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LEGISLATIVE ACTION

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

Senate Amendment (with title amendment)

Between lines 1675 and 1676
insert:

Section 13. Subsection (3) of section 624.4085, Florida
Statutes, is amended to read:

624.4085 Risk-based capital requirements for insurers.—

(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



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13 than its company action level risk-based capital; or

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

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

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

28 (b)1. If a company action level event occurs, the insurer
29 shall prepare and submit to the office a risk-based capital
30 plan, which must:

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

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

36 c.3. Provide projections of the insurer's financial results
37 in the current year and at least the 4 succeeding years, both in
38 the absence of proposed corrective actions and giving effect to
39 the proposed corrective actions, including projections of
40 statutory operating income, net income, capital, and surplus.
41 The projections for both new and renewal business may include



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42 separate projections for each major line of business and, if
43 separate projections are provided, must separately identify each
44 significant income, expense, and benefit component;

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

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

53 2. A residential property insurer that conducts any
54 business with affiliates shall include a columnar worksheet that
55 includes all affiliates who have contracted with, done business
56 with, or otherwise received remuneration from the insurer, and
57 separately for each affiliate shall list the following financial
58 information from the immediately preceding calendar year:

59 a. Total assets;

60 b. Total liabilities;

61 c. Surplus or shareholders equity;

62 d. Net income;

63 e. Total amounts receivable from parents, subsidiaries, and
64 affiliates;

65 f. Total amounts payable to a parents, subsidiaries, and
66 affiliates;

67 g. Dividends paid to shareholders of common stock;

68 h. Debt service, including principle and interest paid on
69 debt incurred to capitalize or recapitalize an insurance company
70 or fund other insurance-related activities; and



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71 i. Payments made for other contractual obligations to
72 support insurance-related activities.

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

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

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

79 (d) Within 60 days after the submission by an insurer of a
80 risk-based capital plan to the office, the office shall notify
81 the insurer whether the risk-based capital plan must be
82 implemented or is, in the judgment of the office,
83 unsatisfactory. If the office determines that the risk-based
84 capital plan is unsatisfactory, the notification to the insurer
85 must set forth the reasons for the determination and may set
86 forth proposed revisions. Upon notification from the office, the
87 insurer shall prepare a revised risk-based capital plan, which
88 may incorporate by reference any revisions proposed by the
89 office, and shall submit the revised risk-based capital plan to
90 the office:

91 1. Within 45 days after the notification from the office;

92 or

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

97 (e) If the office notifies an insurer that the insurer's
98 risk-based capital plan or revised risk-based capital plan is
99 unsatisfactory, the office may, at its discretion and subject to



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100 the insurer's right to a hearing under subsection (7), specify
101 in the notification that the notification is a regulatory action
102 level event.

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

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

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

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

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

121 Section 14. Section 626.7452, Florida Statutes, is amended
122 to read:

123 626.7452 Managing general agents; examination authority.—
124 The acts of the managing general agent are considered to be the
125 acts of the insurer on whose behalf it is acting. A managing
126 general agent may be examined as if it were the insurer ~~except~~
127 ~~in the case where the managing general agent solely represents a~~
128 ~~single domestic insurer.~~



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129 Section 15. Section 628.801, Florida Statutes, is amended
130 to read:

131 628.801 Insurance holding companies; registration;
132 regulation.—

133 (1) Every insurer that is authorized to do business in this
134 state and that is a member of an insurance holding company shall
135 register with the office and be subject to regulation with
136 respect to its relationship to the holding company as provided
137 by rule or statute. The commission shall adopt rules
138 establishing the information and form required for registration
139 and the manner in which registered insurers and their affiliates
140 are regulated. The rules apply to domestic insurers, foreign
141 insurers, and commercially domiciled insurers, except for a
142 foreign insurer domiciled in states that are accredited by the
143 National Association of Insurance Commissioners ~~by December 31,~~
144 ~~1995~~. Except to the extent of any conflict with this code, the
145 rules must include all requirements and standards of ss. 4 and 5
146 of the Insurance Holding Company System Regulatory Act and the
147 Insurance Holding Company System Model Regulation of the
148 National Association of Insurance Commissioners, ~~as the~~
149 ~~Regulatory Act and the Model Regulation existed on November 30,~~
150 ~~2001~~, and shall ~~may~~ include a prohibition on oral contracts
151 between affiliated entities. Upon request, the office may waive
152 filing requirements under this section for a domestic insurer
153 that is the subsidiary of an insurer that is in full compliance
154 with the insurance holding company registration laws of its
155 state of domicile, which state is accredited by the National
156 Association of Insurance Commissioners.

157 (2) Unless otherwise authorized in the Florida Insurance



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158 Code, an insurer may not:

159 (a) Pay any remuneration to a managing general agent
160 outside the terms of a written agreement, unless the insurer has
161 notified the office at least 30 days in advance of such payment
162 and the office does not object to such payment before the
163 payment date; or

164 (b) Engage, contract with, or pay any third party to
165 perform material duties required of an affiliate under terms of
166 a written agreement, unless the insurer has notified the office
167 at least 30 days in advance of such engagement or execution of a
168 contract and the office does not object to such payment before
169 the effective date of the engagement or contract. However, the
170 insurer may engage third parties to supplement the managing
171 general agent in the event of a catastrophe and shall notify the
172 office within 30 days after such engagement.

173
174 ===== T I T L E A M E N D M E N T =====

175 And the title is amended as follows:

176 Delete line 128

177 and insert:

178 proceeding has exclusive jurisdiction; amending s.
179 624.4085, F.S.; requiring a residential property
180 insurer that conducts business with affiliates to
181 provide the Office of Insurance Regulation with a list
182 of financial dealings with affiliates; amending s.
183 626.7452, F.S.; deleting a exception to examinations
184 of a managing general agent; amending s. 628.801,
185 F.S.; requiring the Office of Insurance Regulation to
186 prohibit oral contracts between affiliated entities by



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187 rule; prohibiting an insurers from paying remuneration
188 to a managing general agent outside the terms of a
189 written agreement unless the Office of Insurance
190 Regulation does not object to such payments;
191 prohibiting an insurer from contracting with a third
192 party to perform material duties required of an
193 affiliate unless the Office of Insurance Regulation
194 does not object; providing an exception; providing an