or CET smoker and nonsmoker mortality table standards, whichever is applicable, for policies that are subject to the United States Supreme Court decision in Arizona Governing

Committee v. Norris to prevent unfair discrimination in employment situations.

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

Section 11. Effective October 1, 1997, section 627.4555, Florida Statutes, is amended to read:

627.4555 Secondary notice.—~~Except as provided in this section, a no~~ contract for life insurance issued or issued for delivery in this state on or after October 1, 1997, covering a natural person 64 years of age or older or owned by a natural person 64 years of age or older, which has been in force for at least 1 year, may not shall be lapsed canceled for nonpayment of premium unless, after expiration of the grace period, and at least 21 days before prior to the effective date of any such lapse cancellation, the insurer has mailed a notification of the impending possible lapse in coverage to the policyowner owner of the policy and to a specified secondary addressee if such addressee has been designated in writing by name and address by the policyowner. An insurer issuing a life insurance contract on or after October 1, 1997 1995, shall notify the applicant of the right to designate a secondary addressee at the time of application for the policy, on a form provided by the insurer, and at any time the policy is in force, by submitting a written notice to the insurer containing the name and address of the secondary addressee. For purposes of any life insurance policy that provides a grace period of more than 51 days for nonpayment of premiums, the notice of impending lapse in coverage required by this section must be mailed to the policyowner and the secondary addressee at least 21 days before the expiration of the grace period provided in the policy. This section does not apply to any life insurance contract under which premiums are payable monthly or more frequently and are regularly collected by a licensed agent or are paid by credit card or any preauthorized check processing or automatic debit service of a financial institution. For policies of life insurance issued or renewed on or after October 1, 1995, the insurer shall notify the owner, at least annually, of the right to designate a secondary addressee.

Section 12. Effective October 1, 1997, section 627.5045, Florida Statutes, is amended to read:

627.5045 Secondary notice.—~~Except as provided in this section, a no~~ contract for an industrial life insurance policy issued or issued for delivery in this state on or after October 1, 1997, for which premiums are paid monthly, covering a natural person 64 years of age or older or owned by a natural person 64 years of age or older, which has been in force for at least 1 year, may not shall be lapsed canceled for nonpayment of premium unless, after expiration of the grace period, and at least 21 days before prior to the effective date of such lapse cancellation, the insurer has mailed a notification of the impending possible lapse in coverage to the policyowner owner of the policy and to a specified secondary addressee if such addressee has been designated in writing by name and address by the policyowner. An insurer issuing an industrial life insurance contract on or after October 1,

1997 1995, shall notify the applicant of the right to designate a secondary addressee at the time of application for the policy on a form provided by the insurer and at any time the policy is in force by submitting a written notice to the insurer containing the name and address of the secondary addressee. This section does not apply to any life insurance contract under which premiums are payable monthly or more frequently and are regularly collected by a licensed agent. For policies of industrial life insurance issued or renewed on or after October 1, 1995, the insurer shall notify the owner, at least annually, of the right to designate a secondary addressee.

Section 13. Effective October 1, 1997, section 628.801, Florida Statutes, is amended to read:

628.801 Insurance holding companies; registration; regulation.—Every insurer which is authorized to do business in this state and which is a member of an insurance holding company shall register with the department and be subject to regulation with respect to its relationship to such holding company as provided by rule or statute. The department shall adopt rules establishing the information and form required for registration and the manner in which registered insurers and their affiliates shall be regulated. The rules shall apply to domestic insurers, foreign insurers, and commercially domiciled insurers, except a foreign insurer domiciled in states that are accredited by the National Association of Insurance Commissioners by December 31, 1995. Except to the extent of any conflict with this code, the rules must include all requirements and standards of ss. 4 and 5 of the Insurance Holding Company System Regulatory Act and the Insurance Holding Company System Model Regulation of the National Association of Insurance Commissioners, as the Regulatory Act and the Model Regulation existed on January 1, 1997 1993, and may include a prohibition on oral contracts between affiliated entities. Upon request, the department may waive filing requirements under this section for a domestic insurer that is the subsidiary of an insurer that is in full compliance with the insurance holding company registration laws of its state of domicile, which state is accredited by the National Association of Insurance Commissioners.

Section 14. Except as otherwise expressly provided in this act, this act shall take effect July 1, 1997.

Became a law without the Governor's approval June 1, 1997.

Filed in Office Secretary of State May 30, 1997.