



State of Wisconsin  
2015 - 2016 LEGISLATURE

Due Wed 5/20 if  
possible (or Thurs)

stays  
LRB-2365/P1 - keep  
PJK&TJD:kjf:kf 05/21

**PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION**

Inserts TJD

D-note

1        **AN ACT to repeal** 601.422, 601.425, 601.428, 628.81, 635.13 (title) and 635.13 (2);  
2            **to renumber** 635.13 (1); **to renumber and amend** 620.04 (1), 623.06 (1f),  
3            623.06 (8) and 632.43 (6m) (a) 3.; **to amend** 605.21 (2), 610.21 (1), 611.07 (4),  
4            611.56 (5), 623.06 (2) (intro.), 628.07, 628.10 (2) (a), 628.10 (2) (am), 628.347 (1)  
5            (a), 628.347 (4) (c), 628.347 (4m) (b) 3. c., 632.43 (6m) (e) 3. f., 632.43 (6m) (e)  
6            3. g., 655.27 (3) (b) 1., 655.27 (3) (b) 2., 655.27 (3) (b) 2m., 655.27 (3) (bg) 1.,  
7            655.27 (3) (bg) 2., 655.27 (3) (br) (intro.), 655.27 (3) (d), 655.27 (3) (e) and 655.61  
8            (1); **to repeal and recreate** 623.06 (1c); and **to create** 227.01 (13) (pm),  
9            601.465 (1m) (c) 8., 601.465 (1m) (c) 9., 620.04 (1) (b), 623.06 (1f) (b), 623.06 (1m)  
10           (intro.), 623.06 (1r), 623.06 (9), 623.06 (10), 623.06 (11), 623.06 (12), 623.06 (13)  
11           (b), 632.43 (6m) (a) 3. b., 632.43 (6m) (a) 4m., 655.27 (3) (bt) and 655.61 (3) of

1 the statutes; **relating to:** various miscellaneous changes to the insurance  
2 statutes.

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***Analysis by the Legislative Reference Bureau***

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

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

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

4 227.01 (13) (pm) Relates to setting fees under s. 655.27 (3) for the injured  
5 patients and families compensation fund or setting fees under s. 655.61 for the  
6 mediation fund.

Insert  
TJD,  
6

7 **SECTION 2.** 601.422 of the statutes is repealed.

8 **SECTION 3.** 601.425 of the statutes is repealed.

9 **SECTION 4.** 601.428 of the statutes is repealed.

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

11 601.465 (1m) (c) 8. The International Association of Insurance Supervisors.

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

13 601.465 (1m) (c) 9. An agent or employee of the International Association of  
14 Insurance Supervisors.

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

16 605.21 (2) PREMIUM PAYMENT. Upon receipt of certification of premium due, the  
17 premium shall be paid into the state treasury for the benefit of the property fund,  
18 within ~~60~~ 30 days after the date of certification or the effective date of the policy,  
19 whichever is the later. Premiums for property insured effective at a later date shall  
20 be paid within ~~60~~ 30 days after the effective date of each addition. The amount of a

1 premium in default shall be a special charge against the local governing unit, and  
2 be included in the next certification of state taxes and charged and collected as other  
3 special charges are collected, with interest from the due date at a rate set by the  
4 commissioner by rule or, in the absence of a rule, at twice the most common prime  
5 rate charged by major banks in this state.

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

7 610.21 (1) PROHIBITION FOR DOMESTIC INSURERS. No domestic insurer may  
8 engage, directly or indirectly, in any business other than insurance and business  
9 reasonably incidental to its insurance business, except as specifically authorized by  
10 s. 611.26 (4), or s. 611.26 (4) as incorporated by s. 613.26 or 614.24 (1), or s. 613.26  
11 or any other provision of chs. 600 to 646; except that a domestic insurer not restricted  
12 under s. 620.03 may engage directly in any activity incidental business to the extent  
13 it is authorized to do so through a subsidiary.

\*\*\*\*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?"

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

15 611.07 (4) WAIVER OF NOTICE AND INFORMAL ACTION BY SHAREHOLDERS,  
16 POLICYHOLDERS OR DIRECTORS. Sections 180.0704, 180.0706, 180.0821, and 180.0823  
17 apply to stock corporations and ss. 181.0704, 181.0706, 181.0821, and 181.0823  
18 apply to mutuals. Section 180.0821 also applies to a committee of the board of a stock  
19 corporation and s. 181.0821 also applies to a committee of the board of a mutual,  
20 except that, in both cases, references to "board" shall be read as "committee" and  
21 "directors" shall mean members of the board appointed to serve on the committee.

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

1           611.56 (5) ~~QUORUM MEETINGS, QUORUM, AND VOTING. Section~~ Sections 180.0820,  
2 180.0821, and 180.0824 ~~applies~~ apply to a committee of the board of a stock  
3 corporation, except that references in s. 180.0824 to a committee “created under s.  
4 180.0825” shall be read as a committee “created under this section”. Sections  
5 181.0820, 181.0821, and 181.0824 apply to a committee of the board of a mutual,  
6 except that references to “board” shall be read as “committee”, “majority” in s.  
7 181.0824 (1) shall mean a majority of the members of the board appointed to serve  
8 on the committee, and “majority” in s. 181.0824 (2) shall mean a majority of the  
9 members of the board appointed to serve on the committee who are present at the  
10 meeting.

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

13           620.04 (1) **ADDITIONAL RESTRICTIONS.** (intro.) If the commissioner finds that by  
14 reason of investment conditions generally or of the financial condition or current  
15 investment practice of an individual insurer, the interests of insureds, creditors, or  
16 the public are or may be endangered, the commissioner may do any of the following:

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

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

21           620.04 (1) (b) For insurers that are subject to s. 620.03, impose reasonable  
22 restrictions upon the investments of an individual insurer, including prohibition or  
23 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

subsections 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.

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

2           **623.06 (1c)** In this section:

3           (a) “Appointed actuary” means a qualified actuary who is appointed in  
4 accordance with the valuation manual to prepare the actuarial opinion required in  
5 sub. (1r).

6           (b) “Deposit-type contract” means a contract that does not incorporate  
7 mortality or morbidity risks and as may be specified in the valuation manual.

8           (c) “Life insurance contract” means a contract that incorporates mortality risk,  
9 including annuity and pure endowment contracts, and as may be specified in the  
10 valuation manual.

11           (d) “Operative date of the valuation manual” means the date determined under  
12 sub. (9) (b).

13           (e) “Principle-based valuation” means a reserve valuation that uses one or  
14 more methods, or one or more assumptions, determined by the insurer and that is  
15 required to comply with sub. (10) as specified in the valuation manual.

16           (f) “Qualified actuary” means an individual who is qualified to sign the  
17 applicable statement of actuarial opinion in accordance with the American academy  
18 of actuaries qualification standards for actuaries signing such statements and who  
19 meets the requirements specified in the valuation manual and any other  
20 requirements that the commissioner may by rule specify.

21           (g) “Tail risk” means a risk that occurs either when the frequency of low  
22 probability events is higher than expected under a normal probability distribution  
23 or when there are observed events of very significant size or magnitude.

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

4 SECTION 14. 623.06 (1f) of the statutes is renumbered 623.06 (1f) (a) and  
5 amended to read:

6 623.06 (1f) (a) The For policies and contracts issued before the operative date  
7 of the valuation manual, the commissioner shall annually value, or cause to be  
8 valued, the reserve liabilities (hereinafter called reserves) for all outstanding life  
9 insurance policies and annuity and pure endowment contracts of every life insurance  
10 company doing business in this state, ~~except that in the case of an alien company,~~  
11 ~~such valuation shall be limited to its United States business,~~ and may certify the  
12 amount of any such reserves, specifying the mortality table or tables, rate or rates  
13 of interest and methods (net level premium method or other) used in the calculation  
14 of such reserves. In calculating such reserves, the commissioner may use group  
15 methods and approximate averages for fractions of a year or otherwise. In lieu of the  
16 valuation of the reserves herein required of any foreign or alien company, the  
17 commissioner may accept any valuation made, or caused to be made, by the  
18 insurance supervisory official of any state or other jurisdiction ~~when~~ if such  
19 valuation complies with the minimum standard herein provided and if the official  
20 of such state or jurisdiction accepts as sufficient and valid for all legal purposes the  
21 certificate of valuation of the commissioner when such certificate states the  
22 valuation to have been made in a specified manner according to which the aggregate  
23 reserves would be at least as large as if they had been computed in the manner  
24 prescribed by the law of that state or jurisdiction.

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

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

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

12           623.06 (1m) (intro.) Before the operative date of the valuation manual, all of  
13 the following apply:

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

15           623.06 (1r) Beginning on the operative date of the valuation manual, all of the  
16 following apply:

17           (a) Every insurance company that has outstanding life insurance contracts or  
18 deposit-type contracts in this state and that is subject to regulation by the  
19 commissioner shall submit to the commissioner the opinion of the appointed actuary  
20 as to whether the reserves and related actuarial items held in support of those  
21 outstanding contracts are computed appropriately, are based on assumptions that  
22 satisfy contractual provisions, are consistent with prior reported amounts, and

1 comply with applicable laws of this state. The valuation manual shall prescribe the  
2 specifics of this opinion, including any items that are necessary to its scope.

3 (b) Every insurance company that has outstanding life insurance contracts or  
4 deposit-type contracts in this state and that is subject to regulation by the  
5 commissioner, except as exempted in the valuation manual, shall also annually  
6 include in the opinion required under par. (a) an opinion of the same appointed  
7 actuary as to whether the reserves and related actuarial items held in support of the  
8 policies and contracts specified in the valuation manual, when considered in light of  
9 the assets held by the company with respect to the reserves and related actuarial  
10 items, including the investment earnings on the assets and the considerations  
11 anticipated to be received and retained under the policies and contracts, make  
12 adequate provision for the company's obligations under the policies and contracts,  
13 including the benefits under and expenses associated with the policies and contracts.  
14 The opinion required under this paragraph shall be governed by the following:

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

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



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

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

5 2. The opinion shall be submitted with the annual statement reflecting the  
6 valuation of such reserve liabilities for each year ending on or after the operative date  
7 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.

8 3. The opinion shall apply to all policies and contracts subject to par. (b), plus  
9 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)." Since subd. 3. above is limited to "policies and contracts subject to par. (b)" but the intro. says that all opinions are governed by the following, I'm wondering if the policies and contracts described in par. (a) the same ones as those described in par. (b)?

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

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

18 6. Except in cases of fraud or willful misconduct, the appointed actuary shall  
19 not be liable for damages to any person, other than the insurance company and the

1 commissioner, for any act, error, omission, decision, or conduct with respect to the  
2 appointed actuary's opinion.

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

4 623.06 (2) (intro.) Except as provided in subs. (2a) and (2m), the minimum  
5 standard for the valuation of all such policies and contracts issued prior to the  
6 effective date of this section [see sub. (8) (13) and s. 632.43 (9)] shall be that provided  
7 by the laws in effect immediately prior to such date. Except as provided in subs. (2a)  
8 and (2m), the minimum standard for the valuation of all such policies and contracts  
9 issued on or after the effective date of this section shall be the commissioners reserve  
10 valuation methods defined in subs. (3) to (4m) and (7), with 3.5 percent interest, or  
11 in the case of policies and contracts, other than annuity and pure endowment  
12 contracts, issued on or after June 19, 1974, and prior to November 8, 1977, 4 percent  
13 interest, and for policies issued on or after November 8, 1977, 4.5 percent interest and  
14 the following tables:

15 SECTION 19. 623.06 (8) of the statutes is renumbered 623.06 (13) (a) and  
16 amended to read:

17 623.06 (13) (a) ~~This~~ Except as provided in par. (b), this section shall become  
18 effective on the same date as does s. 632.43.

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

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

22 623.06 (9) (a) For policies and contracts issued on or after the operative date  
23 of the valuation manual, the standard prescribed in the valuation manual is the  
24 minimum standard of valuation required under sub. (1f) (b), except as provided in  
25 pars. (e) and (g).

\*\*\*\*NOTE: I added “and contracts” in the paragraph above. Okay?

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

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

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

11 a. Life, accident, and health annual statements.

12 b. Health annual statements.

13 c. Fraternal annual statements.

\*\*\*\*NOTE: How does this work? Do you add up the premium written on all three  
types of annual statements for each state?

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

18 a. The 50 states of the United States.

19 b. American Samoa.

20 c. The American Virgin Islands.

21 d. The District of Columbia.

22 e. Guam.

23 f. Puerto Rico.

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

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

8 2. Members of the National Association of Insurance Commissioners  
9 representing jurisdictions with more than 75 percent of the direct premiums written  
10 as reported in all of the following annual statements most recently available before  
11 the vote under subd. 1.:

12 a. Life, accident, and health annual statements.

13 b. Health annual statements.

14 c. Fraternal annual statements.

\*\*\*\*NOTE: How does this work? Do you add up the premium written on all three  
types of annual statements for each jurisdiction? Is a jurisdiction a state?

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

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

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

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

21 b. The commissioner's annuity reserve valuation method for annuity contracts  
22 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.

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

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

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

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

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

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

10 b. Assumptions shall be prescribed for risks over which the insurance company  
11 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?

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

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

16 a. Reserves that are consistent with the minimum standard of valuation before  
17 the operative date of the valuation manual.

18 b. Reserves that quantify the benefits, guarantees, and funding associated with  
19 the contracts and their risks at a level of conservatism that reflects conditions that  
20 include unfavorable events that have a reasonable probability of occurring. This

1 does not preclude, for policies with significant tail risk, reflecting in the reserve  
2 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).

3 5. Other requirements, including those relating to reserve methods, models for  
4 measuring risk, generation of economic scenarios, assumptions, margins, use of  
5 insurance company experience, risk measurement, disclosure, certifications,  
6 reports, actuarial opinions and memoranda, transition rules, and internal controls.

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

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

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

15 (f) The commissioner may engage a qualified actuary, at the expense of the  
16 insurance company, to perform an actuarial examination of the company and opine  
17 on the appropriateness of any reserve assumption or method used by the company,  
18 or to review and opine on a company's compliance with any requirement in this  
19 section. The commissioner may rely on the opinion, regarding provisions in this  
20 section, of a qualified actuary engaged by the commissioner of another state or

1 district or territory of the United States. As used in this paragraph, the term  
2 “engage” includes both “employ” and “contract with.”

3 (g) The commissioner may require an insurance company to make any change  
4 to an assumption or method that, in the opinion of the commissioner, is necessary to  
5 comply with the requirements of the valuation manual or this section. An insurance  
6 company shall adjust the reserves as required by the commissioner. The  
7 commissioner may take any disciplinary action permitted under ss. 601.41 (4) and  
8 601.64.

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

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

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

17 2. For policy forms and product lines for which a company is granted an  
18 exemption under subd. 1., subs. (1f) (a), (1m), and (2) to (7) apply, and any reference  
19 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).

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

21 623.06 (10) (a) An insurer must establish reserves for policies and contracts as  
22 specified in the valuation manual using a principle-based valuation that does all of  
23 the following:

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

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

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

7           2. Incorporates assumptions, risk analysis methods and financial models, and  
8 management techniques that are consistent with, but not necessarily identical with,  
9 those used within the company’s overall risk assessment process, while recognizing  
10 potential differences in financial reporting structures and any prescribed  
11 assumptions or methods.

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

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

14           b. For an assumption that is not prescribed in the valuation manual, the  
15 assumption is established using the company’s available experience to the extent it  
16 is relevant and statistically credible. To the extent that company data is not  
17 available, relevant, or statistically credible, the assumption is established using  
18 other relevant, statistically credible experience.

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



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

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

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

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

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

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

18 623.06 (11) A company shall submit mortality, morbidity, policyholder  
19 behavior, or expense experience and other data as prescribed in the valuation  
20 manual.

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

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

22 623.06 (12) (a) For purposes of par. (b), all of the following are confidential  
23 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?

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

5           2. All documents, materials, and other information, including all working  
6 papers and copies of working papers, created, produced, or obtained by or disclosed  
7 to the commissioner or any other person in the course of an examination made under  
8 sub. (9) (f), except that if an examination report or other material prepared in  
9 connection with an examination made under ss. 601.43 and 601.44 is not held as  
10 private and confidential information under s. 601.465 (1m) (b), an examination  
11 report or other material prepared in connection with an examination made under  
12 sub. (9) (f) is not confidential information to the same extent as if the examination  
13 report or other material had been prepared under ss. 601.43 and 601.44.

14           3. Any reports, documents, materials, or other information developed by a  
15 company in support of, or in connection with, an annual certification by the company  
16 under sub. (10) (b) 2. evaluating the effectiveness of the company’s internal controls  
17 with respect to a principle-based valuation and any other documents, materials, or  
18 other information, including all working papers and copies of working papers,  
19 created, produced, or obtained by or disclosed to the commissioner or any other  
20 person in connection with the reports, documents, materials, and other information.

21           4. Any principle-based valuation report developed under sub. (10) (b) 3. and  
22 any other documents, materials, or other information, including all working papers

1 and copies of working papers, created, produced, or obtained by or disclosed to the  
2 commissioner or any other person in connection with the report.

3 5. a. In this subdivision, “experience data” means any documents, materials,  
4 data, or other information submitted by a company under sub. (11), and “experience  
5 materials” means ....

6 b. Experience data, and any other documents, materials, data, or other  
7 information, including all working papers and copies of working papers, created or  
8 produced in connection with experience data, that include any potentially  
9 company-identifying or personally identifiable information and that is provided to  
10 or obtained by the commissioner and any other documents, materials, data, or other  
11 information, including all working papers and copies of working papers, created,  
12 produced, or obtained by or disclosed to the commissioner or any other person in  
13 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?

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

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

17 623.06 (13) (b) Any provision in this section that references the valuation  
18 manual shall become effective on the operative date of the valuation manual.

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

20 **628.07 Licensing of nonresidents.** The commissioner ~~may~~ shall waive the  
21 any examination requirement of ~~an examination~~ for a nonresident applicant under  
22 s. 628.04 if ~~the jurisdiction of the applicant's residence has imposed upon the~~  
23 ~~applicant requirements substantially as rigorous as those of this state and has~~

1 ~~enforced them with comparable rigor~~ home state or state of residence has issued the  
2 applicant a license for which the qualifications are equivalent to the qualifications  
3 for a license issued by this state and if that license is in good standing at the time of  
4 application.

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

6 628.10 (2) (a) *For failure to comply with continuing education or annual*  
7 *training requirements.* The license of any intermediary or individual navigator who  
8 fails to produce evidence of compliance with continuing education standards set by  
9 the commissioner or with annual training requirements is revoked, effective on the  
10 date on which the evidence of compliance is due. At least 60 days before that date,  
11 the commissioner shall ~~send by 1st class mail to the intermediary's or navigator's~~  
12 ~~address that is on file with the commissioner notice~~ notify the intermediary or  
13 navigator of the date by which the evidence of compliance is due and that the  
14 intermediary's or navigator's license will be revoked if the evidence is not received  
15 by that date. An intermediary or navigator whose license is revoked under this  
16 paragraph may have his or her license reinstated, or may be relicensed, as provided  
17 in sub. (5).

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

19 628.10 (2) (am) *Nonpayment of fees.* The license of an intermediary or  
20 individual navigator who fails to pay a fee when due is revoked, effective on the date  
21 on which the fee is due. At least 60 days before that date, the commissioner shall ~~send~~  
22 ~~by 1st class mail to the intermediary's or navigator's address that is on file with the~~  
23 ~~commissioner notice~~ notify the intermediary or navigator of the date by which the  
24 fee is due and that the intermediary's or navigator's license will be revoked if timely  
25 payment is not made. An intermediary who is a natural person, or an individual

1 navigator, whose license is revoked under this paragraph may have his or her license  
2 reinstated, or may be relicensed, as provided in sub. (5).

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

4 628.347 (1) (a) “Annuity” means ~~a fixed or variable~~ an annuity that is an  
5 insurance product that is individually solicited, whether the product is classified as  
6 an individual or group annuity.

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

8 628.347 (4) (c) This subsection applies to FINRA broker–dealer sales of  
9 ~~variable annuities and fixed~~ annuities if the suitability and supervision are similar  
10 to those applied to variable annuity sales.

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

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

12 628.347 (4m) (b) 3. c. How ~~fixed, variable, and indexed~~ product-specific  
13 annuity contract ~~provisions~~ features affect consumers.

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

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

17 632.43 (6m) (a) 3. (intro.) “Nonforfeiture interest rate” means ~~125%~~ either of  
18 the following:

19 a. For all policies other than those described in subd. 3. b., 125 percent of the  
20 applicable calendar year valuation interest rate under s. 623.06 rounded to the  
21 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?

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

1           632.43 (6m) (a) 3. b. For policies issued on or after the operative date of the  
2 valuation manual, the rate per annum provided in the valuation manual.

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

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

      \*\*\*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 same as in s. 623.06 (1c) (d)?

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

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

1 standard supersedes the minimum nonforfeiture standard provided by the valuation  
2 manual.

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

4 632.43 (6m) (e) 3. g. Any For policies issued before the operative date of the  
5 valuation manual, any industrial mortality tables adopted after 1980 by the  
6 National Association of Insurance Commissioners, that are approved by rule  
7 adopted by the commissioner for use in determining the minimum nonforfeiture  
8 standard, may be substituted for the commissioners 1961 standard industrial  
9 mortality table or the commissioners 1961 industrial extended term insurance table.  
10 For policies issued on or after the operative date of the valuation manual, the  
11 valuation manual provides the commissioners standard mortality table for use in  
12 determining the minimum nonforfeiture standard that may be substituted for the  
13 commissioners 1961 standard industrial mortality table or for the commissioners  
14 1961 industrial extended term insurance table. If the commissioner approves, by  
15 rule, any industrial mortality table adopted by the National Association of Insurance  
16 Commissioners for use in determining the minimum nonforfeiture standard for  
17 policies issued on or after the operative date of the valuation manual, then that  
18 minimum nonforfeiture standard supersedes the minimum nonforfeiture standard  
19 provided by the valuation manual.

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

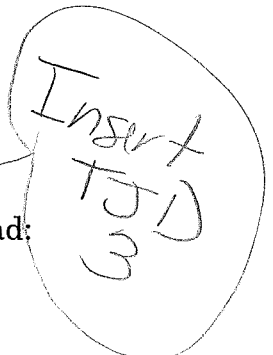
20 **SECTION 37.** 635.13 (title) of the statutes is repealed.

21 **SECTION 38.** 635.13 (1) of the statutes is renumbered 635.13.

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

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

Insert  
TJD  
3



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

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

9           655.27 (3) (b) 2. With respect to fees paid by physicians, the ~~rule~~ commissioner  
10 shall provide for not more than 4 payment classifications, based upon the amount of  
11 surgery performed and the risk of diagnostic and therapeutic services provided or  
12 procedures performed.

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

14           655.27 (3) (b) 2m. In addition to the fees and payment classifications described  
15 under subds. 1. and 2., the commissioner, after approval by the board of governors,  
16 may ~~by rule~~ establish a separate payment classification for physicians satisfying s.  
17 655.002 (1) (b) and a separate fee for nurse anesthetists satisfying s. 655.002 (1) (b)  
18 which take into account the loss experience of health care providers for whom  
19 Michigan is a principal place of practice.

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

21           655.27 (3) (bg) 1. ~~Every rule under par. (b)~~ The commissioner shall provide for  
22 an automatic increase in a health care provider's fees, except as provided in subd. 2.,  
23 if the loss and expense experience of the fund and other sources with respect to the  
24 health care provider or an employee of the health care provider exceeds either a  
25 number of claims paid threshold or a dollar volume of claims paid threshold, both as



1 established ~~in the rule~~ by the commissioner. The ~~rule~~ commissioner shall specify  
2 applicable amounts of increase corresponding to the number of claims paid and the  
3 dollar volume of awards in excess of the respective thresholds.

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

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

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

11 655.27 (3) (br) *Limit on fees.* (intro.) ~~Every rule~~ The commissioner, in setting  
12 fees for a particular fiscal year under par. (b), shall ensure that the fees assessed do  
13 not exceed the greatest of the following:

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

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

1 year on the office's Internet site and the director of state courts shall post the fees set  
2 under s. 655.61 (1) for the next fiscal year on the mediation fund's Internet site.

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

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

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

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

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

21 655.61 (1) The mediation fund created under s. 655.68 shall be financed from  
22 fees charged to health care providers. The director of state courts shall, by February  
23 1 annually, determine the revenues needed for the operation of the mediation system  
24 during the succeeding fiscal year and inform the board of governors of that amount.  
25 The director of state courts shall also inform the board of governors of the number

1 of requests for mediation involving each type of health care provider set out in s.  
2 655.002 for the most recent fiscal year for which statistics are available. The board  
3 of governors shall, ~~by rule,~~ set fees to charge health care providers at a level sufficient  
4 to provide the necessary revenue.

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

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

14

(END)

*D-note*

**2015-2016 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRB-2365/P1insTD  
TJD:...

1           INSERT TJD 1

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

3           600.01 (1) (b) 10. b. The exemption under subd. 10. a. does not apply if the  
4           services offered by the care management organization include hospital, physician or  
5           other acute health care services other than mental health and alcohol and other drug  
6           abuse treatment services.

History: 1971 c. 260; 1975 c. 375, 421; 1975 c. 422 s. 163; 1977 c. 203; 1979 c. 89, 102, 177; 1983 a. 358 s. 14; 1989 a. 31; 1989 a. 187 s. 29; 1989 a. 317, 336; 1991 a. 39, 69, 250, 309; 1993 a. 16; 1995 a. 116, 150, 289; 1997 a. 27, 35; 1999 a. 9, 155; 2001 a. 104; 2003 a. 302; 2007 a. 20 s. 9121 (6) (a); 2011 a. 226.

7           END INSERT TJD 1

8           INSERT TJD 2

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

10           612.02 (2) (a) The name of the corporation ~~which shall contain the words "Town~~  
11           Mutual";

History: 1973 c. 22; 1979 c. 102 ss. 114, 236 (5), (7); 1985 a. 189; s. 35.17 correction in (4) (g) 4.

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

13           612.13 (3) DUTIES. The board shall ~~manage~~ direct the business and affairs of  
14           the corporation and shall not delegate its power or responsibility to any person except  
15           as specifically provided otherwise in this chapter.

History: 1973 c. 22; 1997 a. 79; 2003 a. 261.

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

17           612.13 (4) ADJUSTMENT COMMITTEE. The directors ~~shall~~ may annually appoint  
18           from their own number an adjustment committee of at least 3 persons, to adjust or  
19           supervise the adjustment of losses under s. 612.53. If no adjustment committee is  
20           appointed, the entire board shall act as the adjustment committee to adjust or  
21           supervise the adjustment of losses under s. 612.53.

History: 1973 c. 22; 1997 a. 79; 2003 a. 261.

1           **SECTION 5.** 612.14 (intro.) of the statutes is renumbered 612.14 and amended  
2 to read:

3           **612.14 Reports.** (intro.) ~~The secretary and the treasurer~~ An officer or person  
4 designated by an officer of the company shall present to the annual meeting written  
5 reports showing the condition of the town mutual on the previous December 31 and  
6 its activity during the preceding calendar year, including: any information required  
7 to be presented by the articles or bylaws or by the commissioner. The officer or person  
8 designated by an officer shall include in the reports a sufficient level of information  
9 to reasonably inform members about the financial condition of the town mutual.

History: 1973 c. 22.

10           **SECTION 6.** 612.14 (1) to (12) of the statutes are repealed.

11           **SECTION 7.** 612.31 (4) (m) of the statutes is amended to read:

12           612.31 (4) (m) Assuming reinsurance, ~~except under sub. (6);~~ or

History: 1973 c. 22; 1975 c. 147 s. 54; 1975 c. 372; 1979 c. 102 s. 236 (5), (13); 1979 c. 110 s. 60 (11).

13           **SECTION 8.** 612.31 (5) of the statutes is repealed.

14           **SECTION 9.** 612.31 (6) of the statutes is repealed.

15           **SECTION 10.** 612.32 (1) of the statutes is amended to read:

16           612.32 (1) **REAL PROPERTY OUTSIDE TERRITORY.** Town mutuals may insure real  
17 property and contents in villages and cities partially located in the specified territory,  
18 real property and contents in an immediately adjoining county owned by a member  
19 ~~immediately adjoining and contiguous to land owned by the same member which is~~  
20 who has real property and contents insured by the town mutual within the specified  
21 territory, and real property and contents used exclusively by the member and his or  
22 her family for recreational purposes.

History: 1973 c. 22; 1979 c. 102 s. 236 (13); 1979 c. 110 s. 60 (11); 1979 c. 355; 1981 c. 218; 1985 a. 189.

23           **SECTION 11.** 612.32 (2) (a) of the statutes is amended to read:

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612.32 (2) (a) *Farm property*. A town mutual may provide coverage for livestock while temporarily located outside the town mutual's territory, for farm products while temporarily located for a period not exceeding 2 years outside the town mutual's 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.

^  
^

History: 1973 c. 22; 1979 c. 102 s. 236 (13); 1979 c. 110 s. 60 (11); 1979 c. 355; 1981 c. 218; 1985 a. 189.

9

SECTION 12. 612.32 (4) of the statutes is repealed.

10

SECTION 13. 612.33 (1) of the statutes is amended to read:

11

612.33 (1) PERMITTED AND PROHIBITED REINSURANCE. A town mutual may cede

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reinsurance only ~~under s. 612.31 (6)~~, or to an insurer authorized to do business in this

13

state under ~~s. 612.71~~ or ch. 611 or 618, or under arrangements which are approved

14

in advance by the commissioner and which are subject to the controls the

15

commissioner prescribes.

History: 1973 c. 22; 1979 c. 102 ss. 121, 236 (5), (13); 1979 c. 110 s. 60 (11); 1985 a. 189; 2001 a. 65.

16

SECTION 14. 612.33 (2) (b) of the statutes is amended to read:

17

612.33 (2) (b) *Nonproperty insurance*. To the extent that a town mutual

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provides insurance under s. 612.31 (3), it shall obtain reinsurance of at least a 90%

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proportional share of each risk or it shall obtain excess of loss reinsurance with a

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retention in a similar dollar amount with an insurer authorized to do such business

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in this state, in either instance not to exceed \$25,000 on each risk. The commissioner

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may permit a town mutual to retain a larger percentage or have a greater excess of

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loss retention level if he or she finds that the interests of the members will not be

24

endangered thereby, or may require it to reinsure a larger percentage or obtain a

1 lesser excess of loss retention level if he or she finds that the interests of the members  
2 make it advisable. The commissioner may by rule require other reinsurance.

3 History: 1973 c. 22; 1979 c. 102 ss. 121, 236 (5), (13); 1979 c. 110 s. 60 (11); 1985 a. 189; 2001 a. 65.

3 **SECTION 15.** 612.53 (1) of the statutes is renumbered 612.53.

4 **SECTION 16.** 612.53 (1) (title) of the statutes is repealed.

5 **SECTION 17.** 612.53 (2) of the statutes is repealed.

6 **SECTION 18.** 612.71 of the statutes is repealed.

7 END INSERT TJD 2

8 INSERT TJD 3

9 **SECTION 19.** 645.675 of the statutes is created to read:

10 **645.675 Qualified financial contracts. (1)** In this section:

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

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

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

20 1. A contract for the purchase or sale of a commodity for future delivery on, or  
21 subject to the rules of, a board of trade or contract market under the federal  
22 commodity exchange act at 7 USC 1, et seq., or a board of trade outside the United  
23 States.

1           2. An agreement that is subject to regulation under the federal commodity  
 2 exchange act at 7 USC 23<sup>1</sup> and that is commonly known to the commodities trade as  
 3 a margin account, margin contract, leverage account, or leverage contract.

4           3. An agreement or transaction that is subject to regulation under the  
 5 <sup>federal</sup> commodity exchange act at 7 USC 6c<sup>1</sup> and that is commonly known to the commodities  
 6 trade as a commodity option.

7           4. Any combination of agreements or transactions specified in subs. 1. to 3.  
 8           5. Any option to enter into an agreement or transaction specified in subs. 1.  
 9 to 3.

10           (d) "Contractual right" includes any right established in a rule or bylaw, or in  
 11 a resolution, of the governing board of a derivatives clearing organization or board  
 12 of trade as defined in the federal commodity exchange act, 7 USC 1, et seq.; a  
 13 multilateral clearing organization, as defined in the federal deposit insurance  
 14 corporation improvement act of 1991, at 12 USC 4402; a national securities exchange,  
 15 a national securities association, a securities clearing agency, or a control market  
 16 designated under the federal commodity exchange act, 7 USC 1, et seq.; or a  
 17 derivatives transaction execution facility registered under the federal commodity  
 18 exchange act, 7 USC 1, et seq., or any right, regardless whether it is in writing,  
 19 arising under statutory or common law, or under the uniform commercial code, or by  
 20 reason of normal business practice.

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

23           (f) "Credit insurance" means insurance against loss arising from failure of  
 24 debtors to meet financial obligations to creditors, except mortgage guaranty  
 25 insurance.



1 (g) "Credit life insurance" means insurance on the lives of borrowers or  
2 purchasers of goods in connection with specific loans or credit transactions when all  
3 or a portion of the insurance is payable to the creditor to reduce or extinguish the  
4 debt.

5 (h) "Disability insurance" means insurance covering injury or death of persons  
6 caused by accident or insurance covering <sup>the</sup> health of persons.

7 (i) "Financial guaranty insurance" means a surety bond, insurance policy,  
8 indemnity contract, or any similar guarantee issued by an insurer under which a loss  
9 <sup>is</sup> if payable upon proof of occurrence of financial loss to an insured claimant.  
10 "Financial guaranty insurance" does not include credit insurance, credit life  
11 insurance, disability insurance, mortgage guaranty insurance, or long-term care  
12 insurance.

13 (j) "First-method provision" means a contract provision in which the  
14 <sup>is</sup> non-defaulting party is not required to pay if a net or settlement amount is owed to  
15 the defaulting party.

16 (k) "Forward contract" has the meaning given in 12 USC 1821 (e) (8) (D).

17 (L) "Mortgage guaranty insurance" means insurance against loss arising from  
18 any of the following:

19 1. Debtors to meet financial obligations to creditors under evidences of  
20 indebtedness that are secured by any of the following:

21 a. A first lien or charge on residential real estate designed for occupancy by not  
22 more than 4 families.

23 b. A first lien of charge on residential real estate designed for occupancy by 5  
24 or more families.

1 c. A first lien or charge on real estate designed for industrial or commercial  
2 purposes.

3 d. A junior lien or charge on residential real estate.

4 2. Lessees to <sup>make</sup> ~~may~~ payment on rentals under leases of real estate in which the  
5 lease extends for 3 years or longer.

6 (m) "Netting agreement" means any of the following ( )

7 1. A contract or agreement, or terms and conditions in a contract or agreement,  
8 including a master agreement together with all schedules, confirmations,  
9 definitions, and addenda, that documents one or more transactions between the  
10 parties to the agreement for, or involving, one or more qualified financial contracts  
11 and that provides for either the netting, liquidation, setoff, termination,  
12 acceleration, or close-out under, or in connection with, one or more qualified  
13 financial contracts or present or future payment or delivery obligations or  
14 entitlements, including related liquidation or close-out values, among the parties to  
15 the netting agreement.

16 2. Any master agreement or bridge agreement for one or more master  
17 agreements described in subd. 1.

18 3. Any security agreement or arrangement or other credit enhancement or  
19 guarantee or reimbursement obligation related to any contract or agreement  
20 described in subd. 1. or 2.

21 (n) "Qualified financial contract" means a commodity contract, forward  
22 contract, repurchase agreement, securities contract, swap agreement, or any similar  
23 agreement that the commissioner determines by rule or order to be a qualified  
24 financial contract.

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

1 (L) "Second-method provision" means a contract provision requiring  
2 non-defaulting party to pay if a net or settlement amount is owed to the defaulting  
3 party.

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

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

6 (o) "Two-way payment provision" means a contract provision under which both  
7 parties to the contract may have payment obligations to each other.

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

15 (2) (a) On or after 5 p.m. central time on the business day following the date  
16 of appointment of a receiver, with regard to qualified financial contracts with an  
17 insurer that are subject to a proceeding under this chapter, no person may be stayed  
18 or prohibited from exercising any of the following rights, unless that person has  
19 received written notice that the contract has been sold or transferred under s. 645.33  
20 (2) or 645.46 (9):

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

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

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

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

6 3. Subject to s. 645.56 (2), any right to set-off or net-out any termination value, ✓  
7 payment amount, or other transfer obligation arising under, or in connection with,  
8 one or more qualified financial contracts in which the counterparty or its guarantor  
9 is organized under the laws of the United States or a state or foreign jurisdiction  
10 approved by the National Association of Insurance Commissioners office responsible  
11 for securities validation as eligible for netting.

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

18 (3) Upon termination of a netting agreement or qualified financial contract,  
19 notwithstanding any walkaway clause in the netting agreement or qualified  
20 financial contract, the net or settlement amount, if any, owed by a nondefaulting  
21 party to an insurer against which an application or petition has been filed under this  
22 chapter shall be transferred to the receiver of the insurer or as directed by the  
23 receiver of the insurer, even if the insurer is the defaulting party. Any limited  
24 two-way payment provision or first-method provision in a netting agreement or ✓  
25 qualified financial contract with an insurer that has defaulted shall be considered

1 to be a full <sup>e 2 ✓</sup>two-way payment provision or <sup>e 2nd ✓</sup>second-method provision as against the  
2 defaulting insurer. Any property or amount is a general asset of the insurer, except  
3 to the extent that it is subject to one or more secondary liens or encumbrances or  
4 rights of netting or setoff.

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

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

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

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

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

20 (b) If a receiver of an insurer transfers a netting agreement or qualified  
21 financial contract, the receiver shall use its best efforts to notify any person who is  
22 a party to the netting agreement or qualified financial contract of the transfer by  
23 noon, central time, on the business day following the transfer.

24 (5) Notwithstanding s. 645.52 or 645.54, a receiver may not avoid a transfer  
25 of money or other property arising under or in connection with a netting agreement

1 or qualified financial contract, or any pledge, security, collateral, or guarantee  
2 agreement or any other similar security arrangement or credit support document  
3 relating to a netting agreement or qualified financial contract, that is made before  
4 the commencement of a formal delinquency proceeding under this chapter.

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

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

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

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

24 (7) All rights of counterparties under this chapter that apply to netting  
25 agreements and qualified financial contracts entered into on behalf of a general

1 account are available only to counterparties of netting agreements and qualified  
2 financial contracts entered into on behalf of that general account. All rights of  
3 counterparties under this chapter that apply to netting agreements and qualified  
4 financial contracts entered into on behalf of a separate account are available only to  
5 counterparties of netting agreements and qualified financial contracts entered into  
6 on behalf of that separate account.

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

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

11 END INSERT TJD 3

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

LRB-2365/P1dn  
PJK:kjf&an

May 20, 2015

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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.

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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2365

OCI Comments on P1 of the Technical Legislation

✓ ~~Delete Section 9, p. 3, lines 11-18.~~

✓ Section 31, page 7, line 21. Answer to note above this section: We do not need titles for all of the subsections, but OCI would like to keep the first title "Standard valuation law" consistent with how the law currently reads. Also delete the words "In this section:" and replace with the following language:

*it b retained*

"The following definitions shall apply on or after the operative date of the valuation manual:"

Section 31, page 8, lines 14-18. The definition of "qualified actuary" is moved from 623.06(1c) to new sub. (1d) and amended. As a result, unlike the definitions in sub. (1c), the definition of qualified actuary would be in effect before and after the operative date of the valuation manual. Also, OCI added definitions of "Accident and health insurance" and "Regulatory agency" to sub. (1c). Subs. (1c) and (1d) read as follows:

623.06 Standard valuation law. (1c) The following definitions shall apply on or after the operative date of the valuation manual:

(a) "Accident and health insurance" means contracts that incorporate morbidity risk and provide protection against economic loss resulting from accident, sickness, or medical conditions and as may be specified in the valuation manual.

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

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

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

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

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

(g) "Regulatory agency," "law enforcement agency" and the "NAIC" include, but are not limited to, their employees, agents, consultants and contractors.

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

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

(1d) In this section, "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 if the valuation manual is in effect, and any other requirements that the commissioner may by rule specify.

Section 33, page 10, line 1: add the words "accident and health contracts" as follows:

Insurance contracts, annuity and pure endowment contracts, accident and health contracts, and deposit-type contracts

Section 33, page 10, answer to note: OCI accepts this change.

Section 35, page 10, line 12. The drafter changed the opening of sub(1r) from "Beginning with" to "Beginning on". OCI accepts this change subject to a clarifying reference in (1r)(a) on line 16.

Section 35, page 10, lines 14-15: add the words "accident and health insurance contracts" as follows:

(a) Every insurance company that has outstanding life insurance contracts, accident and health insurance contracts, or deposit-type contracts...

Section 35, page 10, line 16. Add the underlined words as follows:

commissioner shall submit to the commissioner as prescribed under par. (c) the opinion of the appointed actuary....

Section 35, page 10, lines 22-23. Add the words "accident and health insurance contracts" as follows:

(b) Every insurance company that has outstanding life insurance contracts, accident and health insurance contracts, or deposit-type contracts...

Section 35, p. 12, answer to note about calendar year. The drafter accurately notes a year cannot end on the operative date of the valuation manual. Therefore, the language can be changed to "for each year ending ~~on or~~ after the operative date of the valuation manual."

Section 35, p. 12, answer to note after subd. 3: the words "described in" work better than "subject to." This is a good change. The answer to the last question is yes.

Section #, page 13 (after current section 37 and before current section 38): 623.06(8m) is recreated to read:

**(8m)** For accident and health insurance contracts issued on or after the effective date of this section and prior to the operative date of the valuation manual, the minimum standard of valuation is the standard adopted by the commissioner by regulation. For accident and health insurance contracts issued on or after the operative date of the valuation manual, the standard prescribed in the valuation manual shall be the minimum standard of valuation required under sub. (1f)(b).

- ✓ **Section 38, page 13. Answer to note.** OCI accepts adding “contracts” to the paragraph.
- ✓ **Section 38, pages 14 and 15. Answer to note.** Yes, you add up the premiums written on all three types of annual statements.
- ✓ **Section 38, page 15. Answer to notes.** The commas the drafted added are correctly placed; remove the apostrophe from “commissioner’s.”
- ✓ **Section 38, page 16. Answer to note after line 3:** Removing “that” is fine.
- ✓ **Section 38, page 16. Answer to note after line 8:** the word “which” refers to reports.
- ✓ **Section 38, page 16, Answer to note after line 10:** Subd. 3.b. could be restated as follows:

“Requirements regarding the treatment of risks over which the insurance company does not have significant control or influence.”

- ✓ **Section 38, page 17, Answer to notes at top of page.** The word “quantify” should remain unchanged. Reserves should be a mathematical determination that quantifies risks inherent in the policies. In this context, the word “quantify” is actuarial jargon which the actuaries will understand. The drafter’s rewording of subd. 4 is accepted.
- ✓ **Section 38, page 17, answer to note after line 12:** This change is accepted.
- ✓ **Section 38, page 18, answer to note:** This change is accepted.
- ✓ **Section 39, page 18, answer to note:** the change to the introduction is accepted.
- ✓ **Section 39, page 19, answer to note:** Please keep the original wording “Quantifies.”
- ✓ **Section 40, page 20, answer to note:** yes, they all modify “experience.”

**Section 41, page 20, answer to note:** (12)(a) should remain unchanged. Paragraph (b) will be modified as presented below.

**Section 41, page 22, answer to note:** The drafter suggests subd.5 is overly complicated. Here is alternative language:

5. Any documents, materials, data and other information submitted by a company under sub. (11) and any supporting information related to such a submission that is provided to or obtained by the commissioner, to the extent that any such materials,

data, and supporting information include potentially company-identifying or personally identifiable information.

**Section 41.** Delete OCI's draft (12)(b) as indicated below, and add the following paragraphs 12(b) and 12(c):

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

623.06(12)(b)1. Confidential information under this subsection is confidential and privileged, is not subject to receipt, inspection or copying under s. 19.35 (1), is not subject to subpoena, and is not subject to discovery or admissible in evidence in any private civil action. The commissioner is authorized to use the confidential information in the furtherance of any regulatory or legal action brought against the company as a part of the commissioner's official duties.

2. Neither the commissioner nor any person who received confidential information while acting under the authority of the commissioner may testify in any private civil action concerning any confidential information.

3.

- (a) In furtherance of the performance of the commissioner's regulatory duties, the commissioner may share confidential information with all of the following:
  - (i) Other state, federal and international regulatory agencies;
  - (ii) the National Association of Insurance Commissioners and its affiliates and subsidiaries.
  - (iii) the Actuarial Board for Counseling and Discipline or its successor, in the case of confidential information under sub. (12)(a)1. and (12)(a)4. of this section only, upon request stating that the confidential information is required for the purposes of professional disciplinary proceedings and
  - (iv) state, federal and international law enforcement officials.
- (b) Confidential information may only be shared under subsection (12)(b)3.(a) if the recipient agrees, and has the legal authority to agree, to maintain the confidentiality and privileged status of such documents, materials, data and other information in the same manner and to the same extent as required for the commissioner.
- (c) The commissioner may receive documents, materials, or other information, including otherwise confidential and privileged documents, materials, data or information from the National Association of Insurance Commissioners and its affiliates and subsidiaries, from regulatory or law enforcement officials of other foreign or domestic jurisdictions and from the Actuarial Board for Counseling and Discipline or its successor and shall maintain as confidential or privileged any document, material, or information received with notice or the understanding that it is confidential or privileged under the laws of the jurisdiction that is the source of the document, material, or information.
- (d) The commissioner may enter into agreements governing sharing and use of information consistent with this section.

- (e) No waiver of any applicable privilege or claim of confidentiality in the confidential information shall occur as a result of disclosure of such information or documents to the commissioner under this section or as a result of the commissioner sharing such information or documents as authorized in this section.
- (f) A privilege established under the law of any state or jurisdiction that is substantially similar to the privilege established under this section shall be available and enforced in any proceeding in, and in any court of, this state.

623.06(12)(c). Notwithstanding sub. (12)(b), any confidential information specified in sub. (12)(a)1. and (12)(a)4. are subject to all of the following.:

1. The confidential information may be subject to subpoena for the purpose of defending an action seeking damages from the appointed actuary submitting the related memorandum in support of an opinion submitted under sub (1m) or (1r) or principle-based valuation report developed under sub. (10)(b)3. by reason of an action required by this section or regulations promulgated hereunder;

2. The confidential information may otherwise be released by the commissioner with the written consent of the company; and

3. Once any portion of a memorandum in support of an opinion submitted under sub (1m) or (1r) or principle-based valuation report developed under sub. (10)(b)3. is cited by the company in its marketing or is publicly volunteered to or before a government agency other than a state insurance department or is released by the company to the news media, all portions of such memorandum or report shall no longer be confidential.

✓ **Section 47, Answer to Question on p.24.** Yes, FINRA only has rules for variable annuities but OCI deems these rules sufficient even if an agent applies them to other products.

✓ **Section 50, page 24, answer to note after line 18:** the drafter's change is accepted.

✓ **Section 52, page 25, answer to note:** Yes, this definition should be the same as in 623.06(1c)(d).

✓ **Section 54, page 26, answer to note:** This change is accepted.

✓ **Section 58, page 32, line 16, amend a follows:** "Any such property or amount ..."

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\*\*New Sections should be added as follows:

**Section XX.** 601.465(3)(d) of the statutes is created to read:

601.465(3)(d) Any information defined as confidential information under s. 623.06(12)(a), which is subject only to the confidentiality provisions in s. 623.06.

Aaron ↓

**Section XX.** 632.62(2) of the statutes is amended to read:

(2) Participation. Every participating policy shall by its terms ~~give its holder full right to participate annually in the part of the surplus accumulations from the participating business of the insurer that are to be distributed~~ make its holder eligible to share annually in the part of the surplus to be distributed as provide in sub.(4)(b).

**Section XX.** 632.62(3) of the statutes is amended to read:

(3) Accounting. Every insurer issuing both participating and nonparticipating policies shall separately account for the 2 classes of business and no part of the ~~amounts accumulated or credited~~ surplus allocated to the participating class may be voluntarily transferred to the nonparticipating class.

**Section XX.** 632.62(4) of the statutes is amended to read:

(4) Dividend payments. (a) *Deferred dividends.* No life insurance policy or certificate may be issued in which the ~~accounting, apportionment and distribution of surplus dividends, if any,~~ is deferred for a period longer than one year.

(b) *Payment.* Every insurer doing a participating business shall annually ascertain the surplus over required reserves and other liabilities. After setting aside such ~~contingency reserves~~ amounts as may be lawful and considered necessary by the insurer's board of directors ~~and be lawful, such reasonable nondistributable surplus as is needed to permit orderly growth for providing for the growth of the company and for protecting the ability to meet ongoing and future claim and other obligations and needs under both normal and stressed environments, and after~~ making provision for the payment of reasonable dividends upon capital stock as determined by the insurer's board of directors and such sums as are required by prior contracts to be held on account of deferred dividend policies, ~~the remaining surplus shall be equitably apportioned and returned as a dividend to the participating policyholders or certificate holders entitled to share therein.~~ an insurer shall distribute as dividends the remaining surplus, if any, attributable to participating life insurance and annuity policies in such amounts, including zero, and in such allocations among the participating life insurance and annuity policies as its board of directors determines to be reasonably proportioned to the life insurance and annuity policies' contribution to the distributable surplus. A dividend may be conditioned on the payment of the succeeding year's premium only on the first and second anniversaries of the policy.

## Kahler, Pam

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**From:** Wieske, JP - OCI <JP.Wieske@wisconsin.gov>  
**Sent:** Friday, August 07, 2015 9:20 AM  
**To:** Kahler, Pam  
**Cc:** Kovach, Robert; Bowers, Jim; Wicka, Richard B - OCI  
**Subject:** RE: OCI technical bill

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Pam

We can certainly have a meeting, but we talked over your solution internally and we think it works. I assume once you have something we can react to, that would make some sense from a timing perspective? I have cc'd Richard here, you can certainly work directly with him on those provisions if you want to bounce some of the approaches around.

Thanks

JP

J.P. Wieske, FLMI  
Legislative Liaison & Public Information Officer  
Office of the Commissioner of Insurance  
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(608) 266-2493

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**From:** Kahler, Pam [mailto:Pam.Kahler@legis.wisconsin.gov]  
**Sent:** Monday, August 03, 2015 2:16 PM  
**To:** Wieske, JP - OCI  
**Cc:** Kovach, Robert - LEGIS; Bowers2, Jim - LEGIS  
**Subject:** RE: OCI technical bill

JP:

We have a basic problem with the "effective date" of the new provisions. This is highlighted by the new definitions, which are not supposed to go into effect until the operative date of the valuation manual, even though many of them are used before that date. Normally, we have a date certain as the delayed effective date. If that date is contingent, as this one is, we normally draft a statute that requires the agency to notify the LRB of the effective date (in this case it would be the operative date of the valuation manual) and then the LRB publishes that date in the Wisconsin Administrative Register. We could have all the new provisions (in s. 623.06) go into effect on that date. That may require some changes in the draft, however. For example, if OCI notifies the LRB of the operative date, would we even need the subsection that explains when the operative date is? I'm not sure where to go from here. Would a meeting be helpful? It would be a matter of going through the new provisions to determine which need to go into effect on the operative date of the valuation manual, which if any could be eliminated, and which if any need to go into effect immediately. Please advise.

Thanks,  
Pam

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**From:** Wieske, JP - OCI [mailto:JP.Wieske@wisconsin.gov]  
**Sent:** Wednesday, July 29, 2015 3:28 PM  
**To:** Kahler, Pam <Pam.Kahler@legis.wisconsin.gov>  
**Cc:** Kovach, Robert <Robert.Kovach@legis.wisconsin.gov>; Bowers, Jim <Jim.Bowers2@legis.wisconsin.gov>  
**Subject:** RE: OCI technical bill

I ckd in with staff. The terms are used interchangeably.

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Legislative Liaison & Public Information Officer  
Office of the Commissioner of Insurance  
[jp.wieske@wisconsin.gov](mailto:jp.wieske@wisconsin.gov)  
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**From:** Kahler, Pam [<mailto:Pam.Kahler@legis.wisconsin.gov>]  
**Sent:** Wednesday, July 29, 2015 2:36 PM  
**To:** Wieske, JP - OCI  
**Cc:** Kovach, Robert - LEGIS; Bowers2, Jim - LEGIS  
**Subject:** RE: OCI technical bill

JP,

I've started to look over the requested changes and have an initial question for you: is the valuation manual's *operative date* the same thing as its *effective date*?

Pam

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**From:** Wieske, JP - OCI [<mailto:JP.Wieske@wisconsin.gov>]  
**Sent:** Wednesday, July 29, 2015 10:43 AM  
**To:** Kovach, Robert <[Robert.Kovach@legis.wisconsin.gov](mailto:Robert.Kovach@legis.wisconsin.gov)>; Kahler, Pam <[Pam.Kahler@legis.wisconsin.gov](mailto:Pam.Kahler@legis.wisconsin.gov)>; Bowers, Jim <[Jim.Bowers2@legis.wisconsin.gov](mailto:Jim.Bowers2@legis.wisconsin.gov)>  
**Cc:** Dodge, Tamara <[Tamara.Dodge@legis.wisconsin.gov](mailto:Tamara.Dodge@legis.wisconsin.gov)>  
**Subject:** RE: OCI technical bill

Rob, Jim, Pam

We have vetted the information with interested parties, and have responses and changes attached. It took some time to work on some of these changes, so I apologize for the delay.

JP

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**From:** Kovach, Robert [<mailto:Robert.Kovach@legis.wisconsin.gov>]  
**Sent:** Thursday, May 21, 2015 10:52 AM  
**To:** Kahler, Pam - LEGIS; Bowers2, Jim - LEGIS  
**Cc:** Dodge, Tamara - LEGIS; Wieske, JP - OCI  
**Subject:** RE: OCI technical bill

Let's circulate the p version to the interested groups and get feedback before we finalize it.

I approve the p version to be shared with anyone who would like to see it.



# Rob Kovach

Policy Advisor/Committee Clerk  
Office of Senator Frank Lasee  
(608) 266-3512

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**From:** Kahler, Pam  
**Sent:** Thursday, May 21, 2015 10:34 AM  
**To:** Bowers, Jim; Kovach, Robert  
**Cc:** Dodge, Tamara; Wieske, JP - OCI  
**Subject:** OCI technical bill

Jim and Rob:

The first version of the OCI technical is out (Rob you have it). Jim, do you want that same first version as your companion bill or, for your companion, do you want to wait until the draft is finalized? If you want to wait and it's okay with Rob, I could send you a PDF of the bill draft that is out.

Pam

*Pamela J. Kahler*  
*Legislative Attorney*  
*Legislative Reference Bureau*  
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