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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/13/2010	.	
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The Committee on General Government Appropriations (Dean)  
recommended the following:

**Senate Amendment (with title amendment)**

Between lines 1675 and 1676  
insert:

Section 13. Present paragraph (q) of subsection (1) of  
section 624.4085, Florida Statutes, is redesignated as paragraph  
(r), and a new paragraph (q) is added to that subsection,  
paragraph (b) of subsection (3) of that section is amended, and  
subsections (7) through (13) of that section are redesignated as  
subsections (9) through (15), respectively, and new subsections  
(7) and (8) are added to that section, to read:

624.4085 Risk-based capital requirements for insurers.—



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

14 (q) "Surplus action level" means a loss of surplus on any  
15 quarterly or annual financial report which exceeds 15 percent,  
16 or which cumulatively for the calendar year exceeds 15 percent  
17 as of the most recent filed quarterly or annual report.

18 (3)

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

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

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

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

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

39 5. Identify the quality of, and problems associated with,  
40 the insurer's business, including, but not limited to, its  
41 assets, anticipated business growth and associated surplus



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42 strain, extraordinary exposure to risk, mix of business, and any  
43 use of reinsurance; and-

44 6. Include, at the request of the office, for a residential  
45 property insurer that conducts any business with affiliates, a  
46 columnar worksheet, which shall include all affiliates who have  
47 contracted with, done business with, or otherwise received  
48 remuneration from the insurer and shall list the following  
49 financial information from the immediately preceding calendar  
50 year, listed separately for each affiliate:

51 a. Total assets;

52 b. Total liabilities;

53 c. Surplus or shareholders equity;

54 d. Net income after taxes or distributions made solely for  
55 satisfying tax liabilities;

56 e. Total amounts received or receivable from parents,  
57 subsidiaries, and affiliates;

58 f. Total amounts paid or payable to any parent,  
59 subsidiaries, and affiliates;

60 g. Dividends paid or payable to shareholders of common  
61 stock;

62 h. Debt service, including principle and interest, paid on  
63 debt incurred to capitalize or recapitalize insurance companies  
64 or fund other insurance-related activities; and

65 i. Payments made for other contractual obligations to  
66 support insurance-related activities.

67 (7) (a) A surplus action level event includes:

68 1. The filing of a quarterly or annual statutory financial  
69 statement by an insurer, which indicates that the insurer's  
70 total surplus has declined by more than 15 percent from the



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71 previous year's annual statement, or cumulatively for the  
72 current year through the most recent quarterly financial  
73 statement;

74 2. The notification by the office to the insurer of an  
75 adjusted quarterly or annual financial statement that indicates  
76 an event in subparagraph 1., unless the insurer challenges the  
77 adjusted quarterly or annual financial statement under  
78 subsection (9); or

79 3. The notification by the office to the insurer that the  
80 office has, after a hearing, rejected the insurer's challenge if  
81 an insurer challenges, under subsection (9), an adjusted  
82 quarterly or annual financial statement that indicates an event  
83 in subparagraph 1.

84 (b) If a surplus action level event occurs, the insurer  
85 must prepare and submit to the office a risk-based capital plan,  
86 which must:

87 1. Identify the conditions that contribute to the surplus  
88 action level event;

89 2. Contain proposals of corrective actions that the insurer  
90 intends to take and that are reasonably expected to ultimately  
91 result in the elimination of additional surplus losses;

92 3. Provide projections of the insurer's financial results  
93 in the current year and at least the 2 succeeding years, both in  
94 the absence of proposed corrective actions and giving effect to  
95 the proposed corrective actions, including projections of  
96 statutory operating income, net income, capital, and surplus.  
97 The projections for both new and renewal business may include  
98 separate projections for each major line of business and, if  
99 separate projections are provided, must separately identify each



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100 significant income, expense, and benefit component;

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

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

109 6. Include, at the request of the office, for a residential  
110 property insurer that conducts any business with affiliates, a  
111 columnar worksheet, which shall include all affiliates who have  
112 received remuneration from the insurer and shall list the  
113 following financial information from the immediately preceding  
114 calendar year listed separately for each affiliate:

115 a. Total assets;

116 b. Total liabilities;

117 c. Surplus or shareholders equity;

118 d. Net income after taxes or distributions made solely for  
119 satisfying tax liabilities;

120 e. Total amounts received or receivable from parents,  
121 subsidiaries, and affiliates;

122 f. Total amounts paid or payable to any parent,  
123 subsidiaries, and affiliates;

124 g. Dividends paid or payable to shareholders of common  
125 stock;

126 h. Debt service, including principle and interest, paid on  
127 debt incurred to capitalize or recapitalize insurance companies  
128 or fund other insurance-related activities; and



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129 i. Payments made for other contractual obligations to  
130 support insurance-related activities.

131 7. Contain, at the request of the office, a recertification  
132 of reserves for the insurer prepared by an actuary.

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

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

135 2. If the insurer challenges an adjusted quarterly or  
136 annual financial statement under subsection (9), within 45 days  
137 after notification to the insurer that the office has, after a  
138 hearing, rejected the insurer's challenge.

139 (8) This section does not limit any existing authority of  
140 the office.

141 Section 14. Section 626.7452, Florida Statutes, is amended  
142 to read:

143 626.7452 Managing general agents; examination authority.—  
144 The acts of the managing general agent are considered to be the  
145 acts of the insurer on whose behalf it is acting. A managing  
146 general agent may be examined as if it were the insurer ~~except~~  
147 ~~in the case where the managing general agent solely represents a~~  
148 ~~single domestic insurer.~~

149 Section 15. Section 628.252, Florida Statutes, is created  
150 to read:

151 628.252 Servicing affiliates of domestic property  
152 insurers.—Every domestic property insurer shall notify the  
153 office of its intention to enter into with affiliates all  
154 management agreements, service contracts, and cost-sharing  
155 arrangements. A domestic property insurer may not enter into  
156 such an agreement, contract, or arrangement unless the insurer  
157 has it has provided the office with at least 30 days' written



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158 notice of its intention to enter into such agreement, contract,  
159 or arrangement, or such shorter period as the office, in its  
160 discretion, may permit and the office has not disapproved such  
161 agreement, contract, or arrangement within such period. This  
162 section does not limit any existing authority of the office.  
163

164 ===== T I T L E A M E N D M E N T =====

165 And the title is amended as follows:

166 Delete line 128

167 and insert:

168 proceeding has exclusive jurisdiction; amending s.  
169 624.4085, F.S.; defining the term "surplus action  
170 level"; expanding the list of items that must be  
171 included in an insurer's risk-based capital plan;  
172 specifying actions constituting a surplus action level  
173 event; requiring that an insurer submit to the office  
174 a risk-based capital plan upon the occurrence of such  
175 event; providing requirements for such plan;  
176 preserving the existing authority of the office;  
177 amending s. 626.7452, F.S.; removing an exception  
178 relating to the examination of managing general  
179 agents; creating s. 628.252, F.S.; requiring that  
180 every domestic property insurer notify the office of  
181 its intention to enter into certain agreements,  
182 contracts, and arrangements; prohibiting a domestic  
183 property insurer from entering into such agreements,  
184 contracts, or arrangements unless specified criteria  
185 are met; preserving the existing authority of the  
186 office; providing an