

1999 ASSEMBLY BILL 551

October 20, 1999 – Introduced by Representative F. LASEE, cosponsored by Senator BRESKE, by request of Office of the Commissioner of Insurance. Referred to Committee on Insurance.

1 **AN ACT** *to repeal* 628.77, 632.55, 644.05 (3), 646.31 (2) (d) 2. and 646.31 (2) (d)
2 3.; *to renumber* 645.68 (2); *to renumber and amend* 600.03 (28p), 632.47 (3),
3 646.13 (1) (b) (intro.), 646.13 (1) (b) 1. and 646.13 (1) (b) 2.; *to consolidate,*
4 *renumber and amend* 646.31 (2) (d) (intro.) and 1.; *to amend* 76.635 (2),
5 76.635 (3), 76.67 (2), 601.13 (2), 601.43 (3), 601.43 (4), 601.715 (2) (b), 611.26 (1),
6 611.72 (3) (intro.), 611.78 (1m) (b) (intro.), 628.10 (2) (a), 644.04 (3) (intro.),
7 644.05 (1), 644.05 (2), 644.05 (4), 644.08, 644.09 (1) (intro.), 644.09 (1) (a),
8 644.09 (2), 644.09 (3), 644.09 (4), 644.14 (1), 644.16 (1), 644.16 (2), 644.16 (3) (a),
9 644.16 (4), 644.17, 644.18, 644.19, 644.28 (1), 644.28 (2) (a), 644.28 (3), 644.28
10 (4), 644.29, 645.68 (intro.), 645.68 (3), 645.68 (5), 645.68 (7), 645.68 (8) (a),
11 645.68 (8) (b), 645.68 (8) (c), 645.68 (8) (d), 645.68 (8) (e), 645.68 (8) (f), 646.15
12 (1) (a) 2., 646.31 (1) (a), 646.31 (2) (c), 646.31 (6) (a), 646.60 (1) (a), 646.60 (1) (b)
13 (intro.), 646.60 (1) (b) 1. and 646.60 (1) (b) 2.; *to repeal and recreate* 644.26;
14 and *to create* 600.03 (28p) (b), 600.03 (28p) (c), 601.42 (7), 601.465 (3) (e),

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1 601.465 (3) (f), 611.72 (3m), 632.47 (3) (b), 645.68 (3c), 645.68 (3m), 645.68 (3r)
2 (c), 646.13 (2) (e), 646.13 (2) (f), 646.13 (3) (intro.), 646.13 (3) (c), 646.13 (4),
3 646.31 (1) (cm), 646.31 (13) and 646.51 (9) of the statutes; **relating to:** priority
4 of claims for distribution in insurance liquidations, the insurance security fund,
5 conforming the mutual insurance holding company provisions to changes made
6 in the nonstock corporation provisions, the certified capital investment credit
7 for insurers and miscellaneous changes to insurance statutes.

Analysis by the Legislative Reference Bureau

Insurer liquidation and the security fund

Current law classifies claims and sets out the priority in which the claim classes are paid when an insolvent insurer is liquidated. This bill makes some minor remedial changes in those liquidation priorities to comply with the ruling of the U.S. supreme court in *U.S. Department of the Treasury v. Fabe*, 113 S. Ct. 2202 (1993).

Under current law, a \$50 deductible applies to all claims except those that are for administration of the liquidation process. The bill provides that this deductible does not apply to any claims of the federal government.

Under current law, wage claims of employees of the insurer have second priority of payment, immediately after administration claims. The bill places these claims fifth but provides that, if there are no claims of the federal government, these claims are paid immediately after administration claims, as under current law.

Under current law, claims under policies for losses incurred, as well as claims that are not under policies and that are against the insurer for bodily injury or destruction of property, are paid third. Claims under this class are reduced by the first \$200 of losses. The bill places loss claims under policies second in priority of payment and specifies that any loss claims of the federal government under policies are not subject to the \$200 reduction. The bill also establishes at a third priority of payment any claims of the federal government that are not loss claims under policies. In addition, the bill separates out claims that are not under policies and that are against the insurer for bodily injury or destruction of property and places them fourth in priority of payment.

Finally, under current law, interest on claims has its own class of priority of payment that is generally lower than the priority of payment that the claim has. The bill provides that interest on all claims of the federal government, however, has the same priority of payment as claims of the federal government that are not loss claims under policies.

In current law, the insurance security fund, which is funded through assessments paid by insurers, pays claims on behalf of insurers in liquidation. The fund is administered by a board of directors made up of the commissioner of

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insurance, the attorney general, the state treasurer and representatives of insurers. The board stands in the position of an insurer in liquidation for purposes of not only paying claims but also investigating, settling and denying claims and defending third party claims against insureds. The bill makes a number of changes, many of which are technical in nature, to the provisions relating to the fund and the board.

Under current law, the board of directors of the insurance security fund has no duty or liability with respect to any claim that is filed with the liquidator after the date for filing specified by the liquidator in the notice of the liquidation unless, for reasons specified in the statutes, the late filing is excused. The bill adds that, except for excused late filings and claims under life insurance policies, annuities and noncancelable or guaranteed renewable disability insurance policies, the board has no duty or liability with respect to claims that are filed after the earlier of the date for filing specified by the liquidator or 18 months after the order of liquidation is entered. The effect of the change is to place a maximum time on filing extensions that may be granted by the liquidator or a court.

Among the powers that the board of directors has under current law are the power to review settlements and judgments to which an insurer or its insureds were parties to determine whether they should be contested and the power to appear in any liquidation proceeding in this state involving an insurer in liquidation. The bill adds the power to pursue salvage or subrogation with respect to paid covered claim obligations and to retain any amounts recovered and the power to appoint and direct legal counsel for the defense of covered claims under insurance policies.

The bill provides that the duty of the board to defend an insured ceases upon the board's payment of an amount equal to its covered claim obligation limit or the applicable policy limit. In addition to the requirements in current law related to whether a claim is eligible for payment, the bill adds that, except for claims under life insurance policies, annuities and noncancelable or guaranteed renewable disability insurance policies, a claim must have arisen within 30 days after the liquidation order was entered or before the policy expires or is replaced or canceled by the insured, if the policy expires or is replaced or canceled less than 30 days after the liquidation order was entered. The bill also provides that an insurer's obligation to pay assessments to the insurance security fund terminates if the insurer's license or certificate of authority to do business in this state terminates or expires. Such an insurer remains liable, however, to pay assessments that were made or called before the insurer's license or certificate terminated or expired and assessments that were made or called after the insurer's license or certificate of authority terminated or expired but that relate to a liquidation order entered before the license or certificate of authority terminated or expired.

Mutual insurance holding company provisions

Current law specifies procedures for a mutual insurance company to restructure by forming a mutual insurance holding company and becoming a stock insurance company that is owned by the mutual insurance holding company. The statutes also set out various requirements related to the structure and operation of the mutual insurance holding company that is formed in the restructuring. Because many of these requirements are identical with the requirements in the statutes for

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nonstock corporations, there are many cross-references to the chapter governing nonstock corporations in the chapter governing the formation of mutual insurance holding companies.

The act that created the chapter in the statutes that governs the formation of mutual insurance holding companies was passed in the 1997–98 session of the legislature. During that same session, the chapter governing nonstock corporations was completely revised. As a consequence, the cross-references in the chapter governing the formation of mutual insurance holding companies are no longer valid. This bill changes those cross-references to conform to the changes that were made in the chapter governing nonstock corporations, sometimes incorporating substantive changes that were made in the law governing nonstock corporations. For example, a provision in current law that governs the bylaws of a mutual insurance holding company specifies that the statutory provision governing the bylaws of a nonstock corporation applies to the bylaws of a mutual insurance holding company. When the chapter governing nonstock corporations was revised, provisions governing bylaws were created to include not only the former provision, which addressed adoption of bylaws, but also provisions on contents of bylaws, adopting emergency bylaws and amendment of bylaws by a corporation's board of directors and members. In changing the cross-references to conform to the current law on nonstock corporations, the bill applies the additional provisions on contents of bylaws, adopting emergency bylaws and amendment of bylaws by the board of directors and members to mutual insurance holding companies.

In addition, the bill makes a technical correction to a provision in the statutes related to a mutual insurance company. The statutes make a distinction between the way in which a sale, lease or exchange of less than all of the property and assets of a mutual may be authorized and the way in which a sale, lease or exchange of all or substantially all of the property and assets may be authorized, but incorrectly attribute both ways to the sale, lease or exchange of less than all of the property and assets. The bill specifies that the methods for authorizing the sale, lease or exchange of all or substantially all of the property and assets of a mutual apply to the sale, lease or exchange of all or substantially all of the property and assets.

Miscellaneous changes to insurance statutes

The bill makes a number of miscellaneous changes to the insurance statutes. Under current law, a group life insurance policy may be issued only to a group that is formed for purposes other than to obtain insurance. The bill eliminates this provision. Current law places no such limitation on any other type of group insurance.

Under current law, an insurer may change its registered agent for service of process no more than once per year, and any change takes effect on January 1 of the year following the delivery to the commissioner of insurance (commissioner) of the statement changing the registered agent. The bill still limits a change of registered agent to once per year, but any change takes effect immediately with the delivery of the statement.

The bill authorizes the commissioner to employ experts to assist the commissioner with examinations and reviews of insurers and insurance

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transactions, and provides that the subject of an examination or a person involved in a transaction under review will be responsible for the costs of the expert and related expenses.

Under current law, a life insurer is prohibited from providing any bonus, prize, award or similar additional compensation on insurance business in this state as a result of a competition among insurance intermediaries. Awards may be given as recognition of merit, however, as long as the cost of any such award does not exceed \$150 and the aggregate cost of such awards in a calendar year does not exceed 1.5% of the insurer's total first year life insurance premium income derived from sales in this state. The bill eliminates this provision related to bonuses and awards.

Certified capital investment credit

Under current law, rather than pay an income tax or a franchise tax, certain insurers pay a license fee that is based on a percentage of an insurer's gross premiums. Such an insurer, however, may claim as a credit against the license fee an amount that is based on the amount the insurer paid as an investment in a capital company that is certified as a capital company by the department of commerce.

Under current law, if an in-state insurer is licensed to conduct business in another state, this state may not require a similar insurer from the other state who is licensed to conduct business in this state to pay more in license fees to this state than the in-state insurer pays to the other state. Under this bill, this state may not require a similar insurer from the other state who is licensed to conduct business in this state to pay to this state a greater amount for license fees than the amount which an in-state insurer pays to the other state, less the amount of the credits it receives from this state for investments in capital companies.

For further information see the ***state and local*** fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 76.635 (2) of the statutes, as created by 1997 Wisconsin Act 215, is
2 amended to read:

3 76.635 (2) CREDIT. An insurer that makes a certified capital investment may
4 credit against the fees due under s. 76.60, 76.63, 76.65 ~~or~~ 76.66 or 76.67, for 10 years
5 beginning with the year of the investment, either 10% of that investment or the
6 amount by which the sum of the insurer's certified capital investments and the
7 insurer's qualified investments exceeds the insurer's qualified investments in the

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1 taxable year before the insurer first claimed the credit under this section, whichever
2 is less.

3 **SECTION 2.** 76.635 (3) of the statutes, as created by 1997 Wisconsin Act 215, is
4 amended to read:

5 76.635 (3) CARRY-FORWARD. If the credit under sub. (2) is not entirely offset
6 against the fees under s. 76.60, 76.63, 76.65 ~~or~~, 76.66 or 76.67 otherwise due, the
7 unused balance may be carried forward and credited against those fees in the
8 following years to the extent that it is not offset by those fees otherwise due in all the
9 years between the year in which the investment was made and the year in which the
10 carry-forward credit is claimed.

11 **SECTION 3.** 76.67 (2) of the statutes is amended to read:

12 76.67 (2) If any domestic insurer is licensed to transact insurance business in
13 another state, this state may not require similar insurers domiciled in that other
14 state to pay taxes greater in the aggregate than the aggregate amount of taxes that
15 a domestic insurer is required to pay to that other state for the same year less the
16 credit under s. 76.635, except that the amount imposed shall not be less than the total
17 of the amounts due under ss. 76.65 (2) and 601.93 and, if the insurer is subject to s.
18 76.60, 0.375% of its gross premiums, as calculated under s. 76.62, less offsets allowed
19 under s. 646.51 (7) or under s. 76.635 against that total, and except that the amount
20 imposed shall not be less than the amount due under s. 601.93.

21 **SECTION 4.** 600.03 (28p) of the statutes is renumbered 600.03 (28p) (intro.) and
22 amended to read:

23 600.03 (28p) (intro.) “Medicare replacement policy” means a. to the extent
24 permitted under federal law, any of the following:

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1 (a) A disability insurance policy or certificate issued to a resident of this state
2 pursuant to a contract between the federal health care financing administration and
3 a federally qualified health maintenance organization or a federally certified
4 competitive medical plan to provide health care benefits to persons eligible for
5 medicare under 42 USC 1395f, 1395x and 1395mm.

6 **SECTION 5.** 600.03 (28p) (b) of the statutes is created to read:

7 600.03 **(28p)** (b) A medicare+choice plan, as defined in 42 USC 1395w-28 (b)
8 (1), or a contract with a medicare+choice organization, as defined in 42 USC
9 1395w-28 (a) (1).

10 **SECTION 6.** 600.03 (28p) (c) of the statutes is created to read:

11 600.03 **(28p)** (c) A plan, contract or policy that the commissioner by rule
12 determines is similar to, or supplements or replaces, a program described in par. (a)
13 or (b).

14 **SECTION 7.** 601.13 (2) of the statutes is amended to read:

15 601.13 **(2)** TERMS OF DEPOSIT. Unless otherwise provided by the law requiring
16 or permitting the deposit, each deposit shall be held in trust: first, for the claimants
17 under s. 645.68 (3); 2nd, for the claimants under s. 645.68 (3c); 3rd, for the claimants
18 under s. 645.68 (3m); 4th, for the claimants under s. 645.68 (4); and thereafter, for
19 all other creditors in the order of priority established by s. 645.68. No claim may be
20 made against the deposit of an alien insurer unless the claim arises out of a
21 transaction in the United States.

22 **SECTION 8.** 601.42 (7) of the statutes is created to read:

23 601.42 **(7)** EXPERTS. The commissioner may employ experts to assist the
24 commissioner in an examination or in the review of any transaction subject to
25 approval under chs. 600 to 646. The person that is the subject of the examination,

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1 or that is a party to a transaction under review, including the person acquiring,
2 controlling or attempting to acquire the insurer, shall pay the reasonable costs
3 incurred by the commissioner for the expert and related expenses.

4 **SECTION 9.** 601.43 (3) of the statutes is amended to read:

5 601.43 (3) AUDITS OR ACTUARIAL OR OTHER EVALUATIONS. In lieu of all or part of
6 an examination under subs. (1) and (2), or in addition to it, the commissioner may
7 order an independent audit by certified public accountants or an actuarial or other
8 evaluation by actuaries or other experts approved by the commissioner of any person
9 subject to the examination requirement. Any accountant ~~or~~ actuary or other expert
10 selected is subject to rules respecting conflicts of interest promulgated by the
11 commissioner. Any audit or evaluation under this section is subject to s. 601.44, so
12 far as appropriate.

13 **SECTION 10.** 601.43 (4) of the statutes is amended to read:

14 601.43 (4) ALTERNATIVES TO EXAMINATION. In lieu of all or part of an examination
15 under this section, the commissioner may accept the report of an audit already made
16 by certified public accountants or of an actuarial or other evaluation already made
17 by actuaries or other experts approved by the commissioner, or the report of an
18 examination made by the insurance department of another state or of the
19 examination by another government agency in this state, the federal government or
20 another state.

21 **SECTION 11.** 601.465 (3) (e) of the statutes is created to read:

22 601.465 (3) (e) An international, federal, state or local regulatory or law
23 enforcement agency.

24 **SECTION 12.** 601.465 (3) (f) of the statutes is created to read:

25 601.465 (3) (f) An agent or employe of an agency described in par. (e).

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1 **SECTION 13.** 601.715 (2) (b) of the statutes is amended to read:

2 601.715 **(2)** (b) An authorized insurer may change its registered agent no more
3 than one time per year. ~~Any change of registered agent is effective on January 1 of~~
4 ~~the year following the delivery of the statement under par. (a).~~

5 **SECTION 14.** 611.26 (1) of the statutes is amended to read:

6 611.26 **(1)** INSURANCE SUBSIDIARIES. An insurance corporation may form or
7 acquire subsidiaries to do any lawful insurance business. There is no limit on the
8 amount of investment in such subsidiaries except that the commissioner may by
9 order or rule establish a limit and, for purposes of ss. 623.11 and 623.12, the total
10 value of the outstanding shares of such a subsidiary shall be deemed to equal the
11 amount of surplus possessed by the subsidiary in excess of its security surplus, as
12 determined by the commissioner under s. 623.12.

13 **SECTION 15.** 611.72 (3) (intro.) of the statutes is amended to read:

14 611.72 **(3)** GROUNDS FOR DISAPPROVAL. (intro.) The commissioner shall approve
15 the plan if the commissioner finds, after a hearing, unless a hearing is not required
16 under sub. (3m), that it would not violate the law or be contrary to the interests of
17 the insureds of any participating domestic corporation or of the Wisconsin insureds
18 of any participating nondomestic corporation and that:

19 **SECTION 16.** 611.72 (3m) of the statutes is created to read:

20 611.72 **(3m)** HEARING NOT REQUIRED. A hearing is not required under sub. (3)
21 before approval of a proposed plan of merger or other plan for acquisition of control
22 if the proposed merger is with, or the proposed acquirer is, an affiliate of the insurer
23 and the proposed merger or other acquisition of control does not change the
24 controlling person of the insurer.

25 **SECTION 17.** 611.78 (1m) (b) (intro.) of the statutes is amended to read:

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1 611.78 **(1m)** (b) (intro.) A sale, lease, exchange or other disposition of all or
2 substantially all of the property and assets under par. (a) of a mutual may be made
3 upon such terms and conditions as may be authorized ~~only~~ in the following manner:

4 **SECTION 18.** 628.10 (2) (a) of the statutes is amended to read:

5 628.10 **(2)** (a) *For failure to comply with continuing education requirements.*

6 The ~~commissioner may by order suspend~~ the license of any intermediary who fails
7 to produce evidence of compliance with continuing education standards set by the
8 commissioner is suspended, effective on the day on which the evidence of compliance
9 is due. If an intermediary whose license has been suspended under this paragraph
10 produces evidence of compliance within 60 days after the date on which the license
11 is suspended, the commissioner shall reinstate the license effective on the date of
12 suspension. If such an intermediary does not produce evidence of compliance within
13 60 days, the license is revoked and the intermediary may be relicensed only after
14 satisfying all requirements under s. 628.04.

15 **SECTION 19.** 628.77 of the statutes is repealed.

16 **SECTION 20.** 632.47 (3) of the statutes is renumbered 632.47 (3) (intro.) and
17 amended to read:

18 632.47 **(3)** ~~GROUP ANNUITIES~~ PROHIBITION ON ASSIGNMENT. (intro.) Assignment
19 may be expressly prohibited by a any of the following:

20 (a) A group contract providing annuities as retirement benefits.

21 **SECTION 21.** 632.47 (3) (b) of the statutes is created to read:

22 632.47 **(3)** (b) An annuity contract that is subject to transferability restrictions
23 under any federal or state tax, employe benefit or securities law.

24 **SECTION 22.** 632.55 of the statutes is repealed.

25 **SECTION 23.** 644.04 (3) (intro.) of the statutes is amended to read:

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1 644.04 (3) (intro.) ~~Subject to s. 611.33, the~~ The converted insurance company,
2 subject to s. 611.33, and any intermediate stock holding company may thereafter
3 issue to 3rd parties debt securities, stock other than voting stock and, subject to s.
4 644.15, voting stock, so long as all of the following are true:

5 **SECTION 24.** 644.05 (1) of the statutes is amended to read:

6 644.05 (1) POWERS. ~~Section 181.04~~ Subject to s. 644.19 (2) and (3), s. 181.0302
7 (intro.), (1) to (15), (18) and (19) applies to mutual holding companies.

8 **SECTION 25.** 644.05 (2) of the statutes is amended to read:

9 644.05 (2) EFFECT OF UNAUTHORIZED CORPORATE ACTS. ~~Section 181.057 (1) and~~
10 ~~(2)~~ 181.0304 applies to mutual holding companies, except that, for purposes of this
11 subsection, “attorney general” used in s. 181.0304 (3) means “commissioner”.

12 **SECTION 26.** 644.05 (3) of the statutes is repealed.

13 **SECTION 27.** 644.05 (4) of the statutes is amended to read:

14 644.05 (4) WAIVER OF NOTICE AND INFORMAL ACTION BY MEMBERS OR DIRECTORS.
15 ~~Sections 181.70 and 181.72~~ 181.0704, 181.0706, 181.0821 and 181.0823 apply to
16 mutual holding companies. For purposes of this subsection, “board” used in s.
17 181.0821 includes “committee of the board of a mutual holding company”.

18 **SECTION 28.** 644.08 of the statutes is amended to read:

19 **644.08 Reservation of corporate name.** ~~Section 181.07~~ applies Sections
20 181.0402 and 181.0403 (2), (3) and (3m) apply to mutual holding companies.

21 **SECTION 29.** 644.09 (1) (intro.) of the statutes is amended to read:

22 644.09 (1) ARTICLES. (intro.) ~~Section 181.31~~ 181.0202 applies to the articles of
23 a mutual holding company, except that all of the following apply:

24 **SECTION 30.** 644.09 (1) (a) of the statutes is amended to read:

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1 644.09 (1) (a) The name of the mutual holding company shall include the word
2 “mutual” and shall comply with s. ~~181.06 (3)~~ 181.0401 (2) to (4).

3 **SECTION 31.** 644.09 (2) of the statutes is amended to read:

4 644.09 (2) AMENDMENT OF ARTICLES. A mutual holding company may amend its
5 articles in the manner provided in ss. ~~181.35 to 181.37 and 181.39~~ 181.1001,
6 181.1002 (1), 181.1003, 181.1005 and 181.1006, except that papers required by those
7 sections to be filed with the department of financial institutions shall instead be filed
8 with the commissioner. The articles may be amended in any desired respect,
9 including substantial changes of its original purposes, except that no amendment
10 may be made that is contrary to sub. (1). In addition to the requirements of s. ~~181.37~~
11 181.1005, the articles of amendment of a mutual holding company shall, if mail
12 voting is used, state the number of members voting by mail and the number of such
13 members voting for and against the amendment. No amendment may become
14 effective until the articles of amendment have been filed with the commissioner. No
15 amendment shall affect any existing cause of action in favor of or against such
16 mutual holding company, any ~~pending suit~~ civil, criminal, administrative or
17 investigatory proceeding to which the mutual holding company is a party or the
18 existing rights of persons other than members. In the event that the corporate name
19 is changed by amendment, no suit brought by or against such mutual holding
20 company under its former name shall abate for that reason.

21 **SECTION 32.** 644.09 (3) of the statutes is amended to read:

22 644.09 (3) BYLAWS. The bylaws of a mutual holding company shall comply with
23 this chapter. A copy of the bylaws and any amendments to the bylaws shall be filed
24 with the commissioner within 60 days after adoption. Subject to this subsection, s.

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1 ~~181.13~~ applies ss. 181.0206, 181.0207 and 181.1021 apply to mutual holding
2 companies.

3 **SECTION 33.** 644.09 (4) of the statutes is amended to read:

4 644.09 (4) PRINCIPAL OFFICERS. ~~Section 181.25 (1) and (2)~~ applies Sections
5 181.0840 and 181.0841 apply to mutual holding companies.

6 **SECTION 34.** 644.14 (1) of the statutes is amended to read:

7 644.14 (1) COMMUNICATION TO MEMBERS; MEMBER VOTING. Subject to this section,
8 ss. 611.41, 611.42 (1), (1e), (1m), (2), (3), (4) (a) and (5), 611.43 and 611.53 (2) apply
9 to mutual holding companies.

10 **SECTION 35.** 644.16 (1) of the statutes is amended to read:

11 644.16 (1) BOARD OF DIRECTORS. Subject to this section, ss. ~~181.18, 181.21~~
12 181.0801 (1) and (2), 181.0802, 181.0811, 611.51 (2), (3), (5) and (8) and 611.53 (1) and
13 (3) apply to mutual holding companies. ~~Section 181.22~~ 181.0824 applies to the board
14 of a mutual holding company except as modified by s. ~~181.225~~ 611.10. The board
15 shall manage the business and affairs of the corporation and may not delegate its
16 power or responsibility to do so, except to the extent authorized by ss. ~~181.23 and~~
17 ~~181.25 (2)~~ 181.0825 and 181.0841.

18 **SECTION 36.** 644.16 (2) of the statutes is amended to read:

19 644.16 (2) COMMITTEES OF DIRECTORS. ~~Section 181.23~~ 181.0825 applies to
20 mutual holding companies.

21 **SECTION 37.** 644.16 (3) (a) of the statutes is amended to read:

22 644.16 (3) (a) Section 611.51 (9) ~~(a)~~ (am) and (b) applies to mutual holding
23 companies.

24 **SECTION 38.** 644.16 (4) of the statutes is amended to read:

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1 644.16 (4) DIRECTOR CONFLICTS OF INTEREST. Section ~~181.225~~ 611.60 applies to
2 mutual holding companies.

3 **SECTION 39.** 644.17 of the statutes is amended to read:

4 **644.17 Removal of officers.** Section ~~181.26~~ applies Sections 181.0843 and
5 181.0844 apply to mutual holding companies.

6 **SECTION 40.** 644.18 of the statutes is amended to read:

7 **644.18 Directors' and officers' liability and indemnification. (1)**
8 **LIABILITY.** Sections ~~181.283 to 181.29~~ 181.0850 to 181.0855, except s. 181.0855 (2) (c),
9 apply to mutual holding companies.

10 **(2) INDEMNIFICATION.** Sections ~~181.041 to 181.051~~ 181.0871 to 181.0881 and
11 181.0889 apply to mutual holding companies.

12 **(3) INSURANCE.** Section ~~181.053~~ 181.0883 applies to mutual holding companies.

13 **(4) DERIVATIVE ACTIONS.** Section ~~181.295~~ applies Sections 181.0740 to 181.0747
14 apply to mutual holding companies.

15 **SECTION 41.** 644.19 of the statutes is amended to read:

16 **644.19 Executive compensation. (1) GENERAL.** Sections ~~181.19 and Section~~
17 611.63 (4) and (5) apply applies to mutual holding companies.

18 **(2) APPROVAL BY MEMBERS.** A benefit plan or amendment to a benefit plan that
19 proposes to provide benefits in the form of stock or stock options of a converted
20 insurance company or any intermediate stock holding company to the directors or
21 officers of the converted insurance company, intermediate stock holding company or
22 mutual holding company may not take effect unless it is submitted to a vote of the
23 members of the mutual holding company and approved by a majority of the members
24 voting. Notice of a meeting at which a vote under this subsection will be taken shall

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1 be given in accordance with s. ~~181.15~~, as provided in s. 644.14 (1), or in accordance
2 with s. 644.14 (2).

3 **(3) NOTICE TO COMMISSIONER.** The commissioner may by rule require that any
4 action taken by the board of a mutual holding company, or the board of any
5 intermediate stock holding company, on any of the subjects specified in ~~ss. 181.04 (15)~~
6 ~~and 181.19~~ s. 181.0302 (11) to (14) be reported to the commissioner within 30 days
7 after the action is taken.

8 **SECTION 42.** 644.26 of the statutes is repealed and recreated to read:

9 **644.26 Transfer of business or assets of mutual holding companies. (1)**
10 A sale, lease, exchange or other disposition of less than substantially all of the
11 property and assets of a mutual holding company, and the mortgage or pledge of any
12 or all property and assets of a mutual holding company, whether or not made in the
13 usual and regular course of its affairs, may be made upon the terms and conditions
14 authorized by the mutual holding company's board of directors. Unless otherwise
15 provided by the articles of incorporation, consent of the members is not required for
16 a sale, lease, exchange or other disposition of property, or for a mortgage or pledge
17 of property, authorized under this subsection.

18 **(2)** A sale, lease, exchange or other disposition of all or substantially all of the
19 property and assets of a mutual holding company may be made upon such terms and
20 conditions as may be authorized in the following manner:

21 (a) If the articles of incorporation give members the right to vote on the sale,
22 lease, exchange or other disposition of all or substantially all of the mutual holding
23 company's property and assets, the board of directors shall adopt a resolution
24 recommending the sale, lease, exchange or other disposition and directing that it be
25 submitted to a vote at an annual or special meeting of the members. Written notice

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1 stating that the purpose, or one of the purposes, of the meeting is to consider the sale,
2 lease, exchange or other disposition of all or substantially all of the property and
3 assets of the mutual holding company shall be given to each member entitled to vote
4 at the meeting, within the time and in the manner provided by this chapter for
5 providing notice of member meetings. At the meeting, the members may authorize
6 the sale, lease, exchange or other disposition and may authorize the board of
7 directors to fix any or all of the terms and conditions of the sale, lease, exchange or
8 other disposition. The authorization shall be by the affirmative vote of at least
9 two-thirds of the members present or represented by proxy at the meeting. After the
10 authorization by a vote of the members, the board of directors, nevertheless, in its
11 discretion, may abandon the sale, lease, exchange or other disposition, subject to the
12 rights of 3rd parties under any contracts relating thereto, without further action or
13 approval by the members.

14 (b) If the articles of incorporation do not give members the right to vote on the
15 sale, lease, exchange or other disposition of all or substantially all of a mutual
16 holding company's property and assets, the sale, lease, exchange or other disposition
17 may be authorized by the vote of the majority of the directors in office.

18 **SECTION 43.** 644.28 (1) of the statutes is amended to read:

19 644.28 (1) PLAN OF DISSOLUTION. Subject to this section, ss. ~~181.50 to 181.54 and~~
20 ~~181.555~~ 181.1401 to 181.1407 apply to mutual holding companies, ~~except that the~~
21 ~~last sentence of s. 181.555 does not apply.~~

22 **SECTION 44.** 644.28 (2) (a) of the statutes is amended to read:

23 644.28 (2) (a) At least 60 days prior to the submission to members of any
24 proposed voluntary dissolution of a mutual holding company under s. ~~181.50~~
25 181.1401, the plan shall be filed with the commissioner. The commissioner may

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1 require the submission of additional information relevant to the effect of the
2 proposed dissolution on the solvency of the converted insurance company. The
3 commissioner shall approve the dissolution unless, after a hearing, the
4 commissioner finds that dissolution of the mutual holding company would cause the
5 converted insurance company to become insolvent, would be unfair or inequitable to
6 the members of the mutual holding company or would not be in the best interests of
7 the policyholders of the converted insurance company or the public.

8 **SECTION 45.** 644.28 (3) of the statutes is amended to read:

9 644.28 (3) REVOCATION OF VOLUNTARY DISSOLUTION. If the mutual holding
10 company revokes the voluntary dissolution proceedings under s. ~~181.53~~ 181.1404, a
11 copy of the resolution revoking the voluntary dissolution proceedings adopted under
12 s. ~~181.53~~ 181.1404 shall be filed with the commissioner.

13 **SECTION 46.** 644.28 (4) of the statutes is amended to read:

14 644.28 (4) FILING AND RECORDING ARTICLES OF DISSOLUTION AND EFFECT THEREOF.
15 Upon approval by the commissioner under sub. (2) and by the members under s.
16 ~~181.50~~ 181.1401, the mutual holding company shall file articles of dissolution with
17 the commissioner. When the articles are filed, the existence of the mutual holding
18 company shall cease, except for the purpose of suits, other proceedings and
19 appropriate corporate action of members, directors and officers as provided in this
20 chapter and in ss. ~~181.50 to 181.54 and 181.555~~ 181.1401 to 181.1407. Upon the
21 filing of the articles, the commissioner may issue a certificate of dissolution.

22 **SECTION 47.** 644.29 of the statutes is amended to read:

23 **644.29 Involuntary dissolution of domestic mutual holding companies.**

24 A mutual holding company may at any time during a voluntary dissolution under ss.
25 ~~181.51 to 181.555~~ 181.1401 to 181.1407 apply to the commissioner to have

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1 dissolution continued under the commissioner's supervision, ~~in which case, subject~~
2 ~~to this section, s. 181.56 (1) and (2) applies to the mutual holding company except~~
3 ~~that for purposes of this section "attorney general" means the commissioner. Any~~
4 distribution to members shall be limited in the same manner as under s. 644.28 (5)
5 and any excess over such amounts shall be paid into the state treasury to the credit
6 of the common school fund.

7 **SECTION 48.** 645.68 (intro.) of the statutes is amended to read:

8 **645.68 Order of distribution.** (intro.) The order of distribution of claims
9 from the insurer's estate shall be as stated in this section. The first \$50 of the amount
10 allowed on each claim in the classes under subs. ~~(2)~~ (3) to (6), except for claims of the
11 federal government under subs. (3) and (3c), shall be deducted from the claim and
12 included in the class under sub. (8). Claims may not be cumulated by assignment
13 to avoid application of the \$50 deductible provision. Subject to the \$50 deductible
14 provision, every claim in each class shall be paid in full or adequate funds retained
15 for the payment before the members of the next class receive any payment. No
16 subclasses shall be established within any class. That portion of any loss for which
17 indemnification is provided by other benefits or advantages recovered or recoverable
18 by the claimant shall not be included in the classes under subs. (3) and (3m), other
19 than benefits or advantages recovered or recoverable in discharge of familial
20 obligations of support or by way of succession at death or as proceeds of life
21 insurance, or as gratuities. No payment made by an employer to an employe shall
22 be treated as a gratuity. The claims described in s. 645.69 are among the claims not
23 subject to subs. (3) and (3m).

24 **SECTION 49.** 645.68 (2) of the statutes is renumbered 645.68 (3r).

25 **SECTION 50.** 645.68 (3) of the statutes is amended to read:

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1 645.68 (3) LOSS CLAIMS. All claims under policies for losses incurred, including
2 third party claims, ~~and all claims against the insurer for liability for bodily injury or~~
3 ~~for injury to or destruction of tangible property which are not under policies and~~
4 federal, state and local government claims, except the first \$200 of losses otherwise
5 payable to any claimant under this subsection other than the federal government.
6 All claims under life insurance and annuity policies, whether for death proceeds,
7 annuity proceeds or investment values, shall be treated as loss claims. Claims may
8 not be cumulated by assignment to avoid application of the \$200 deductible
9 provision. ~~That portion of any loss for which indemnification is provided by other~~
10 ~~benefits or advantages recovered or recoverable by the claimant shall not be included~~
11 ~~in this class, other than benefits or advantages recovered or recoverable in discharge~~
12 ~~of familial obligations of support or by way of succession at death or as proceeds of~~
13 ~~life insurance, or as gratuities. No payment made by an employer to an employe shall~~
14 ~~be treated as a gratuity. The claims described in s. 645.69 are among the claims not~~
15 ~~subject to this subsection.~~

16 **SECTION 51.** 645.68 (3c) of the statutes is created to read:

17 645.68 (3c) FEDERAL GOVERNMENT CLAIMS AND INTEREST. Claims of the federal
18 government not included under sub. (3), and interest at the legal rate compounded
19 annually on all claims in the class under this subsection, and on all claims of the
20 federal government in the class under sub. (3), from the date of the petition for
21 liquidation or the date on which the claim becomes due, whichever is later, until the
22 date on which the dividend is declared.

23 **SECTION 52.** 645.68 (3m) of the statutes is created to read:

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1 **645.68 (3m)** CERTAIN INJURY CLAIMS. Claims against the insurer that are not
2 under policies and that are for liability for bodily injury or for injury to or destruction
3 of tangible property.

4 **SECTION 53.** 645.68 (3r) (c) of the statutes is created to read:

5 **645.68 (3r)** (c) Notwithstanding pars. (a) and (b) and subs. (3), (3c) and (3m),
6 if there are no claims of the federal government, the claims in the class under this
7 subsection shall have priority over all claims in the classes under subs. (3) to (11).

8 **SECTION 54.** 645.68 (5) of the statutes is amended to read:

9 **645.68 (5)** RESIDUAL CLASSIFICATION. All other claims, including claims of the
10 federal or any state or local government, not falling within other classes under this
11 section and claims described in s. 645.69. Claims, including those of any state or local
12 governmental body, for a penalty or forfeiture, shall be allowed in this class only to
13 the extent of the pecuniary loss sustained from the act, transaction or proceeding out
14 of which the penalty or forfeiture arose, with reasonable and actual costs occasioned
15 thereby. The remainder of such claims shall be postponed to the class of claims under
16 sub. (8).

17 **SECTION 55.** 645.68 (7) of the statutes is amended to read:

18 **645.68 (7)** INTEREST ON CLAIMS ALREADY PAID. Interest at the legal rate
19 compounded annually on all claims in the classes under subs. (1) to (6), except for
20 claims of the federal government in the classes under subs. (3) and (3c), from the date
21 of the petition for liquidation or the date on which the claim becomes due, whichever
22 is later, until the date on which the dividend is declared. The liquidator, with the
23 approval of the court, may make reasonable classifications of claims for purposes of
24 computing interest, may make approximate computations and may ignore certain
25 classifications and time periods that are trifling.

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1 **SECTION 56.** 645.68 (8) (a) of the statutes is amended to read:

2 645.68 **(8)** (a) The Except for claims of the federal government under subs. (3)
3 and (3c), the first \$50 of each claim in the classes under subs. ~~(2)~~ (3) to (6)
4 subordinated under this section;.

5 **SECTION 57.** 645.68 (8) (b) of the statutes is amended to read:

6 645.68 **(8)** (b) Claims under s. 645.63 (2);.

7 **SECTION 58.** 645.68 (8) (c) of the statutes is amended to read:

8 645.68 **(8)** (c) Claims subordinated by s. 645.90;.

9 **SECTION 59.** 645.68 (8) (d) of the statutes is amended to read:

10 645.68 **(8)** (d) Claims filed late;.

11 **SECTION 60.** 645.68 (8) (e) of the statutes is amended to read:

12 645.68 **(8)** (e) Portions of claims subordinated under sub. (5);.

13 **SECTION 61.** 645.68 (8) (f) of the statutes is amended to read:

14 645.68 **(8)** (f) Claims or portions of claims payment of which is provided by other
15 benefits or advantages recovered or recoverable by the claimant; ~~and~~.

16 **SECTION 62.** 646.13 (1) (b) (intro.) of the statutes is renumbered 646.13 (1) (b)
17 and amended to read:

18 646.13 **(1)** (b) Stand in the position of the insurer in the investigation,
19 compromise, settlement, denial and payment of claims under s. 646.31 and the
20 defense of 3rd party claims against insureds, subject to the limitations of s. 645.43.
21 The board shall consult and cooperate with the liquidator in carrying out these
22 duties. ~~The board has no duties or liabilities with respect to any claim filed as follows:~~

23 **SECTION 63.** 646.13 (1) (b) 1. of the statutes is renumbered 646.13 (3) (a) and
24 amended to read:

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1 646.13 (3) (a) With the liquidator under s. 645.61 after the date for filing
2 specified by the liquidator under s. 645.47 (2), unless the liquidator determines that
3 the claim is considered to have been timely filed under s. 645.61 (2) and the claim
4 participates fully in the same every distribution to the same extent as other timely
5 filed claims in the same class.

6 **SECTION 64.** 646.13 (1) (b) 2. of the statutes is renumbered 646.13 (3) (b) and
7 amended to read:

8 646.13 (3) (b) With a liquidator or court under the laws of any other state after
9 the date for filing specified by the liquidator or court, unless the liquidator or court
10 determines that the claim is considered to have been timely filed under a law
11 substantially similar to s. 645.61 (2) and the claim participates fully in the same
12 every distribution to the same extent as other timely filed claims in the same class.

13 **SECTION 65.** 646.13 (2) (e) of the statutes is created to read:

14 646.13 (2) (e) Pursue salvage and subrogation with respect to paid covered
15 claims obligations and retain any amounts recovered.

16 **SECTION 66.** 646.13 (2) (f) of the statutes is created to read:

17 646.13 (2) (f) Appoint and direct legal counsel for the defense of covered claims
18 under insurance policies.

19 **SECTION 67.** 646.13 (3) (intro.) of the statutes is created to read:

20 646.13 (3) NO DUTY OR LIABILITY. (intro.) The board has no duty or liability with
21 respect to any claim filed as follows:

22 **SECTION 68.** 646.13 (3) (c) of the statutes is created to read:

23 646.13 (3) (c) Except for claims under life insurance policies, annuities and
24 noncancelable or guaranteed renewable disability insurance policies and except for

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1 claims determined to be excused late filings as provided in pars. (a) and (b), with a
2 liquidator or court after the earlier of the following:

- 3 1. Eighteen months after the order of liquidation is entered.
- 4 2. The final date for filing specified by the liquidator or court.

5 **SECTION 69.** 646.13 (4) of the statutes is created to read:

6 **646.13 (4) WHEN DUTY TO DEFEND TERMINATES.** Any obligation of the board to
7 defend an insured ceases upon the board's payment, by settlement releasing the
8 insured or on a judgment, of an amount equal to the lesser of the board's covered
9 claim obligation limit or the applicable policy limit, subject to any express policy
10 terms regarding tender of limits.

11 **SECTION 70.** 646.15 (1) (a) 2. of the statutes is amended to read:

12 **646.15 (1) (a) 2.** The institution or further prosecution of any action or
13 proceeding involving the insurer or in which the board is obligated to defend a party.

14 **SECTION 71.** 646.31 (1) (a) of the statutes is amended to read:

15 **646.31 (1) (a) Issued by authorized insurer.** The claim arises out of an insurance
16 policy or annuity issued by an insurer which ~~is in liquidation and which~~ was
17 authorized to do business in this state either at the time the policy or annuity was
18 issued or when the insured event occurred, and against which an order of liquidation,
19 which is not stayed, has been entered by a court of competent jurisdiction in the
20 insurer's domiciliary state.

21 **SECTION 72.** 646.31 (1) (cm) of the statutes is created to read:

22 **646.31 (1) (cm) Termination of coverage.** Except for claims under life insurance
23 policies, annuities or noncancelable or guaranteed renewable disability insurance
24 policies, the claim arises within 30 days after the order of liquidation is entered or
25 before any of the following occur:

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1 1. The policy expires, if the expiration date is less than 30 days after the order
2 of liquidation is entered.

3 2. The insured replaces or cancels the policy, if either action is taken within 30
4 days after the order of liquidation is entered.

5 **SECTION 73.** 646.31 (2) (c) of the statutes is amended to read:

6 646.31 (2) (c) *Owners of property interests.* The first-party claim of a person
7 having an insurable interest in or related to property ~~which was situated~~ with a
8 permanent location in this state at the time of the insured event.

9 **SECTION 74.** 646.31 (2) (d) (intro.) and 1. of the statutes are consolidated,
10 renumbered 646.31 (2) (d) and amended to read:

11 646.31 (2) (d) *Third party claimants.* A claim under a liability or workers'
12 compensation insurance policy, if: ~~1. Either~~ either the insured or the 3rd party
13 claimant was a resident of this state at the time of the insured event;

14 **SECTION 75.** 646.31 (2) (d) 2. of the statutes is repealed.

15 **SECTION 76.** 646.31 (2) (d) 3. of the statutes is repealed.

16 **SECTION 77.** 646.31 (6) (a) of the statutes is amended to read:

17 646.31 (6) (a) The portion of a loss claim for which indemnification is provided
18 by other benefits or advantages, which may not be included in the class classes of
19 claims ~~defined by~~ specified in s. 645.68 (3) (intro.), may not be claimed from the fund
20 under this chapter.

21 **SECTION 78.** 646.31 (13) of the statutes is created to read:

22 646.31 (13) RESIDENCY. For purposes of determining residency in this section,
23 the residency of a claimant, insured or policyholder that is not a natural person is
24 the state in which the claimant's, insured's or policyholder's principal place of
25 business is located.

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1 **SECTION 79.** 646.51 (9) of the statutes is created to read:

2 646.51 **(9)** OBLIGATION TO CONTRIBUTE CEASES. (a) Except as provided in par. (b),
3 if an insurer's license or certificate of authority to do business in this state terminates
4 or expires, the insurer's obligation to pay assessments under this section ceases
5 beginning on the day after the insurer's license or certificate of authority terminates
6 or expires.

7 (b) An insurer whose license or certificate of authority to do business in this
8 state terminates or expires remains liable after the termination or expiration to pay
9 all of the following:

10 1. Assessments made or called before the insurer's license or certificate of
11 authority terminated or expired.

12 2. Assessments made or called after the insurer's license or certificate of
13 authority terminated or expired that relate to a liquidation order entered before the
14 insurer's license or certificate of authority terminated or expired.

15 **SECTION 80.** 646.60 (1) (a) of the statutes is amended to read:

16 646.60 **(1)** (a) *Settlements by the fund.* The liquidator is bound by
17 determinations and settlements of covered loss claims, and by payments of claims,
18 made by the board under this chapter.

19 **SECTION 81.** 646.60 (1) (b) (intro.) of the statutes is amended to read:

20 646.60 **(1)** (b) *Settlements by comparable funds.* (intro.) The liquidator is
21 bound by determinations and settlements of covered loss claims, and by payments
22 of claims, made by funds or organizations of other states that are comparable to the
23 fund under this chapter provided if all of the following apply:

24 **SECTION 82.** 646.60 (1) (b) 1. of the statutes is amended to read:

