

2015 DRAFTING REQUEST

Bill

Received: 4/29/2015 Received By: pkahler
For: Frank Lasee (608) 266-3512 Same as LRB:
May Contact: By/Representing: J.P. Wieske
Subject: Insurance - miscellaneous Drafter: pkahler
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Extra Copies:

Submit via email: YES
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Pre Topic:

No specific pre topic given

Topic:

Insurance omnibus technical bill

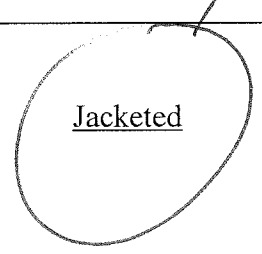
Instructions:

See attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	pkahler 5/13/2015	anienaja 5/20/2015	_____			
/P1	pkahler 9/3/2015	anienaja 5/20/2015	_____	sbasford 5/20/2015		
/P2	pkahler 9/22/2015	kfollett 9/8/2015	_____	sbasford 9/8/2015		

Per PJK



<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/P3	pkahler 9/29/2015	kfollett 9/23/2015	_____	sbasford 9/23/2015		
/1	tdodge 9/30/2015	kfollett 10/1/2015	_____	mbarman 10/1/2015	mbarman 10/1/2015	

FE Sent For:

↳ Not
Needed

<END>

Kahler, Pam

From: Wieske, JP - OCI <JP.Wieske@wisconsin.gov>
Sent: Tuesday, April 28, 2015 5:47 PM
To: Kahler, Pam
Cc: Kovach, Robert; Bowers, Jim; Peterson, Roger A - OCI; Lasee, Frank G.
Subject: OCI Technical Bill
Attachments: 2015 DRAFT OCI TECHNICAL CHANGES (final draft).docx; TECHNICAL BILL 2015 additions.docx; OCI Technical Bill One Pager.pdf

Pam

Attached is a draft of the OCI technical bill. I believe Sen. Lasee and Rep. Peterson have agreed to be the sponsors of the bill.

The additional language attached in the separate document is already in the technical bill, but reflect some changes. We'll have to talk to the authors about (basically it deletes a first class mailing requirement and tweaks some agent licensing language to reflect the passage of the federal agent licensing bill NARB2). I believe there will be one other change relating to the confidentiality of the information from principal based reserving section.

Most of this is pretty technical, I've attached a quick summary to give you some idea of what the bill entails.

With their permission, we'd love to set up some time to work with you directly on getting the language into the proper form, and ready for introduction. We'd like to at least start moving before you are deluged with other drafting jobs.

Thanks

JP

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OCI Technical Bill One Pager

1. **Passive review of Patient Compensation Fund Rates**

Currently OCI issues the fund rate rule on an emergency basis with the maximum number of extensions because of timing issues. The permanent rule is typically issued after the new rates are proposed. OCI is proposing a passive process which will allow us to issue rates on a timely basis, and preserve the legislature's right to object to the rule.
2. **Mental health managed care organizations**

DHS is looking to issue family care contracts to cover mental health issues, and this is the change in our statute that is required. If family care changes pass, this section will also sunset.
3. **Report deletion**

The bill deletes reports on agent commissions, product liability, commercial liability, and rescissions
4. **International Association of Insurance Supervisors**

Several Wisconsin companies have an international presence, and we share information with international regulators. This allows to share information with the association, just like we already share with the domestic organization, the National Association of Insurance Commissioners.
5. **Incidental business**

OCI rules and practice limit an insurer's ability to mix non-insurance business which is increasingly important in the post-crash era. This clarifies most non-insurance business must be done in a subsidiary
6. **Stock company informal meeting changes**

Statutes were changed several years ago to allow some meetings to take place by electronic means. These changes clarify those that stock companies may also use the same procedures.
7. **Town Mutual Changes (their requests)**
 - a. Change "manage" to "direct" – reflects actual board practice
 - b. Delete statutory requirements on financial reporting – the town mutual is still required to detail financial status, it just isn't specified in statute.
 - c. Deleting their ability to write reinsurance – no town mutual writes reinsurance, and town mutuals are not generally large enough anyway.
 - d. Coverage outside county – Town mutuals cover farms that cross county lines but may not be allowed to provide coverage on property outside their county. This clarifies that if a farmer locates an item temporarily outside the service area, it is eligible for coverage.
 - e. Reinsurance (purchase) and loss adjustment – makes it easier for town mutual to secure reinsurance on their risks.
 - f. Investments – allows OCI to write permanent rather than temporary orders. This allows us to avoid crafting one-size-fits all rules. Maintains their ability to challenge any restrictions.
8. **Principle Based Reserving (PBR)**

This long section implements the NAIC PBR model. It changes the way life insurance reserves are calculated from a formula to an actuarial analysis that reflects risk.

9. IRMA – Netting

- a. This section deals with financial contracts. Specifically, it requires the contracts to “net out” during bankruptcy. Under current law in a bankruptcy situation, these contracts typically expire before they can be considered.

DRAFT

appears to be the same as in other document

TECHNICAL BILL
CHAPTER 628 STATUTORY UPDATES

Section --. 628.07 of the statutes is amended to read:

628.07 Licensing of nonresidents. The commissioner ~~may~~ shall waive the examination requirement ~~of an examination~~ for a nonresident applicant under s. 628.04 if ~~the jurisdiction of the applicant's~~ home or resident state has issued a license having equivalent qualifications and if that license is in good standing at the time of application. ~~residence has imposed upon the applicant requirements substantially as rigorous as those of this state and has enforced them with comparable rigor.~~

Section --. 628.10(2) of the statutes is amended to read:

(2) REVOCATION, SUSPENSION, AND LIMITATION OF LICENSES.

(a) *For failure to comply with continuing education or annual training requirements.* The license of any intermediary or individual navigator who fails to produce evidence of compliance with continuing education standards set by the commissioner or with annual training requirements is revoked, effective on the date on which the evidence of compliance is due. At least 60 days before that date, the commissioner shall notify the intermediary's intermediary or navigator's navigator address that is on file with the commissioner ~~notice~~ of the date by which the evidence of compliance is due and that the intermediary's or navigator's license will be revoked if the evidence is not received by that date. An intermediary or navigator whose license is revoked under this paragraph may have his or her license reinstated, or may be relicensed, as provided in sub. (5).

(am) *Nonpayment of fees.* The license of an intermediary or individual navigator who fails to pay a fee when due is revoked, effective on the date on which the fee is due. At least 60 days before that date, the commissioner shall ~~send by 1st class mail to~~ notify the intermediary's intermediary or navigator's navigator address that ~~is on file with the commissioner~~ notice of the date by which the fee is due and that the intermediary's or navigator's license will be revoked if timely payment is not made. An intermediary who is a natural person, or an individual navigator, whose license is revoked under this paragraph may have his or her license reinstated, or may be relicensed, as provided in sub. (5).

2015 DRAFT OCI TECHNICAL CHANGES

✓ **SECTION 1. 227.01 (13) (pm) of the statutes is created to read:**

227.01 (13) (pm) Relates to setting fees under s. 655.27 (3) for the injured patients and families compensation fund or under s. 655.61 for the mediation fund.

TJD
✓ **SECTION 2. 600.01 (1) (b) 10. b. of the statutes is amended to read:**

600.01 (1) (b) 10. b. The exemption under subd. 10. a. does not apply if the services offered by the care management organization include hospital, physician or other acute health care services other than mental health and alcohol and other drug abuse services.

✓ **SECTION 2. 601.422 of the statutes is repealed.**

✓ **SECTION 3. 601.425 of the statutes is repealed.**

✓ **SECTION 4. 601.428 of the statutes is repealed.**

✓ **SECTION 5. 601.465 (1m) (c) 8. of the statutes is created to read:**

601.465 (1m) (c) 8. The International Association of Insurance Supervisors.

✓ **SECTION 6. 601.465 (1m) (c) 9. of the statutes is created to read**

601.465 (1m) (c) 9. An agent or employee of the International Association of Insurance Supervisors.

✓ **SECTION 7. 605.21 (2) of the statutes is amended to read:**

605.21 (2) PREMIUM PAYMENT. Upon receipt of certification of premium due, the premium shall be paid into the state treasury for the benefit of the property fund, within ~~60~~30 days after the date of certification or the effective date of the policy, whichever is the later. Premiums for property insured effective at a later date shall be paid within ~~60~~30 days after the effective date of each addition. The amount of a premium in default shall be a special charge against the local governing unit, and be included in the next certification of state taxes and charged and collected as other special charges are collected, with interest from the due date at a rate set by the commissioner by rule or, in the absence of a rule, at twice the most common prime rate charged by major banks in this state.

SECTION 8. 610.21 (1) of the statutes is amended to read:

610.21 (1) PROHIBITION FOR DOMESTIC INSURERS. No domestic insurer may engage, directly or indirectly, in any business other than insurance and business reasonably incidental to its insurance business, except as specifically authorized by s. 611.26 (4), 611.26 (4) as incorporated by s. 614.24 (1), or s. 613.26 or any other provision of chs. 600 to 646; except that a

domestic insurer not restricted under s. 620.03 may engage directly in any activity incidental business to the extent it is authorized to do so through a subsidiary.

SECTION 9. 611.07 (4) of the statutes is amended to read:

611.07 (4) WAIVER OF NOTICE AND INFORMAL ACTION BY SHAREHOLDERS, POLICYHOLDERS OR DIRECTORS. Sections 180.0704, 180.0706, 180.0821 and 180.0823 apply to stock corporations and ss. 181.0704, 181.0706, 181.0821 and 181.0823 apply to mutuals. Section 180.0821 also applies to a committee of the board of a stock corporation and Sections. 181.0821 also applies to a committee of the board of a mutual, except that in each case, references to "board" shall be read as "committee" and references to "directors" shall mean members of the board appointed to serve on the committee.

SECTION 10. 611.56 (5) of the statutes is amended to read:

611.56 (5) MEETINGS, QUORUM AND VOTING. ~~Section~~ Sections 180.0820, 180.0821 and 180.0824 ~~applies~~ apply to a committee of the board of a stock corporation, except references to a committee "created under s. 180.0825" in s. 180.0824 shall be read as a committee "created under this section". Sections 181.0820, 181.0821 and 181.0824 apply to a committee of the board of a mutual, except that references to "board" shall be read as "committee", "majority" in s. 181.0824 (1) shall mean a majority of the members of the board appointed to serve on the committee, and "majority" in s. 181.0824 (2) shall mean a majority of the members of the board appointed to serve on the committee who are present at the meeting.

SECTION 11. 612.02 (2) (a) of the statutes is amended to read:

612.02 (2) (a) The name of the corporation; ~~which shall contain the words "Town Mutual";~~

SECTION 12. 612.13 (3) of the statute is amended to read:

612.13 (3) DUTIES. The board shall ~~manage~~ direct the business and affairs of the corporation and shall not delegate its power or responsibility to any person except as specifically provided otherwise in this chapter.

SECTION 13. 612.13 (4) of the statutes is amended to read:

612.13 (4) ADJUSTMENT COMMITTEE. The directors ~~shall~~ may annually appoint from their own number an adjustment committee of at least 3 persons, to adjust or supervise the adjustment of losses under s. 612.53. If no adjustment committee is appointed, then the entire board shall act as the adjustment committee to adjust or supervise the adjustment of losses under s. 612.53, Wis. Stat.

SECTION 14. 612.14 of the statutes is amended to read:

612.14 Reports. ~~The secretary and the treasurer~~ An officer or person designated by an officer of the company shall present to the annual meeting written reports showing the condition of the

town mutual on the previous December 31 and its activity during the preceding calendar year, including: any information required to be presented by the articles or bylaws or by the commissioner. The reports must contain a sufficient level of information to reasonably inform members about the financial condition of the town mutual.

all the rest of section

SECTION 15. 612.14 (1) of the statutes is repealed.

SECTION 16. 612.14 (2) of the statutes is repealed.

SECTION 17. 612.14 (3) of the statutes is repealed.

SECTION 18. 612.14 (4) of the statutes is repealed.

SECTION 19. 612.14 (5) of the statutes is repealed.

SECTION 20. 612.14 (6) of the statutes is repealed.

SECTION 21. 612.14 (7) of the statutes is repealed.

SECTION 22. 612.14 (8) of the statutes is repealed.

SECTION 23. 612.14 (9) of the statutes is repealed.

SECTION 24. 612.14 (10) of the statutes is repealed.

SECTION 25. 612.14 (11) of the statutes is repealed.

SECTION 26. 612.14 (12) of the statutes is repealed.

SECTION 27. 612.31 (4) (m) of the statutes is amended to read:

612.31 (4) (m) Assuming reinsurance, ~~except under sub. (6);~~ or

SECTION 28. 612.31 (5) of the statutes is repealed.

SECTION 29. 612.31 (6) of the statutes is repealed.

SECTION 30. 612.32 (1) of the statutes is amended to read:

612.32 (1) REAL PROPERTY OUTSIDE TERRITORY. Town mutuals may insure real property and contents in villages and cities partially located in the specified territory, real property and contents in an immediately adjoining county owned by a member immediately adjoining and contiguous to land owned by the same member who has real property and contents insured by the town mutual which is within the specified territory, and real property and contents used exclusively by the member and his or her family for recreational purposes.

SECTION 31. 612.32 (2) (a) of the statutes is amended to read:

612.32 (2) (a) *Farm property.* A town mutual may provide coverage for livestock while temporarily located outside its territory and; for farm products while temporarily located, for a period not exceeding 2 years, outside its territory and; for farm machinery and farm vehicles while temporarily located, for a period not exceeding ~~6 months~~ one year, outside its territory, subject to limitations in the policy or in the articles or bylaws with respect to the distance from the territory to which the property may be removed without suspension of the coverage.

SECTION 32. 612.32 (4) of the statutes is repealed.

SECTION 33. 612.33 (1) of the statutes is amended to read:

612.33 (1) PERMITTED AND PROHIBITED REINSURANCE. A town mutual may cede reinsurance only ~~under s. 612.31 (6), or~~ to an insurer authorized to do business in this state under ~~s. 612.71 or~~ ch. 611 or 618, or under arrangements which are approved in advance by the commissioner and which are subject to the controls the commissioner prescribes.

SECTION 34. 612.33 (2) (b) of the statutes is amended to read:

612.33 (2) (b) *Nonproperty insurance.* To the extent that a town mutual provides insurance under s. 612.31 (3), it shall obtain reinsurance of at least a 90% proportional share of each risk or it shall obtain excess of loss reinsurance with a retention in a like dollar amount with an insurer authorized to do such business in this state, in either instance not to exceed \$25,000 on each risk. The commissioner may permit a town mutual to retain a larger percentage or excess of loss retention if he or she finds that the interests of the members will not be endangered thereby, or may require it to reinsure a larger percentage or obtain a lesser excess of loss retention if he or she finds that the interests of the members make it advisable. The commissioner may by rule require other reinsurance.

SECTION 35. 612.53 (1) of the statutes is amended to read:

~~**612.53 (1) RULES.**~~ The commissioner may promulgate rules for loss adjustment procedures.

SECTION 36. 612.53 (2) of the statutes is repealed.

SECTION 37. 612.71 of the statutes is repealed.

SECTION 38. 620.04 (1) of the statutes is amended to read:

620.04 (1) ADDITIONAL RESTRICTIONS. If the commissioner finds that by reason of investment conditions generally or of the financial condition or current investment practice of an individual insurer, the interests of insureds, creditors, or the public are or may be endangered, the commissioner may: ~~impose reasonable and temporary restrictions upon the investments of an individual insurer, including prohibition or divestment of a particular investment.~~

SECTION 39. 620.04 (1) (a) of the statutes is created to read:

620.04 (1) (a) For insurers that are not restricted under s. 620.03, impose reasonable and temporary restrictions upon the investments of an individual insurer, including prohibition or divestment of a particular investment.

SECTION 40. 620.04 (1) (b) of the statutes is created to read:

620.04 (1) (b) For insurers that are subject to s. 620.03, impose reasonable restrictions upon the investments of an individual insurer, including prohibition or divestment of a particular investment.

SECTION 41. 623.06 (1c) of the statutes is repealed and recreated to read:

623.06 Standard Valuation Law. (1c): Definitions. For purposes of this section:

- (a) "Appointed actuary" means a qualified actuary who is appointed in accordance with the valuation manual to prepare the actuarial opinion required in sub. (1r).
- (b) "Deposit-type contract" means a contract that does not incorporate mortality or morbidity risks and as may be specified in the valuation manual.
- (c) "Life insurance" means contracts that incorporate mortality risk, including annuity and pure endowment contracts, and as may be specified in the valuation manual.
- (d) "NAIC" means the National Association of Insurance Commissioners.
- (e) "Principles-based valuation" means a reserve valuation that uses one or more methods or one or more assumptions determined by the insurer and is required to comply with sub. (10) of this section as specified in the valuation manual.
- (f) "Qualified actuary" means an individual who is qualified to sign the applicable statement of actuarial opinion in accordance with the American academy of actuaries qualification standards for actuaries signing such statements and who meets the requirements specified in the valuation manual and any other requirements that the commissioner may by rule specify.
- (g) "Tail risk" means a risk that occurs either where the frequency of low probability events is higher than expected under a normal probability distribution or where there are observed events of very significant size or magnitude.
- (h) "Valuation manual" means the manual of valuation instructions adopted by the NAIC as specified in sub. (9) or as subsequently amended.

SECTION 42. 623.06 (1f) of the statutes is amended to read:

623.06 (1f) For policies and contracts issued prior to the operative date of the valuation manual. ~~The~~ the commissioner shall annually value, or cause to be valued, the reserve liabilities (hereinafter called reserves) for all outstanding life insurance policies and annuity and pure endowment contracts of every life insurance company doing business in this state, ~~except that in the case of an alien company, such valuation shall be limited to its United States business,~~ and may certify the amount of any such reserves, specifying the mortality table or tables, rate or rates of interest and methods (net level premium method or other) used in the calculation of such reserves. In calculating such reserves, the commissioner may use group methods and

approximate averages for fractions of a year or otherwise. In lieu of the valuation of the reserves herein required of any foreign or alien company, the commissioner may accept any valuation made, or caused to be made, by the insurance supervisory official of any state or other jurisdiction when such valuation complies with the minimum standard herein provided and if the official of such state or jurisdiction accepts as sufficient and valid for all legal purposes the certificate of valuation of the commissioner when such certificate states the valuation to have been made in a specified manner according to which the aggregate reserves would be at least as large as if they had been computed in the manner prescribed by the law of that state or jurisdiction.

SECTION 43. 623.06 (1j) of the statutes is created to read:

623.06 (1j) For policies and contracts issued on or after the operative date of the valuation manual, the commissioner shall annually value, or cause to be valued, the reserve liabilities (hereinafter called reserves) for all outstanding life insurance contracts, annuity and pure endowment contracts, and deposit-type contracts issued on or after the operative date of the valuation manual of every insurer doing business in this state. In lieu of the valuation of the reserves required of a foreign or alien company, the commissioner may accept a valuation made, or caused to be made, by the insurance supervisory official of any state or other jurisdiction when the valuation complies with the minimum standard provided in this section. The provisions set forth in subs. (9) and (10) shall apply to all policies and contracts issued on or after the operative date of the valuation manual.

SECTION 44. 623.06 (1m) (title) of the statutes is amended to read:

623.06 (1m) ACTUARIAL OPINION. Prior to the operative date of the valuation manual:

SECTION 45. 623.06 (1r) of the statutes is created to read:

623.06 (1r) ACTUARIAL OPINION. Beginning with the operative date of the valuation manual:

(a) Every company with outstanding life insurance contracts or deposit-type contracts in this State and subject to regulation by the commissioner shall submit to the commissioner the opinion of the appointed actuary as to whether the reserves and related actuarial items held in support of the policies and contracts are computed appropriately, are based on assumptions that satisfy contractual provisions, are consistent with prior reported amounts and comply with applicable laws of this state. The valuation manual will prescribe the specifics of this opinion including any items deemed to be necessary to its scope.

(b) Every company with outstanding life insurance contracts or deposit-type contracts in this state and subject to regulation by the commissioner, except as exempted in the valuation manual, shall also annually include in the opinion required by par. (a) an opinion of the same appointed actuary as to whether the reserves and related actuarial items held in support of the policies and contracts specified in the valuation manual, when considered in light of the assets held by the company with respect to the reserves and related actuarial items, including but not limited to the investment earnings on the assets and the considerations anticipated to be received and retained under the policies and contracts, make adequate provision for the company's obligations under

the policies and contracts, including but not limited to the benefits under and expenses associated with the policies and contracts. Such opinion shall be governed by the following provisions:

1. A memorandum, in form and substance as specified in the valuation manual, and acceptable to the commissioner, shall be prepared to support each actuarial opinion.

2. If the insurance company fails to provide a supporting memorandum at the request of the commissioner within a period specified in the valuation manual or the commissioner determines that the supporting memorandum provided by the insurance company fails to meet the standards prescribed by the valuation manual or is otherwise unacceptable to the commissioner, the commissioner may engage a qualified actuary at the expense of the company to review the opinion and the basis for the opinion and prepare the supporting memorandum required by the commissioner.

(c) All Opinions subject to sub. (1r) shall be governed by the following provisions:

1. The opinion shall be in form and substance as specified in the valuation manual and acceptable to the commissioner.

2. The opinion shall be submitted with the annual statement reflecting the valuation of such reserve liabilities for each year ending on or after the operative date of the valuation manual.

3. The opinion shall apply to all policies and contracts subject to par. (b), plus other actuarial liabilities as may be specified in the valuation manual.

4. The opinion shall be based on standards adopted from time to time by the actuarial standards board or its successor, and on such additional standards as may be prescribed in the valuation manual.

5. In the case of an opinion required to be submitted by a foreign or alien company, the commissioner may accept the opinion filed by that company with the insurance supervisory official of another state if the commissioner determines that the opinion reasonably meets the requirements applicable to a company domiciled in this state.

6. Except in cases of fraud or willful misconduct, the appointed actuary shall not be liable for damages to any person (other than the insurance company and the commissioner) for any act, error, omission, decision or conduct with respect to the appointed actuary's opinion.

SECTION 46. 623.06 (2) of the statutes is amended to read:

623.06 (2) Except as provided in subs (2a) and (2m), the minimum standard for the valuation of all such policies and contracts issued prior to the effective date of this section [see sub. (8) (14) and s. 632.43(9)] shall be that provided by the laws in effect immediately prior to such date. Except as provided in subs (2a) and (2m), the minimum standard for the valuation of all such policies and contracts issued on or after the effective date of this section shall be the commissioner's reserve valuation methods defined in subs. (3) to (4m) and (7), with 3.5 percent interest, or in the case of policies and contracts, other than annuity and pure endowment contracts, issued on or after June 19, 1974, and prior to November 8, 1977, 4 percent interest, and for policies issued on or after November 8, 1977, 4.5 percent interest and the following tables:

SECTION 47. 623.06 (9) of the statutes is created to read:

623.06 (9) VALUATION MANUAL.

(a) For policies issued on or after the operative date of the valuation manual, the standard prescribed in the valuation manual is the minimum standard of valuation required under sub. (1j), except as provided under pars. (e) or (g).

(b) The operative date of the valuation manual is January 1 of the first calendar year following the first July 1 as of which all of the following have occurred:

1. The valuation manual has been adopted by the NAIC by an affirmative vote of at least forty-two (42) members, or three-fourths of the members voting, whichever is greater.

2. The Standard Valuation Law, as amended by the NAIC in 2009, or legislation including substantially similar terms and provisions, has been enacted by states representing greater than 75% of the direct premiums written as reported in the following annual statements submitted for 2008: life, accident and health annual statements; health annual statements; or fraternal annual statements.

3. The Standard Valuation Law, as amended by the NAIC in 2009, or legislation including substantially similar terms and provisions, has been enacted by at least forty-two (42) of the following fifty-five (55) jurisdictions: The fifty states of the United States, American Samoa, the American Virgin Islands, the District of Columbia, Guam, and Puerto Rico.

(c) Unless a change in the valuation manual specifies a later effective date, changes to the valuation manual shall be effective on January 1 following the date when such changes have been adopted by the NAIC by an affirmative vote representing:

1. At least three-fourths (3/4) of the members of the NAIC voting, but not less than a majority of the total membership, and

2. Members of the NAIC representing jurisdictions totaling greater than 75% of the direct premiums written as reported in the following annual statements most recently available prior to the vote in subd. 1.: life, accident and health annual statements, health annual statements, and fraternal annual statements.

(d) The valuation manual must specify all of the following:

1. Minimum valuation standards for and definitions of the policies or contracts subject to sub. (1j). Such minimum valuation standards shall be:

a. The commissioner's reserve valuation method for life insurance contracts other than annuity contracts subject to sub. (1j);

b. The commissioner's annuity reserve valuation method for annuity contracts subject to sub. (1j); and

c. Minimum reserves for all other policies or contracts subject to sub. (1j).

2. Which policies or contracts or types of policies or contracts that are subject to the requirements of a principle-based valuation in sub. (10) (a) and the minimum valuation standards consistent with those requirements;

3. For policies and contracts subject to a principle-based valuation under sub. (10):

a. Requirements for the format of reports to the commissioner under sub. (10) (b) 3., which shall include information necessary to determine if the valuation is appropriate and in compliance with this section;

b. Assumptions shall be prescribed for risks over which the insurance company does not have significant control or influence.

c. Procedures for corporate governance and oversight of the actuarial function, and a process for appropriate waiver or modification of such procedures.

4. For policies not subject to a principle-based valuation under sub. (10) the minimum valuation standard shall be the greater of:

a. Reserves that are consistent with the minimum standard of valuation prior to the operative date of the valuation manual, or

b. Reserves that quantify the benefits, guarantees, and funding associated with the contracts and their risks at a level of conservatism that reflects conditions that include unfavorable events that have a reasonable probability of occurring. This does not preclude, for policies with significant tail risk, reflecting in the reserve conditions appropriately adverse to quantify that tail risk.

5. Other requirements, including, but not limited to, those relating to reserve methods, models for measuring risk, generation of economic scenarios, assumptions, margins, use of insurance company experience, risk measurement, disclosure, certifications, reports, actuarial opinions and memorandums, transition rules and internal controls; and

6. The data and form of the data required under sub. (11), with whom the data must be submitted, and may specify other requirements including data analyses and reporting of analyses.

(e) In the absence of a specific valuation requirement or if a specific valuation requirement in the valuation manual is not, in the opinion of the commissioner, in compliance with this section, then the insurance company shall, with respect to such requirements, comply with minimum valuation standards prescribed by the commissioner by regulation.

(f) The commissioner may engage a qualified actuary, at the expense of the insurance company, to perform an actuarial examination of the company and opine on the appropriateness of any reserve assumption or method used by the company, or to review and opine on a company's compliance with any requirement set forth in this section. The commissioner may rely upon the opinion, regarding provisions contained within this section, of a qualified actuary engaged by the commissioner of another state, district or territory of the United States. As used in this paragraph, the term "engage" includes employment and contracting.

(g) The commissioner may require an insurance company to change any assumption or method that in the opinion of the commissioner is necessary in order to comply with the requirements of the valuation manual or this section; and the company shall adjust the reserves as required by the commissioner. The commissioner may take other disciplinary action as permitted pursuant to ss. 601.41(4) and 601.64.

SECTION 48. 623.06 (10) of the statutes is created to read:

623.06 (10) REQUIREMENTS OF A PRINCIPLE-BASED VALUATION

(a) An insurer must establish reserves using a principle-based valuation that meets the following conditions for policies or contracts as specified in the valuation manual:

1. Quantify the benefits and guarantees, and the funding, associated with the contracts and their risks at a level of conservatism that reflects conditions that include unfavorable events that have a reasonable probability of occurring during the lifetime of the contracts. For policies or contracts with significant tail risk, reflects conditions appropriately adverse to quantify the tail risk.

2. Incorporate assumptions, risk analysis methods and financial models and management techniques that are consistent with, but not necessarily identical to, those utilized within the company's overall risk assessment process, while recognizing potential differences in financial reporting structures and any prescribed assumptions or methods.

3. Incorporate assumptions that are derived in one of the following manners:

a. The assumption is prescribed in the valuation manual.

b. For assumptions that are not prescribed, the assumptions shall be established utilizing the company's available experience to the extent it is relevant and statistically credible; or to the extent that company data is not available, relevant, or statistically credible, the assumptions shall be established utilizing other relevant, statistically credible experience.

4. Provide margins for uncertainty including adverse deviation and estimation error, such that the greater the uncertainty the larger the margin and resulting reserve.

(b) A company using a principle-based valuation for one or more policies or contracts subject to this section as specified in the valuation manual shall:

1. Establish procedures for corporate governance and oversight of the actuarial valuation function consistent with those described in the valuation manual.

2. Provide to the commissioner and the board of directors an annual certification of the effectiveness of the internal controls with respect to the principle-based valuation. Such controls shall be designed to assure that all material risks inherent in the liabilities and associated assets subject to such valuation are included in the valuation, and that valuations are made in accordance with the valuation manual. The certification shall be based on the controls in place as of the end of the preceding calendar year.

3. Develop and file with the commissioner upon request a principle-based valuation report that complies with standards prescribed in the valuation manual.

(c) A principle-based valuation may include a prescribed formulaic reserve component.

SECTION 49. 623.06 (11) of the statutes is created to read:

623.06 (11) EXPERIENCE REPORTING FOR POLICIES IN FORCE ON OR AFTER THE OPERATIVE DATE OF THE VALUATION MANUAL. A company shall submit mortality, morbidity, policyholder behavior, or expense experience and other data as prescribed in the valuation manual.

SECTION 50. 623.06 (12) of the statutes is created to read:

623.06 (12) CONFIDENTIALITY.

(a) For purposes of this subsection, "confidential information" shall mean:

1. A memorandum in support of an opinion submitted under sub. (1m) or (1r) and any other documents, materials and other information, including, but not limited to, all working papers, and copies thereof, created, produced or obtained by or disclosed to the commissioner or any other person in connection with such memorandum;

2. All documents, materials and other information, including, but not limited to, all working papers, and copies thereof, created, produced or obtained by or disclosed to the commissioner or any other person in the course of an examination made under sub. (9) (f); provided, however, that if an examination report or other material prepared in connection with an examination made under ss. 601.43 and 601.44 is not held as private and confidential information under s. 601.465 (1m) (b), an examination report or other material prepared in connection with an examination made under sub. (9) (f) of this section shall not be "confidential information" to the same extent as if such examination report or other material had been prepared under ss. 601.43 and 601.44;

3. Any reports, documents, materials and other information developed by a company in support of, or in connection with, an annual certification by the company under sub. (10) (b) 2. of this section evaluating the effectiveness of the company's internal controls with respect to a

principle-based valuation and any other documents, materials and other information, including, but not limited to, all working papers, and copies thereof, created, produced or obtained by or disclosed to the commissioner or any other person in connection with such reports, documents, materials and other information;

4. Any principle-based valuation report developed under sub. (10) (b) 3. of this section and any other documents, materials and other information, including, but not limited to, all working papers, and copies thereof, created, produced or obtained by or disclosed to the commissioner or any other person in connection with such report; and

5. Any documents, materials, data and other information submitted by a company under sub. (11) (collectively, "experience data") and any other documents, materials, data and other information, including, but not limited to, all working papers, and copies thereof, created or produced in connection with such experience data, in each case that include any potentially company-identifying or personally identifiable information, that is provided to or obtained by the commissioner (together with any "experience data", the "experience materials") and any other documents, materials, data and other information, including, but not limited to, all working papers, and copies thereof, created, produced or obtained by or disclosed to the commissioner or any other person in connection with such experience materials.

(b) Confidential information under this subsection is required to be provided to the commissioner pursuant to s. 601.42 and shall be kept confidential under s. 601.465.

SECTION 51. 623.06 (13) of the statutes is created to read:

623.06 (13) SINGLE STATE EXEMPTION

(a) The commissioner may exempt specific product forms or product lines of a domestic company that is licensed and doing business only in Wisconsin from the requirements of sub. (9) provided:

1. The commissioner has issued an exemption in writing to the company and has not subsequently revoked the exemption in writing; and

2. The company computes reserves using assumptions and methods used prior to the operative date of the valuation manual in addition to any requirements established by the commissioner and promulgated by regulation.

(b) For policy forms and product lines for which a company was granted an exemption under par. (a), subs. (1f), (1m), and (2) to (7) shall be applicable, and any reference to the valuation manual shall not be applicable.

SECTION 52. 623.06 (8) of the statutes is renumbered as 623.06 (14), and as 623.06 (14) is amended to read:

623.06 (14) EFFECTIVE DATE.

(a) This section shall become effective on the same date as does s. 632.43.

(b) Subsections referencing the valuation manual including but not limited to subs. (1j), (1r), and (9) to (13) shall become effective on the operative date of the valuation manual as described in sub. (9).

(c) The provisions of this section shall supersede all provisions of law inconsistent or in conflict therewith.

SECTION 53. 628.07 of the statutes is amended to read:

628.07 Licensing of nonresidents. The commissioner ~~may~~ shall waive the examination requirement of an ~~examination~~ for a nonresident applicant under s. 628.04 if ~~the jurisdiction of the applicant's home or resident state has issued a license having equivalent qualifications and if that license is in good standing at the time of application.~~ residence has imposed upon the applicant requirements substantially as rigorous as those of this state and has enforced them with comparable rigor.

SECTION 54. 628.10(2) of the statutes is amended to read:

(2) REVOCATION, SUSPENSION, AND LIMITATION OF LICENSES.

(a) *For failure to comply with continuing education or annual training requirements.* The license of any intermediary or individual navigator who fails to produce evidence of compliance with continuing education standards set by the commissioner or with annual training requirements is revoked, effective on the date on which the evidence of compliance is due. At least 60 days before that date, the commissioner shall notify the intermediary's intermediary or navigator's navigator address that is on file with the commissioner notice of the date by which the evidence of compliance is due and that the intermediary's or navigator's license will be revoked if the evidence is not received by that date. An intermediary or navigator whose license is revoked under this paragraph may have his or her license reinstated, or may be relicensed, as provided in sub. (5).

(am) *Nonpayment of fees.* The license of an intermediary or individual navigator who fails to pay a fee when due is revoked, effective on the date on which the fee is due. At least 60 days before that date, the commissioner shall ~~send by 1st class mail to~~ notify the intermediary's intermediary or navigator's navigator address that is on file with the commissioner notice of the date by which the fee is due and that the intermediary's or navigator's license will be revoked if timely payment is not made. An intermediary who is a natural person, or an individual navigator, whose license is revoked under this paragraph may have his or her license reinstated, or may be relicensed, as provided in sub. (5).

SECTION 55. 628.347 (1) (a) of the statutes is amended to read:

628.347 (1) (a) "Annuity" means a ~~fixed or variable~~ annuity that is an insurance product that is individually solicited, whether the product is classified as an individual or group annuity.

SECTION 56. 628.347 (4) (c) of the statutes is amended to read:

~~628.347 (4) (c)~~ This subsection applies to FINRA broker-dealer sales of ~~variable annuities and fixed annuities~~ if the suitability and supervision are similar to those applied to variable annuity sales. ← >

SECTION 57. ~~628.347 (4m) (b) 3. c. of the statutes is amended to read:~~

~~628.347 (4m) (b) 3. c. How fixed, variable, and indexed product specific annuity contract provisions features affect consumers.~~

SECTION 58. 628.81 of the statutes is repealed.

SECTION 59. 632.43 (6g) of the statutes is created to read:

632.43 (6g) In this section, "Operative date of the valuation manual" means the January 1 of the first calendar year that the valuation manual as defined in s. 623.06 is effective pursuant to s. 623.06(9)(b).

SECTION 60. 632.43 (6m) (a) 3. of the statutes is amended to read:

632.43 (6m) (a) 3. "Nonforfeiture interest rate" means:

i. For policies issued prior to the operative date of the valuation manual, or for all policies in the absence of an effective operative date of the valuation manual as specified under s. 623.06(9)(b), 125% of the applicable calendar year valuation interest rate under s. 623.06 rounded to the nearest 0.25%, provided, however, that the nonforfeiture interest rate shall not be less than 4%.

ii. For policies issued on or after the operative date of the valuation manual, the rate per annum provided by the valuation manual.

SECTION 61. 632.43 (6m) (e) 3. f. of the statutes is amended to read:

632.43 (6m) (e) 3. f. For policies issued prior to the operative date of the valuation manual, Any any ordinary mortality tables adopted after 1980 by the National Association of Insurance Commissioners, that are approved by rule adopted by the commissioner for use in determining the minimum nonforfeiture standard, may be substituted for the commissioners 1980 standard ordinary mortality table with or without 10-year select mortality factors or for the commissioners 1980 extended term insurance table. For policies issued on or after the operative date of the valuation manual the valuation manual shall provide the commissioners standard mortality table for use in determining the minimum nonforfeiture standard that may be substituted for the commissioners 1980 standard ordinary mortality table with or without ten-year select mortality factors or for the commissioners 1980 extended term insurance table. If the commissioner approves by regulation any ordinary mortality table adopted by the National Association of Insurance Commissioners for use in determining the minimum nonforfeiture standard for policies issued on or after the operative date of the valuation manual then that minimum nonforfeiture standard supersedes the minimum nonforfeiture standard provided by the valuation manual.

SECTION 62. 632.43 (6m) (e) 3. g. of the statutes is amended to read:

632.43 (6m) (e) 3. g. For policies issued prior to the operative date of the valuation manual, Any industrial mortality tables adopted after 1980 by the National Association of Insurance Commissioners, that are approved by rule adopted by the commissioner for use in determining the minimum nonforfeiture standard, may be substituted for the commissioners 1961 standard industrial mortality table or the commissioners 1961 industrial extended term insurance table. For policies issued on or after the operative date of the valuation manual the valuation manual shall provide the commissioners standard mortality table for use in determining the minimum nonforfeiture standard that may be substituted for the commissioners 1961 standard industrial mortality table or the commissioners 1961 industrial extended term insurance table. If the commissioner approves by regulation any industrial mortality table adopted by the National Association of Insurance Commissioners for use in determining the minimum nonforfeiture standard for policies issued on or after the operative date of the valuation manual then that minimum nonforfeiture standard supersedes the minimum nonforfeiture standard provided by the valuation manual.

Section 63. 635.13(2) of the statutes is repealed.

Section 64. 645.675 of the statutes is created to read:

645.675 Qualified financial contracts. (1) In this section:

(a) "Actual direct compensatory damages" include normal and reasonable costs of cover or other reasonable measures of damages used in the derivatives, securities, or other market for the contract and agreement claims. "Actual direct compensatory damages" do not include punitive or exemplary damages, damages for lost profit or lost opportunity, or damages for pain and suffering.

(b) "Business day" means any day other than Saturday, Sunday, or a day on which the New York Stock Exchange or the Federal Reserve Bank of New York is closed.

(c) "Commodity contract" means any of the following:

1. A contract for the purchase or sale of a commodity for future delivery on, or subject to the rules of, a board of trade or contract market under the Commodity Exchange Act, 7 USC 1, et seq., or a board of trade outside the United States.

2. An agreement that is subject to regulation under Section 19 of the Commodity Exchange Act, 7 USC 1, et seq., and that is commonly known to the commodities trade as a margin account, margin contract, leverage account, or leverage contract.

3. An agreement or transaction that is subject to regulation under Section 4c(b) the Commodity Exchange Act, 7 USC 1, et seq., and that is commonly known to the commodities trade as a commodity option.

4. Any combination of the agreements or transactions listed in subds. 1. to 3.

5. Any option to enter into an agreement or transaction listed in subds. 1. to 3.

(d) "Contractual right" includes any right set forth in a rule or bylaw or in a resolution of the governing board of a derivatives clearing organization or board of trade as defined in the Commodity Exchange Act, 7 USC 1, et seq.; a multilateral clearing organization, as defined in the Federal Deposit Insurance Corporation Improvement Act of 1991, 12 USC 4421(1); a national securities exchange, a national securities association, a securities clearing agency, or a control market designated under the Commodity Exchange Act, 7 USC 1, et seq., a derivatives transaction execution facility registered under the Commodity Exchange Act, 7 USC 1, et seq. or any right, whether or not evidenced in writing, arising under statutory or common law, or under law merchant, or by reason of normal business practice.

(e) "Counterparty" is a person who enters into a qualified financial contract with an insurer.

(f) For purposes of this section, "Financial guaranty insurance" means a surety bond, insurance policy or an indemnity contract or any similar guarantee issued by an insurer under which loss is payable upon proof of occurrence of financial loss to an insured claimant. It does not include credit insurance, credit life insurance, disability insurance or mortgage guaranty insurance, as those terms are defined in s. Ins 6.75, Wis. Adm. Code or long term care insurance.

(g) "First-method provision" is a contract provision whereby the non-defaulting party is not required to pay if a net or settlement amount is owed to the defaulting party.

(h) "Forward contract" has the meanings given in 12 USC 1821 (e) (8) (D).

(i) "Netting agreement" means:

1. a contract or agreement (including terms and conditions incorporated by reference therein), including a master agreement (which master agreement, together with all schedules, confirmations, definitions, and addenda thereto and transactions under any thereof, shall be treated as one netting agreement), that documents one or more transactions between the parties to the agreement for or involving one or more qualified financial contracts and that provides for the netting, liquidation, setoff, termination, acceleration, or close out under or in connection with one or more qualified financial contracts or present or future payment or delivery obligations or payment or delivery entitlements thereunder (including liquidation or close-out values relating to such obligations or entitlements) among the parties to the netting agreement;

2. any master agreement or bridge agreement for one or more master agreements described in subd. (1) of this par.; or

3. any security agreement or arrangement or other credit enhancement or guarantee or reimbursement obligation related to any contract or agreement described in subd. (1) or (2) of this par. Any contract described in subd. (1) or (2) that is related to agreements or transactions that are not qualified financial contracts shall be deemed to be a netting agreement only to the extent those agreements or transactions are qualified financial contracts.

(j) “Qualified financial contract” means a commodity contract, forward contract, repurchase agreement, securities contract, swap agreement, or any similar agreement that the commissioner determines by regulation, resolution, or order to be a qualified financial contract for purposes of this section.

(k) “Repurchase agreement” has the meaning given in 12 USC 1821 (e) (8) (D).

(L) “Second-method provision” is a contract provision whereby the non-defaulting party is required to pay if a net or settlement amount is owed to the defaulting party.

(m) “Securities contract” has the meaning given in 12 USC 1821 (e) (8) (D).

(n) “Swap agreement” has the meaning given in 12 USC 1821 (e) (8) (D).

(o) “Two-way payment provision” is a contract provision whereby both parties may have payment obligations to each other.

(p) “Walkaway clause” means a provision in a netting agreement or a qualified financial contract that, after calculation of a value of a party’s position or an amount due to or from one of the parties in accordance with its terms upon termination, liquidation, or acceleration of the netting agreement or qualified financial contract, either does not create a payment obligation of a party or extinguishes a payment obligation of a party, in whole or in part, solely because of the party’s status as a nondefaulting party.

(2) (a) Starting at 5:00 p.m. (central time) on the business day following the date of appointment of a receiver, no person may, with regard to qualified financial contracts with an insurer subject to a proceeding under this chapter, unless that person has received written notice that the contract has been sold or transferred pursuant to ss. 645.33(2) or 645.46(9), be stayed or prohibited from exercising any of the following rights:

1. A contractual right to cause the termination, liquidation, acceleration, or close out of obligations under, or in connection with, any netting agreement or qualified financial contract with an insurer on account of either of the following:

a. The insolvency, financial condition, or default of the insurer at any time, provided that the right is enforceable under applicable law other than this chapter.

b. The commencement of a formal delinquency proceeding under this chapter.

2. Any right under a pledge, security, collateral, reimbursement, or guarantee agreement or arrangement, or any other similar security agreement or arrangement or other credit enhancement, relating to one or more netting agreements or qualified financial contracts.

3. Subject to s. 645.56 (2), any right to set off or net out any termination value, payment amount, or other transfer obligation arising under or in connection with one or more qualified financial contracts in which the counterparty or its guarantor is organized under the laws of the United States or a state or foreign jurisdiction approved by the Securities Valuation Office of the National Association of Insurance Commissioners as eligible for netting.

(b) If a counterparty to a master netting agreement or a qualified financial contract with an insurer subject to a proceeding under this chapter terminates, liquidates, closes out, or accelerates the agreement or contract, damages will be measured as of the date or dates of the termination, liquidation, close out, or acceleration. The amount of a claim for damages shall be the actual direct compensatory damages calculated in accordance with sub. (6).

(3) Upon termination of a netting agreement or qualified financial contract, notwithstanding any walkaway clause in the netting agreement or qualified financial contract, the net or settlement amount, if any, owed by a nondefaulting party to an insurer against which an application or petition has been filed under this chapter shall be transferred to the receiver of the insurer or as directed by the receiver of the insurer, even if the insurer is the defaulting party. Any limited two-way payment or first-method provision in a netting agreement or qualified financial contract with an insurer that has defaulted shall be considered to be a full two-way payment or Second-method provision as against the defaulting insurer. Any such property or amount shall be a general asset of the insurer, except to the extent that it is subject to one or more secondary liens or encumbrances or rights of netting or setoff.

(4) (a) With respect to transferring a netting agreement or qualified financial contract of an insurer that is the subject of a proceeding under this chapter the receiver of the insurer shall do either of the following:

1. Transfer to one party, other than an insurer subject to a proceeding under this chapter, all netting agreements and qualified financial contracts between the counterparty and the insurer that is the subject of a proceeding under this chapter, including all of the following:

a. All rights and obligations of each party under each netting agreement and qualified financial contract.

b. All property, including any guarantee or other credit enhancement, securing any claims of each party under each netting agreement and qualified financial contract.

2. Transfer none of the netting agreements, qualified financial contracts, rights, obligations, or property referred to in subd. 1. with respect to the counterparty.

(b) If a receiver of an insurer transfers a netting agreement or qualified financial contract, the receiver shall use its best efforts to notify any person who is a party to the netting agreement

or qualified financial contract of the transfer by noon on the business day following the transfer.

(5) Notwithstanding any provision of sections 645.52 or 645.54, a receiver may not avoid a transfer of money or other property arising under or in connection with a netting agreement or qualified financial contract, or any pledge, security, collateral, or guarantee agreement or any other similar security arrangement or credit support document relating to a netting agreement or qualified financial contract, that is made before the commencement of a formal delinquency proceeding under this chapter.

(6) (a) In exercising the rights of disaffirmance or repudiation with respect to a netting agreement or qualified financial contract between a counterparty and an insurer that is the subject of a proceeding under this chapter the receiver of the insurer shall do either of the following:

1. Disaffirm or repudiate all netting agreements and qualified financial contracts between the counterparty and the insurer.

2. Disaffirm or repudiate none of the netting agreements or qualified financial contracts between the counterparty and the insurer.

(b) Notwithstanding any provision of this section, any claim of a counterparty against the estate arising from the receiver's disaffirmance or repudiation of a netting agreement or qualified financial contract that has not been previously affirmed in the liquidation or immediately preceding conservation or rehabilitation case shall be determined and shall be allowed or disallowed as if the claim had arisen before the date on which the petition for liquidation was filed or, if a conservation or rehabilitation proceeding is converted to a liquidation proceeding, as if the claim had arisen before the date on which the petition for conservation or rehabilitation was filed. The amount of the claim shall be the actual direct compensatory damages determined as of the date of the disaffirmance or repudiation of the netting agreement or qualified financial contract.

(7) (a) This section does not apply to persons who are affiliates of an insurer subject to a proceeding under this chapter.

(8) All rights of counterparties under this chapter that apply to netting agreements and qualified financial contracts entered into on behalf of a general account are available only to counterparties of netting agreements and qualified financial contracts entered into on behalf of that general account. All rights of counterparties under this chapter that apply to netting agreements and qualified financial contracts entered into on behalf of a separate account are available only to counterparties of netting agreements and qualified financial contracts entered into on behalf of that separate account.

(9) This section does not apply to qualified financial contracts entered into with an insurer authorized to write financial guaranty insurance.

SECTION 65. 655.27 (3) (b) 1. of the statues is amended to read:

655.27 (3) (b) 1. The commissioner, after approval by the board of governors, shall ~~by rule~~ set the fees under par. (a). ~~The rule shall provide that~~ fees may be paid annually or in semiannual or quarterly installments. In addition to the prorated portion of the annual fee, semiannual and quarterly installments shall include an amount sufficient to cover interest not earned and administrative costs incurred because the fees were not paid on an annual basis. This paragraph does not impose liability on the board of governors for payment of any part of a fund deficit.

SECTION 66. 655.27 (3) (b) 2. of the statutes is amended to read:

655.27 (3) (b) 2. With respect to fees paid by physicians, the ~~rule~~ commissioner shall provide for not more than 4 payment classifications, based upon the amount of surgery performed and the risk of diagnostic and therapeutic services provided or procedures performed.

SECTION 67. 655.27 (3) (b) 2m. of the statutes is amended to read:

655.27 (3) (b) 2m. In addition to the fees and payment classifications described under subds. 1. And 2., the commissioner, after approval by the board of governors, may ~~by rule~~ establish a separate payment classification for physicians satisfying s. 655.002 (1) (b) and a separate fee for nurse anesthetists satisfying s. 655.002 (1) (b) which take into account the loss experience of health care providers for whom Michigan is a principal place of practice.

SECTION 68. 655.27 (3) (bg) 1. of the statutes is amended to read:

655.27 (3) (bg) 1. ~~Every rule under par. (b)~~ The commissioner shall provide for an automatic increase in health care provider's fees, except as provided in subd. 2., if the loss and expense experience of the fund and other sources with respect to the health care provider or an employee of the health care provider exceeds either a number of claims threshold or a dollar volume of claims paid threshold, both as established ~~in the rule~~ by the commissioner. ~~The rule~~ commissioner shall specify applicable amounts of increase corresponding to the number of claims paid and the dollar volume of awards in excess of the respective thresholds.

SECTION 69. 655.27 (3) (bg) 2. of the statutes is amended to read:

655.27 (3) (bg) 2. The ~~rule~~ commissioner shall provide that the automatic increases does not apply if the board of governors determines that the performance of the injured patients and families compensation fund peer review council in making recommendations under s. 655.275 (5) (a) adequately addresses the consideration set forth in par. (a) 2m.

SECTION 70. 655.27 (3) (br) (intro.) of the statutes is amended to read:

655.27 (3) (br) *Limit on fees.* (intro.) ~~Every rule~~ The commissioner, in setting fees for a particular fiscal year under par. (b), shall ensure that the fees assessed do not exceed the greatest of the following:

SECTION 71. 655.27 (3) (d) of the statutes is amended to read:

~~655.27 (3) (d) Rule not effective; Late establishment or approval of fees.~~ If the ~~rule~~ establishing fees under par. (b) does not take effect prior to for any particular fiscal year are not established by the commissioner, approved by the board of governors, or approved under par. (bt) by the joint committee on finance before June 2 of any that fiscal year, the commissioner may elect to collect fees as established for the previous fiscal year. If the commissioner so elects and the ~~rule~~ fees for that fiscal year are subsequently takes effect established by the commissioner, approved by the board of governors, or approved under par. (bt) by the joint committee on finance, the balance for the fiscal year shall be collected or refunded or the remaining semiannual or quarterly installment payments shall be adjusted except the commissioner may elect not to collect, refund, or adjust for minimal amounts.

SECTION 72. 655.27 (3) (e) of the statutes is amended to read:

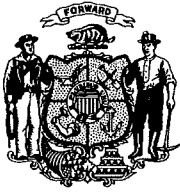
655.27 (3) (e) *Podiatrist fees.* The commissioner, after approval by the board of governors, may ~~by rule~~ assess fees against podiatrists for the purpose of paying the fund's portion of medical malpractice claims and expenses resulting from claims against podiatrists based on occurrences before July 1, 1986.

SECTION 73. 655.27 (3) (bt) of the statutes is amended to read:

655.27 (3) (bt) *Report to joint committee on finance.* Annually, no later than April 1, the commissioner shall send to the cochairpersons of the joint committee on finance a report detailing the proposed fees set for the next fiscal year under par. (b) and under s. 655.61 (1). If, within 14 working days after the date that the commissioner submits the report, the cochairpersons of the committee notify the commissioner that the committee has scheduled a meeting for the purpose of reviewing the proposed fees, the commissioner may not impose the fees until the committee approves the report. If the cochairpersons of the committee do not notify the commissioner, the commissioner may impose the proposed fees. In addition to any other method prescribed by rule for advising health care providers of the amount of the fees, the commissioner shall post the fees set under par. (b) for the next fiscal year on the office's Internet site and the director of state courts shall post the fees set under s. 655.61 (1) for the next fiscal year on mediation fund's Internet site.

SECTION 74. 655.61 (3) of the statutes is amended to read:

655.61 (3) If the fees under sub. (1) for any particular fiscal year are not established by the board of governors or approved by the joint committee on finance under s. 655.27 (3) (bt) before June 2 of that fiscal year, the commissioner may elect to collect fees as established for the previous fiscal year. If the commissioner so elects and the fees for that fiscal year are subsequently established by the board of governors or approved by the joint committee on finance under s. 655.27 (3) (bt), the balance for the fiscal year shall be collected or refunded, except that the commissioner may elect not to collect or refund minimal amounts.



PI
SF

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

needed
Thurs pm or
Friday am
(should go out Friday)

D - note

1

AN ACT ...; relating to: various miscellaneous changes to the insurance statutes.

Analysis by the Legislative Reference Bureau

This is a preliminary draft. An analysis will be provided in a subsequent version of this draft.

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

- 2 **SECTION 1.** 227.01 (13) (pm) of the statutes is created to read:
- 3 227.01 (13) (pm) Relates to setting fees under s. 655.27 (3) for the injured
- 4 patients and families compensation fund or setting fees under s. 655.61 for the
- 5 mediation fund.
- 6 **SECTION 2.** 601.422 of the statutes is repealed.
- 7 **SECTION 3.** 601.425 of the statutes is repealed.
- 8 **SECTION 4.** 601.428 of the statutes is repealed.
- 9 **SECTION 5.** 601.465 (1m) (c) 8. of the statutes is created to read:

1 601.465 (1m) (c) 8. The International Association of Insurance Supervisors.

2 **SECTION 6.** 601.465 (1m) (c) 9. of the statutes is created to read:

3 601.465 (1m) (c) 9. An agent or employee of the International Association of
4 Insurance Supervisors.

5 **SECTION 7.** 605.21 (2) of the statutes is amended to read:

6 605.21 (2) PREMIUM PAYMENT. Upon receipt of certification of premium due, the
7 premium shall be paid into the state treasury for the benefit of the property fund,
8 within ~~60~~ 30 days after the date of certification or the effective date of the policy,
9 whichever is the later. Premiums for property insured effective at a later date shall
10 be paid within ~~60~~ 30 days after the effective date of each addition. The amount of a
11 premium in default shall be a special charge against the local governing unit, and
12 be included in the next certification of state taxes and charged and collected as other
13 special charges are collected, with interest from the due date at a rate set by the
14 commissioner by rule or, in the absence of a rule, at twice the most common prime
15 rate charged by major banks in this state.

16 History: 1973 c. 117, 333; 1979 c. 102, 221; 2007 a. 170.

16 **SECTION 8.** 610.21 (1) of the statutes is amended to read:

17 610.21 (1) PROHIBITION FOR DOMESTIC INSURERS. No domestic insurer may
18 engage, directly or indirectly, in any business other than insurance and business
19 reasonably incidental to its insurance business, except as specifically authorized by
20 s. 611.26 (4), or s. 611.26 (4) as incorporated by s. 613.26 or 614.24 (1), ~~or s. 613.26~~
21 or any other provision of chs. 600 to 646; except that a domestic insurer not restricted
22 under s. 620.03 may engage directly in any ~~activity~~ incidental business to the extent
23 it is authorized to do so through a subsidiary.

History: 1971 c. 260; 1975 c. 373; 1979 c. 102, 177; 1981 c. 307.

***NOTE: To editor: I added a space between the semicolon and the word "except."
Bruce said okay to do. Please remove this note. Thanks!

****NOTE: I have amended this so that the specific authorization is under 1) s. 611.26 (4); 2) s. 611.26 (4) as incorporated by s. 613.26 or 614.24 (1); or 3) any other provision of chs. 600 to 646. Is this correct? I can't tell what current law means. Section 613.26 appears to incorporate s. 611.26. Does current law mean that "s. 611.26 (4) is incorporated by any other provision of chs. 600 to 646?"

1 **SECTION 9.** 611.07 (4) of the statutes is amended to read:

2 611.07 (4) WAIVER OF NOTICE AND INFORMAL ACTION BY SHAREHOLDERS,
3 POLICYHOLDERS OR DIRECTORS. Sections 180.0704, 180.0706, 180.0821, and 180.0823
4 apply to stock corporations and ss. 181.0704, 181.0706, 181.0821, and 181.0823
5 apply to mutuals. Section 180.0821 also applies to a committee of the board of a stock
6 corporation and s. 181.0821 also applies to a committee of the board of a mutual,
7 except that, in both cases, references to "board" shall be read as "committee" and
8 "directors" shall mean members of the board appointed to serve on the committee.

History: 1971 c. 260; 1973 c. 128 ss. 25, 30; 1973 c. 184, 336; 1975 c. 373 s. 40; 1975 c. 375 s. 44; 1975 c. 422; 1979 c. 110; 1987 a. 13; 1989 a. 303; 1997 a. 79, 252.

9 **SECTION 10.** 611.56 (5) of the statutes is amended to read:

10 611.56 (5) QUORUM MEETINGS, QUORUM, AND VOTING. Section Sections 180.0820,
11 180.0821, and 180.0824 applies apply to a committee of the board of a stock
12 corporation, except that references in s. 180.0824 to a committee "created under s.
13 180.0825" shall be read as a committee "created under this section". Sections
14 181.0820, 181.0821, and 181.0824 apply to a committee of the board of a mutual,
15 except that references to "board" shall be read as "committee", "majority" in s.
16 181.0824 (1) shall mean a majority of the members of the board appointed to serve
17 on the committee, and "majority" in s. 181.0824 (2) shall mean a majority of the
18 members of the board appointed to serve on the committee who are present at the
19 meeting.

History: 1971 c. 260; 1973 c. 31; 1979 c. 102; 1989 a. 303; 1997 a. 79; 2003 a. 261.

20 **SECTION 11.** 620.04 (1) of the statutes is renumbered 620.04 (1) (intro.) and
21 amended to read:

1 620.04 (1) ADDITIONAL RESTRICTIONS. (intro.) If the commissioner finds that by
2 reason of investment conditions generally or of the financial condition or current
3 investment practice of an individual insurer, the interests of insureds, creditors, or
4 the public are or may be endangered, the commissioner may do any of the following:

5 (a) For insurers that are not restricted under s. 620.03, impose reasonable and
6 temporary restrictions upon the investments of an individual insurer, including
7 prohibition or divestment of a particular investment.

History: 1971 c. 260; 1979 c. 102 s. 236 (6); 1991 a. 316.

8 **SECTION 12.** 620.04 (1) (b) of the statutes is created to read:

9 620.04 (1) (b) For insurers that are subject to s. 620.03, impose reasonable
10 restrictions upon the investments of an individual insurer, including prohibition or
11 divestment of a particular investment.

****NOTE: I did not include any of the titles suggested for the new subsections in
s. 623.06. None of the subsections in s. 623.06 in current law have titles; if any
subsection in a section have titles, all should. Do you want titles for all of the subsections
in s. 623.06? If so, I'm open to suggestions for titles to the subsections in current law.

12 **SECTION 13.** 623.06 (1c) of the statutes is repealed and recreated to read:

13 623.06 (1c) In this section:

14 (a) "Appointed actuary" means a qualified actuary who is appointed in
15 accordance with the valuation manual to prepare the actuarial opinion required in
16 sub. (1r).

17 (b) "Deposit-type contract" means a contract that does not incorporate
18 mortality or morbidity risks and as may be specified in the valuation manual.

19 (c) "Life insurance contract" means a contract that incorporates mortality risk,
20 including annuity and pure endowment contracts, and as may be specified in the
21 valuation manual.

1 (d) "Operative date of the valuation manual" means the date determined under
2 sub. (9) (b).

3 (e) "Principle-based valuation" means a reserve valuation that uses one or
4 more methods, or one or more assumptions, determined by the insurer and that is
5 required to comply with sub. (10) as specified in the valuation manual.

6 (f) "Qualified actuary" means an individual who is qualified to sign the
7 applicable statement of actuarial opinion in accordance with the American academy
8 of actuaries qualification standards for actuaries signing such statements and who
9 meets the requirements specified in the valuation manual and any other
10 requirements that the commissioner may by rule specify.

11 (g) "Tail risk" means a risk that occurs either when the frequency of low
12 probability events is higher than expected under a normal probability distribution
13 or when there are observed events of very significant size or magnitude.

14 (h) "Valuation manual" means the manual of valuation instructions as adopted
15 by the National Association of Insurance Commissioners under sub. (9) or as
16 subsequently amended.

17 **SECTION 14.** 623.06 (1f) of the statutes is renumbered 623.06 (1f) (a) and
18 amended to read:

19 623.06 (1f) (a) The For policies and contracts issued before the operative date
20 of the valuation manual, the commissioner shall annually value, or cause to be
21 valued, the reserve liabilities (hereinafter called reserves) for all outstanding life
22 insurance policies and annuity and pure endowment contracts of every life insurance
23 company doing business in this state, ~~except that in the case of an alien company,~~
24 ~~such valuation shall be limited to its United States business,~~ and may certify the
25 amount of any such reserves, specifying the mortality table or tables, rate or rates

1 of interest and methods (net level premium method or other) used in the calculation
 2 of such reserves. In calculating such reserves, the commissioner may use group
 3 methods and approximate averages for fractions of a year or otherwise. In lieu of the
 4 valuation of the reserves herein required of any foreign or alien company, the
 5 commissioner may accept any valuation made, or caused to be made, by the
 6 insurance supervisory official of any state or other jurisdiction ~~when~~ if such
 7 valuation complies with the minimum standard herein provided and if the official
 8 of such state or jurisdiction accepts as sufficient and valid for all legal purposes the
 9 certificate of valuation of the commissioner when such certificate states the
 10 valuation to have been made in a specified manner according to which the aggregate
 11 reserves would be at least as large as if they had been computed in the manner
 12 prescribed by the law of that state or jurisdiction.

History: 1973 c. 303; 1977 c. 153 ss. 2, 4, 6; 1977 c. 273; 1977 c. 339 ss. 17, 44; Stats. 1977 s. 623.06; 1979 c. 110 s. 60 (13); 1981 c. 307 ss. 1x to 6, 13; 1989 a. 56; 1993 a. 490; 1995 a. 396; 1999 a. 85; 2001 a. 103; 2011 a. 257.

13 **SECTION 15. 623.06 (1f) (b)** of the statutes is created to read:

14 **623.06 (1f) (b)** For policies and contracts issued on or after the operative date
 15 of the valuation manual, the commissioner shall annually value, or cause to be
 16 valued, the reserve liabilities (hereinafter called reserves) for all outstanding life
 17 insurance contracts, annuity and pure endowment contracts, and deposit-type
 18 contracts of every insurer doing business in this state. In lieu of the valuation of the
 19 reserves required of a foreign or alien company, the commissioner may accept a
 20 valuation made, or caused to be made, by the insurance supervisory official of any
 21 state or other jurisdiction if the valuation complies with the minimum standard
 22 provided in this section. Subsections (9) and (10) apply to all policies and contracts
 23 issued on or after the operative date of the valuation manual.

****NOTE: I dropped "issued on or after the operative date of the valuation manual"
 after "deposit-type contracts." Okay? It seemed repetitive and unnecessary.

1 **SECTION 16.** 623.06 (1m) (intro.) of the statutes is created to read:

2 623.06 (1m) (intro.) Before the operative date of the valuation manual, all of
3 the following apply:

4 **SECTION 17.** 623.06 (1r) of the statutes is created to read:

5 623.06 (1r) Beginning on the operative date of the valuation manual, all of the
6 following apply:

7 (a) Every insurance company that has outstanding life insurance contracts or
8 deposit-type contracts in this state and that is subject to regulation by the
9 commissioner shall submit to the commissioner the opinion of the appointed actuary
10 as to whether the reserves and related actuarial items held in support of those
11 outstanding contracts are computed appropriately, are based on assumptions that
12 satisfy contractual provisions, are consistent with prior reported amounts, and
13 comply with applicable laws of this state. The valuation manual shall prescribe the
14 specifics of this opinion, including any items that are necessary to its scope.

15 (b) Every insurance company that has outstanding life insurance contracts or
16 deposit-type contracts in this state and that is subject to regulation by the
17 commissioner, except as exempted in the valuation manual, shall also annually
18 include in the opinion required under par. (a) an opinion of the same appointed
19 actuary as to whether the reserves and related actuarial items held in support of the
20 policies and contracts specified in the valuation manual, when considered in light of
21 the assets held by the company with respect to the reserves and related actuarial
22 items, including the investment earnings on the assets and the considerations
23 anticipated to be received and retained under the policies and contracts, make
24 adequate provision for the company's obligations under the policies and contracts,

1 including the benefits under and expenses associated with the policies and contracts.

2 The opinion required under this paragraph shall be governed by the following:

3 1. A memorandum, in form and substance as specified in the valuation manual
4 and acceptable to the commissioner, shall be prepared to support each actuarial
5 opinion.

6 2. If the insurance company fails to provide a supporting memorandum at the
7 request of the commissioner within a period specified in the valuation manual, or the
8 commissioner determines that the supporting memorandum provided by the
9 insurance company fails to meet the standards prescribed by the valuation manual
10 or is otherwise unacceptable to the commissioner, the commissioner may engage a
11 qualified actuary at the expense of the company to review the opinion and the basis
12 for the opinion and prepare the supporting memorandum required by the
13 commissioner.

14 (c) All opinions required under this subsection shall be governed by the
15 following:

16 1. The opinion shall be in form and substance as specified in the valuation
17 manual and acceptable to the commissioner.

18 2. The opinion shall be submitted with the annual statement reflecting the
19 valuation of such reserve liabilities for each year ending on or after the operative date
20 of the valuation manual.

****NOTE: "Year" means calendar year. The operative date of the valuation manual is a particular January 1. Therefore, a year cannot end on the operative date of the valuation manual.

21 3. The opinion shall apply to all policies and contracts subject to par. (b), plus
22 other actuarial liabilities as may be specified in the valuation manual.

****NOTE: Should this say "policies and contracts described in par. (b)"? It doesn't seem like there are any policies and contracts "subject to par. (b)." Are the policies and

is limited to "policies and contracts subject to par. (b)"
Since subd. 3, above ~~reads~~ but add the into - such that all opinions are covered by the

following, am wondering if

contracts described in par. (a) the same ones as those described in par. (b)? (Since subd.

3. above applies to the opinions under both paragraphs.)

1 4. The opinion shall be based on standards adopted from time to time by the
2 actuarial standards board or its successor and on any additional standards
3 prescribed in the valuation manual.

4 5. With respect to an opinion required to be submitted by a foreign or alien
5 company, the commissioner may accept the opinion filed by that company with the
6 insurance supervisory official of another state if the commissioner determines that
7 the opinion reasonably meets the requirements applicable to a company domiciled
8 in this state.

9 6. Except in cases of fraud or willful misconduct, the appointed actuary shall
10 not be liable for damages to any person, other than the insurance company and the
11 commissioner, for any act, error, omission, decision, or conduct with respect to the
12 appointed actuary's opinion.

13 **SECTION 18.** 623.06 (2) (intro.) of the statutes is amended to read:

14 623.06 (2) (intro.) Except as provided in subs. (2a) and (2m), the minimum
15 standard for the valuation of all such policies and contracts issued prior to the
16 effective date of this section [see sub. (8) (13) and s. 632.43 (9)] shall be that provided
17 by the laws in effect immediately prior to such date. Except as provided in subs. (2a)
18 and (2m), the minimum standard for the valuation of all such policies and contracts
19 issued on or after the effective date of this section shall be the commissioners reserve
20 valuation methods defined in subs. (3) to (4m) and (7), with 3.5 percent interest, or
21 in the case of policies and contracts, other than annuity and pure endowment
22 contracts, issued on or after June 19, 1974, and prior to November 8, 1977, 4 percent

1 interest, and for policies issued on or after November 8, 1977, 4.5 percent interest and
2 the following tables:

History: 1973 c. 303; 1977 c. 153 ss. 2, 4, 6; 1977 c. 273; 1977 c. 339 ss. 17, 44; Stats. 1977 s. 623.06; 1979 c. 110 s. 60 (13); 1981 c. 307 ss. 1x to 6, 13; 1989 a. 56; 1993 a. 490; 1995 a. 396; 1999 a. 85; 2001 a. 103; 2011 a. 257.

3 **SECTION 19.** 623.06 (8) of the statutes is renumbered 623.06 (13) (a) and
4 amended to read:

5 623.06 (13) (a) This Except as provided in par. (b), this section shall become
6 effective on the same date as does s. 632.43.

7 (c) The provisions of this section shall supersede all provisions of law
8 inconsistent or in conflict therewith.

History: 1973 c. 303; 1977 c. 153 ss. 2, 4, 6; 1977 c. 273; 1977 c. 339 ss. 17, 44; Stats. 1977 s. 623.06; 1979 c. 110 s. 60 (13); 1981 c. 307 ss. 1x to 6, 13; 1989 a. 56; 1993 a. 490; 1995 a. 396; 1999 a. 85; 2001 a. 103; 2011 a. 257.

9 **SECTION 20.** 623.06 (9) of the statutes is created to read:

10 623.06 (9) (a) For policies and contracts issued on or after the operative date
11 of the valuation manual, the standard prescribed in the valuation manual is the
12 minimum standard of valuation required under sub. (1f) (b), except as provided in
13 pars. (e) and (g).

****NOTE: I added "and contracts" in the paragraph above. Okay?

14 (b) The operative date of the valuation manual is January 1 of the first calendar
15 year beginning after the first July 1 as of which all of the following have occurred:

16 1. The valuation manual has been adopted by the National Association of
17 Insurance Commissioners by an affirmative vote of at least 42 members, or
18 three-fourths of the members voting, whichever is greater.

19 2. The standard valuation law, as amended by the National Association of
20 Insurance Commissioners in 2009, or legislation including substantially similar
21 terms and provisions, has been enacted by states representing more than 75 percent
22 of the direct premiums written as reported in all of the following annual statements
23 submitted for 2008:

- 1 a. Life, accident, and health annual statements.
- 2 b. Health annual statements.
- 3 c. Fraternal annual statements.

****NOTE: How does this work? Do you look at all three types of annual statements for each state?

add up the premium written on

4 3. The standard valuation law, as amended by the National Association of
 5 Insurance Commissioners in 2009, or legislation including substantially similar
 6 terms and provisions, has been enacted by at least 42 of the following 55
 7 jurisdictions:

- 8 a. The 50 states of the United States.
- 9 b. American Samoa.
- 10 c. The American Virgin Islands
- 11 d. The District of Columbia.
- 12 e. Guam.
- 13 f. Puerto Rico.

14 (c) Unless a change in the valuation manual specifies a later effective date,
 15 changes to the valuation manual shall be effective on the first January 1 after the
 16 date when such changes have been adopted by the National Association of Insurance
 17 Commissioners by an affirmative vote representing all of the following:

18 1. At least three-fourths of the members of the National Association of
 19 Insurance Commissioners voting, but not less than a majority of the total
 20 membership.

21 2. Members of the National Association of Insurance Commissioners
 22 representing jurisdictions with more than 75 percent of the direct premiums written

1 as reported in all of the following annual statements most recently available before
2 the vote under subd. 1.:

- 3 a. Life, accident, and health annual statements.
- 4 b. Health annual statements.
- 5 c. Fraternal annual statements.

add up the premium written on

2

****NOTE: How does this work? Do you look at all three types of annual statements for each jurisdiction? Is a jurisdiction a state?

6 (d) The valuation manual must specify all of the following:

7 1. Minimum valuation standards for and definitions of the policies and
8 contracts subject to sub. (1f) (b). The minimum valuation standards shall be all of
9 the following:

10 a. The commissioner's reserve valuation method for life insurance contracts,
11 other than annuity contracts, subject to sub. (1f) (b).

****NOTE: Have I correctly placed the commas?

12 b. The commissioner's annuity reserve valuation method for annuity contracts
13 subject to sub. (1f) (b).

****NOTE: Do the two provisions above refer to the Wisconsin commissioner? Other references to "commissioners" in the section have no apostrophe.

14 c. Minimum reserves for all other policies and contracts subject to sub. (1f) (b).

15 2. Which policies or contracts, or types of policies or contracts, are subject to the
16 requirements of a principle-based valuation in sub. (10) (a) and the minimum
17 valuation standards consistent with those requirements.

****NOTE: Previously this read "contracts that are subject to..." I removed "that."
Is this correct?

18 3. For policies and contracts subject to a principle-based valuation under sub.
19 (10), all of the following:

- 1 a. Requirements for the format of reports to the commissioner under sub. (10) ✓
2 (b) 3., which shall include information necessary to determine if the valuation is
3 appropriate and in compliance with this section.

****NOTE: What does “which” refer to? Is it the requirements, the format, or the reports?

- 4 b. Assumptions shall be prescribed for risks over which the insurance company
5 does not have significant control or influence.

****NOTE: All of these provisions should follow from par. (d) (intro.), i.e., something that must be specified in the valuation manual. This one does not. How should it read? ✓

- 6 c. Procedures for corporate governance and oversight of the actuarial function
7 and a process for appropriate waiver or modification of such procedures. ✓

- 8 4. For policies not subject to a principle-based valuation under sub. (10), the
9 minimum valuation standard shall be the greater of the following:

- 10 a. Reserves that are consistent with the minimum standard of valuation before
11 the operative date of the valuation manual.

- 12 b. Reserves that quantify the benefits, guarantees, and funding associated with
13 the contracts and their risks at a level of conservatism that reflects conditions that
14 include unfavorable events that have a reasonable probability of occurring. This
15 does not preclude, for policies with significant tail risk, reflecting in the reserve
16 conditions appropriately adverse to quantify that tail risk.

****NOTE: I'm having difficulty understanding the last sentence. Does “to quantify” mean “to enable quantifying”? If so, I think that might help.

****NOTE: Subdivision 4. above also does not follow from par. (d) (intro.). Could it say, “The minimum valuation standard for policies not subject to, which minimum valuation standard shall be the greater of”? If it cannot be reworded, it will have to come out of the list in par. (d).

- 17 5. Other requirements, including those relating to reserve methods, models for
18 measuring risk, generation of economic scenarios, assumptions, margins, use of

1 insurance company experience, risk measurement, disclosure, certifications,
2 reports, actuarial opinions and memoranda, transition rules, and internal controls.

3 6. The data and form of the data required under sub. (11) and to whom the data
4 must be submitted. The valuation manual may specify other related requirements,
5 including data analyses and reporting of analyses.

6 (e) In the absence of a specific valuation requirement, or if a specific valuation
7 requirement in the valuation manual is not, in the opinion of the commissioner, in
8 compliance with this section, the insurance company shall, with respect to such
9 requirements, comply with minimum valuation standards prescribed by the
10 commissioner by rule.

****NOTE: I changed "by regulation" to "by rule."

11 (f) The commissioner may engage a qualified actuary, at the expense of the
12 insurance company, to perform an actuarial examination of the company and opine
13 on the appropriateness of any reserve assumption or method used by the company,
14 or to review and opine on a company's compliance with any requirement in this
15 section. The commissioner may rely on the opinion, regarding provisions in this
16 section, of a qualified actuary engaged by the commissioner of another state or
17 district or territory of the United States. As used in this paragraph, the term
18 "engage" includes both "employ" and "contract with."

19 (g) The commissioner may require an insurance company to make any change
20 to an assumption or method that, in the opinion of the commissioner, is necessary to
21 comply with the requirements of the valuation manual or this section. An insurance
22 company shall adjust the reserves as required by the commissioner. The
23 commissioner may take any disciplinary action permitted under ss. 601.41(4) and
24 601.64.

1 (h) 1. The commissioner may exempt specific product forms or product lines of
2 a domestic company that is licensed and doing business only in Wisconsin from the
3 requirements of this subsection if all of the following are satisfied:

4 a. The commissioner has issued an exemption in writing to the company and
5 has not subsequently revoked the exemption in writing.

6 b. The company computes reserves using assumptions and methods used
7 before the operative date of the valuation manual in addition to any requirements
8 established by the commissioner and promulgated by rule.

9 2. For policy forms and product lines for which a company is granted an
10 exemption under subd. 1., subs. (1f) (a), (1m), and (2) to (7) apply, and any reference
11 to the valuation manual does not apply.



****NOTE: This paragraph was sub. (13) in the submitted draft. Because it creates
an exemption from sub. (9), I thought it was more appropriate to place it in sub. (9).

12 **SECTION 21.** 623.06 (10) of the statutes is created to read:



13 623.06 (10) (a) An insurer must establish reserves for policies and contracts as
14 specified in the valuation manual using a principle-based valuation that does all of
15 the following:

****NOTE: Is how I have reworded the intro. acceptable? (What follows the intro.
are not really conditions.)

16 1. Quantifies the benefits, guarantees, and funding associated with the
17 contracts and their risks at a level of conservatism that reflects conditions that
18 include unfavorable events that have a reasonable probability of occurring during
19 the lifetime of the contracts. For policies or contracts with significant tail risk, the
20 principle-based valuation should reflect conditions appropriately adverse to
21 quantify the tail risk.

****NOTE: As before, does “to quantify” mean “to enable quantifying”?

1 2. Incorporates assumptions, risk analysis methods and financial models, and
2 management techniques that are consistent with, but not necessarily identical with,
3 those used within the company's overall risk assessment process, while recognizing
4 potential differences in financial reporting structures and any prescribed
5 assumptions or methods.

6 3. Incorporates assumptions that are derived in one of the following ways:

7 a. The assumption is prescribed in the valuation manual.

8 b. For an assumption that is not prescribed in the valuation manual, the
9 assumption is established using the company's available experience to the extent it
10 is relevant and statistically credible. To the extent that company data is not
11 available, relevant, or statistically credible, the assumption is established using
12 other relevant, statistically credible experience.

13 4. Provides margins for uncertainty, including adverse deviation and
14 estimation error, such that the greater the uncertainty the larger the margin and
15 resulting reserve.

16 (b) A company using a principle-based valuation for one or more policies or
17 contracts subject to this section as specified in the valuation manual shall do all of
18 the following:

19 1. Establish procedures for corporate governance and oversight of the actuarial
20 valuation function consistent with those described in the valuation manual.

21 2. Provide to the commissioner and the board of directors an annual
22 certification of the effectiveness of the internal controls with respect to the
23 principle-based valuation. The internal controls shall be designed to ensure that all
24 material risks inherent in the liabilities and associated assets subject to the
25 valuation are included in the valuation and that valuations are made in accordance

1 with the valuation manual. The certification shall be based on the controls in place
2 as of the end of the preceding calendar year.

3 3. Develop, and file with the commissioner upon request, a principle-based
4 valuation report that complies with standards prescribed in the valuation manual.

5 (c) A principle-based valuation may include a prescribed formulaic reserve
6 component.

7 **SECTION 22.** 623.06 (11) of the statutes is created to read:

8 623.06 (11) A company shall submit mortality, morbidity, policyholder
9 behavior, or expense experience and other data as prescribed in the valuation
10 manual.

****NOTE: Do all of the words before “experience” modify “experience”?

11 **SECTION 23.** 623.06 (12) of the statutes is created to read:

12 623.06 (12) (a) For purposes of par. (b), all of the following are confidential
13 information:

****NOTE: Is the requirement under par. (b) the sole purpose for defining
“confidential information”? Alternatively, do you just want to specify what is
confidential?

14 1. A memorandum in support of an opinion submitted under sub. (1m) or (1r)
15 and any other documents, materials, or other information, including all working
16 papers and copies of working papers, created, produced, or obtained by or disclosed
17 to the commissioner or any other person in connection with the memorandum.

18 2. All documents, materials, and other information, including all working
19 papers and copies of working papers, created, produced, or obtained by or disclosed
20 to the commissioner or any other person in the course of an examination made under
21 sub. (9) (f), except that if an examination report or other material prepared in
22 connection with an examination made under ss. 601.43 and 601.44 is not held as

1 private and confidential information under s. 601.465 (1m) (b), an examination
2 report or other material prepared in connection with an examination made under
3 sub. (9) (f) is not confidential information to the same extent as if the examination
4 report or other material had been prepared under ss. 601.43 and 601.44.

5 3. Any reports, documents, materials, or other information developed by a
6 company in support of, or in connection with, an annual certification by the company
7 under sub. (10) (b) 2. evaluating the effectiveness of the company's internal controls
8 with respect to a principle-based valuation and any other documents, materials, or
9 other information, including all working papers and copies of working papers,
10 created, produced, or obtained by or disclosed to the commissioner or any other
11 person in connection with the reports, documents, materials, and other information.

12 4. Any principle-based valuation report developed under sub. (10) (b) 3. and
13 any other documents, materials, or other information, including all working papers
14 and copies of working papers, created, produced, or obtained by or disclosed to the
15 commissioner or any other person in connection with the report.

16 5. a. In this subdivision, "experience data" means any documents, materials,
17 data, or other information submitted by a company under sub. (11), and "experience
18 materials" means

19 b. Experience data, and any other documents, materials, data, or other
20 information, including all working papers and copies of working papers, created or
21 produced in connection with experience data, that include any potentially
22 company-identifying or personally identifiable information and that is provided to
23 or obtained by the commissioner and any other documents, materials, data, or other
24 information, including all working papers and copies of working papers, created,

1 produced, or obtained by or disclosed to the commissioner or any other person in
2 connection with the experience materials.

***NOTE: I couldn't tell how you were defining "experience materials." This seems
overly complicated. Is there any way to simplify?

3 (b) Confidential information under this subsection is required to be provided
4 to the commissioner under s. 601.42 and shall be kept confidential under s. 601.465.

5 **SECTION 24.** 623.06 (13) (b) of the statutes is created to read:

6 623.06 (13) (b) Any provision in this section that references the valuation
7 manual shall become effective on the operative date of the valuation manual.

8 **SECTION 25.** 628.07 of the statutes is amended to read:

9 **628.07 Licensing of nonresidents.** The commissioner may shall waive the
10 any examination requirement of an ~~examination~~ for a nonresident applicant under
11 s. 628.04 if the ~~jurisdiction of the applicant's residence has imposed upon the~~
12 ~~applicant requirements substantially as rigorous as those of this state and has~~
13 ~~enforced them with comparable rigor~~ home state or state of residence has issued the
14 applicant a license for which the qualifications are equivalent to the qualifications
15 for a license issued by this state and if that license is in good standing at the time of
16 application.

History: 1975 c. 371, 421.

17 **SECTION 26.** 628.10 (2) (a) of the statutes is amended to read:

18 628.10 (2) (a) *For failure to comply with continuing education or annual*
19 *training requirements.* The license of any intermediary or individual navigator who
20 fails to produce evidence of compliance with continuing education standards set by
21 the commissioner or with annual training requirements is revoked, effective on the
22 date on which the evidence of compliance is due. At least 60 days before that date,
23 the commissioner shall ~~send by 1st class mail to the intermediary's or navigator's~~

1 ~~address that is on file with the commissioner notice~~ notify the intermediary or
2 navigator of the date by which the evidence of compliance is due and that the
3 intermediary's or navigator's license will be revoked if the evidence is not received
4 by that date. An intermediary or navigator whose license is revoked under this
5 paragraph may have his or her license reinstated, or may be relicensed, as provided
6 in sub. (5).

History: 1975 c. 371, 421; 1977 c. 363; 1979 c. 102; 1981 c. 38; 1991 a. 214; 1995 a. 27; 1997 a. 191, 237; 1999 a. 9, 30; 2005 a. 387; 2007 a. 20, 169; 2009 a. 180, 342; 2013 a. 20, 36, 173, 276.

7 **SECTION 27.** 628.10 (2) (am) of the statutes is amended to read:

8 628.10 (2) (am) *Nonpayment of fees.* The license of an intermediary or
9 individual navigator who fails to pay a fee when due is revoked, effective on the date
10 on which the fee is due. At least 60 days before that date, the commissioner shall ~~send~~
11 ~~by 1st class mail to the intermediary's or navigator's address that is on file with the~~
12 ~~commissioner notice~~ notify the intermediary or navigator of the date by which the
13 fee is due and that the intermediary's or navigator's license will be revoked if timely
14 payment is not made. An intermediary who is a natural person, or an individual
15 navigator, whose license is revoked under this paragraph may have his or her license
16 reinstated, or may be relicensed, as provided in sub. (5).

History: 1975 c. 371, 421; 1977 c. 363; 1979 c. 102; 1981 c. 38; 1991 a. 214; 1995 a. 27; 1997 a. 191, 237; 1999 a. 9, 30; 2005 a. 387; 2007 a. 20, 169; 2009 a. 180, 342; 2013 a. 20, 36, 173, 276.

17 **SECTION 28.** 628.347 (1) (a) of the statutes is amended to read:

18 628.347 (1) (a) "Annuity" means ~~a fixed or variable~~ an annuity that is an
19 insurance product that is individually solicited, whether the product is classified as
20 an individual or group annuity.

History: 2003 a. 261; 2007 a. 168; 2009 a. 343; 2011 a. 260.

21 **SECTION 29.** 628.347 (4) (c) of the statutes is amended to read:

1 628.347 (4) (c) This subsection applies to FINRA broker-dealer sales of
2 ~~variable annuities and fixed annuities~~ if the suitability and supervision are similar
3 to those applied to variable annuity sales.

History: 2003 a. 261; 2007 a. 168; 2009 a. 343; 2011 a. 260.

****NOTE: This provision still makes reference to variable annuities. Is this okay
under these circumstances?

4 **SECTION 30.** 628.347 (4m) (b) 3. c. of the statutes is amended to read:

5 628.347 (4m) (b) 3. c. How ~~fixed, variable, and indexed~~ product-specific
6 annuity contract ~~provisions~~ features affect consumers.

History: 2003 a. 261; 2007 a. 168; 2009 a. 343; 2011 a. 260.

7 **SECTION 31.** 628.81 of the statutes is repealed.

8 **SECTION 32.** 632.43 (6m) (a) 3. of the statutes is renumbered 632.43 (6m) (a)
9 3. (intro.) and amended to read:

10 632.43 (6m) (a) 3. (intro.) “Nonforfeiture interest rate” means ~~125%~~ either of
11 the following:

12 a. For all policies other than those described in subd. 3. b., 125 percent of the
13 applicable calendar year valuation interest rate under s. 623.06 rounded to the
14 nearest ~~0.25%~~ 0.25 percent, but in no case less than 4 percent.

****NOTE: Is this okay or might there be a time *after* the operative date of the
valuation manual when there is no *effective* operative date of the valuation manual?

History: 1973 c. 303; 1977 c. 153 s. 1; 1977 c. 339 s. 15; Stats. 1977 s. 632.43; 1979 c. 110 s. 60 (13); 1981 c. 307; 1983 a. 189, 538; 1995 a. 225; 2009 a. 177.

15 **SECTION 33.** 632.43 (6m) (a) 3. b. of the statutes is created to read:

16 632.43 (6m) (a) 3. b. For policies issued on or after the operative date of the
17 valuation manual, the rate per annum provided in the valuation manual.

18 **SECTION 34.** 632.43 (6m) (a) 4m. of the statutes is created to read:

19 632.43 (6m) (a) 4m. “Operative date of the valuation manual” means the
20 January 1 of the first calendar year that the valuation manual, as defined in s. 623.06
21 (1c) (h), is effective in accordance with s. 623.06 (9) (b).

①
****NOTE: Should this be the January 1 of the year after the manual is effective, in case the manual is effective in the middle of or late in a year? *Should this definition be the*

****NOTE: To me, Check this language after doing ch. 623.

Same as in A.623.06 (1c)(d)?

1 SECTION 35. 632.43 (6m) (e) 3. f. of the statutes is amended to read:

2 632.43 (6m) (e) 3. f. Any For policies issued before the operative date of the
3 valuation manual, any ordinary mortality tables adopted after 1980 by the National
4 Association of Insurance Commissioners, that are approved by rule adopted by the
5 commissioner for use in determining the minimum nonforfeiture standard, may be
6 substituted for the commissioners 1980 standard ordinary mortality table with or
7 without 10-year select mortality factors or for the commissioners 1980 extended
8 term insurance table. For policies issued on or after the operative date of the
9 valuation manual, the valuation manual provides the commissioners standard
10 mortality table for use in determining the minimum nonforfeiture standard that
11 may be substituted for the commissioners 1980 standard ordinary mortality table
12 with or without 10-year select mortality factors or for the commissioners 1980
13 extended term insurance table. If the commissioner approves, by rule, any ordinary
14 mortality table adopted by the National Association of Insurance Commissioners for
15 use in determining the minimum nonforfeiture standard for policies issued on or
16 after the operative date of the valuation manual, then that minimum nonforeiture
17 standard supersedes the minimum nonforfeiture standard provided by the valuation
18 manual.

History: 1973 c. 303; 1977 c. 153 s. 1; 1977 c. 339 s. 15; Stats. 1977 s. 632.43; 1979 c. 110 s. 60 (13); 1981 c. 307; 1983 a. 189, 538; 1995 a. 225; 2009 a. 177.

19 SECTION 36. 632.43 (6m) (e) 3. g. of the statutes is amended to read:

20 632.43 (6m) (e) 3. g. Any For policies issued before the operative date of the
21 valuation manual, any industrial mortality tables adopted after 1980 by the
22 National Association of Insurance Commissioners, that are approved by rule

1 adopted by the commissioner for use in determining the minimum nonforfeiture
 2 standard, may be substituted for the commissioners 1961 standard industrial
 3 mortality table or the commissioners 1961 industrial extended term insurance table.
 4 For policies issued on or after the operative date of the valuation manual, the
 5 valuation manual provides the commissioners standard mortality table for use in
 6 determining the minimum nonforfeiture standard that may be substituted for the
 7 commissioners 1961 standard industrial mortality table or for the commissioners
 8 1961 industrial extended term insurance table. If the commissioner approves, by
 9 rule, any industrial mortality table adopted by the National Association of Insurance
 10 Commissioners for use in determining the minimum nonforfeiture standard for
 11 policies issued on or after the operative date of the valuation manual, then that
 12 minimum nonforfeiture standard supersedes the minimum nonforfeiture standard
 13 provided by the valuation manual.

History: 1973 c. 303; 1977 c. 153 s. 1; 1977 c. 339 s. 15; Stats. 1977 s. 632.43; 1979 c. 110 s. 60 (13); 1981 c. 307; 1983 a. 189, 538; 1995 a. 225; 2009 a. 177.

***NOTE: In both this provision and the provision above, I substituted "by rule" for "by regulation." Is rule what is meant?

Handwritten notes in the left margin: "23519" and "23519" with arrows pointing to the text.

SECTION# . RP; 635.13 (title)

14 SECTION 37. 635.13 (1) (except 635.13 (1) (title)) of the statutes is renumbered
 15 635.13.

SECTION 38. 635.13 (1) (title) of the statutes is repealed.

SECTION 39. 635.13 (2) of the statutes is repealed.

SECTION 40. 655.27 (3) (b) 1. of the statutes is amended to read:

19 655.27 (3) (b) 1. The commissioner, after approval by the board of governors,
 20 shall by rule set the fees under par. (a). The rule shall provide that fees may be paid
 21 annually or in semiannual or quarterly installments. In addition to the prorated
 22 portion of the annual fee, semiannual and quarterly installments shall include an
 23 amount sufficient to cover interest not earned and administrative costs incurred

1 because the fees were not paid on an annual basis. This paragraph does not impose
2 liability on the board of governors for payment of any part of a fund deficit.

3 **SECTION 41.** 655.27 (3) (b) 2. of the statutes is amended to read:

4 655.27 (3) (b) 2. With respect to fees paid by physicians, the ~~rule~~ commissioner
5 shall provide for not more than 4 payment classifications, based upon the amount of
6 surgery performed and the risk of diagnostic and therapeutic services provided or
7 procedures performed.

8 **SECTION 42.** 655.27 (3) (b) 2m. of the statutes is amended to read:

9 655.27 (3) (b) 2m. In addition to the fees and payment classifications described
10 under subds. 1. and 2., the commissioner, after approval by the board of governors,
11 may ~~by rule~~ establish a separate payment classification for physicians satisfying s.
12 655.002 (1) (b) and a separate fee for nurse anesthetists satisfying s. 655.002 (1) (b)
13 which take into account the loss experience of health care providers for whom
14 Michigan is a principal place of practice.

15 **SECTION 43.** 655.27 (3) (bg) 1. of the statutes is amended to read:

16 655.27 (3) (bg) 1. ~~Every rule under par. (b)~~ The commissioner shall provide for
17 an automatic increase in a health care provider's fees, except as provided in subd. 2.,
18 if the loss and expense experience of the fund and other sources with respect to the
19 health care provider or an employee of the health care provider exceeds either a
20 number of claims paid threshold or a dollar volume of claims paid threshold, both as
21 established ~~in the rule~~ by the commissioner. The ~~rule~~ commissioner shall specify
22 applicable amounts of increase corresponding to the number of claims paid and the
23 dollar volume of awards in excess of the respective thresholds.

24 **SECTION 44.** 655.27 (3) (bg) 2. of the statutes is amended to read:

1 655.27 (3) (bg) 2. The rule commissioner shall provide that the automatic
2 increase does not apply if the board of governors determines that the performance
3 of the injured patients and families compensation fund peer review council in
4 making recommendations under s. 655.275 (5) (a) adequately addresses the
5 consideration set forth in par. (a) 2m.

6 **SECTION 45.** 655.27 (3) (br) (intro.) of the statutes is amended to read:

7 655.27 (3) (br) *Limit on fees.* (intro.) ~~Every rule~~ The commissioner, in setting
8 fees for a particular fiscal year under par. (b), shall ensure that the fees assessed do
9 not exceed the greatest of the following:

10 **SECTION 46.** 655.27 (3) (bt) of the statutes is created to read:

11 655.27 (3) (bt) *Report to joint committee on finance.* Annually, no later than
12 April 1, the commissioner shall send to the cochairpersons of the joint committee on
13 finance a report detailing the proposed fees set for the next fiscal year under par. (b)
14 and under s. 655.61 (1). If, within 14 working days after the date that the
15 commissioner submits the report, the cochairpersons of the committee notify the
16 commissioner that the committee has scheduled a meeting for the purpose of
17 reviewing the proposed fees, the commissioner may not impose the fees until the
18 committee approves the report. If the cochairpersons of the committee do not notify
19 the commissioner, the commissioner may impose the proposed fees. In addition to
20 any other method prescribed by rule for advising health care providers of the amount
21 of the fees, the commissioner shall post the fees set under par. (b) for the next fiscal
22 year on the office's Internet site and the director of state courts shall post the fees set
23 under s. 655.61 (1) for the next fiscal year on the mediation fund's Internet site.

24 **SECTION 47.** 655.27 (3) (d) of the statutes is amended to read:

1 655.27 (3) (d) ~~Rule not effective; Late establishment or approval of fees.~~ If the
2 ~~rule establishing fees under par. (b) does not take effect prior to~~ for any particular
3 fiscal year are not established by the commissioner, approved by the board of
4 governors, or approved under par. (bt) by the joint committee on finance before June
5 2 of any that fiscal year, the commissioner may elect to collect fees as established for
6 the previous fiscal year. If the commissioner so elects and the rule fees for that fiscal
7 year are subsequently ~~takes effect~~ established by the commissioner, approved by the
8 board of governors, or approved under par. (bt) by the joint committee on finance, the
9 balance for the fiscal year shall be collected or refunded or the remaining semiannual
10 or quarterly installment payments shall be adjusted except the commissioner may
11 elect not to collect, refund, or adjust for minimal amounts.

12 **SECTION 48.** 655.27 (3) (e) of the statutes is amended to read:

13 655.27 (3) (e) *Podiatrist fees.* The commissioner, after approval by the board
14 of governors, may ~~by rule~~ assess fees against podiatrists for the purpose of paying the
15 fund's portion of medical malpractice claims and expenses resulting from claims
16 against podiatrists based on occurrences before July 1, 1986.

17 **SECTION 49.** 655.61 (1) of the statutes is amended to read:

18 655.61 (1) The mediation fund created under s. 655.68 shall be financed from
19 fees charged to health care providers. The director of state courts shall, by February
20 1 annually, determine the revenues needed for the operation of the mediation system
21 during the succeeding fiscal year and inform the board of governors of that amount.
22 The director of state courts shall also inform the board of governors of the number
23 of requests for mediation involving each type of health care provider set out in s.
24 655.002 for the most recent fiscal year for which statistics are available. The board

1 of governors shall, ~~by rule~~, set fees to charge health care providers at a level sufficient
2 to provide the necessary revenue.

3 History: 1985 a. 340; 1989 a. 187; 1991 a. 214.

SECTION 50. 655.61 (3) of the statutes is created to read:

4 655.61 (3) If the fees under sub. (1) for any particular fiscal year are not
5 established by the board of governors or approved by the joint committee on finance
6 under s. 655.27 (3) (bt) before June 2 of that fiscal year, the commissioner may elect
7 to collect fees as established for the previous fiscal year. If the commissioner so elects
8 and the fees for that fiscal year are subsequently established by the board of
9 governors or approved by the joint committee on finance under s. 655.27 (3) (bt), the
10 balance for the fiscal year shall be collected or refunded, except that the
11 commissioner may elect not to collect or refund minimal amounts.

12

(END)

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**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-2365/P1
PJK:.....

Date

the *of any provision*

I made a number of stylistic changes. Please review the draft carefully to make sure that I have not inadvertently changed meaning by doing so.

I have not gone through the draft yet to determine whether any provisions need an initial applicability. Are you aware of any that do?

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**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-2365/P1dn
PJK:kjf:kf

May 14, 2015

Date

I made a number of stylistic changes. Please review the draft carefully to make sure that I have not inadvertently changed the meaning of any provision by doing so.

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