

**AGENDA**  
**FINANCIAL SERVICES COMMISSION**  
**Office of Insurance Regulation**  
**Materials Available on the Web at:**

<http://www.floir.com/Sections/GovAffairs/FSC.aspx>

**September 20, 2011**

**MEMBERS**

Governor Rick Scott  
Attorney General Pam Bondi  
Chief Financial Officer Jeff Atwater  
Commissioner Adam Putnam

**Contact: Ashlee Falco**  
**(850-413-5069)**

9:00 A. M.  
LL-03, The Capitol  
Tallahassee, Florida

<u>ITEM</u>	<u>SUBJECT</u>	<u>RECOMMENDATION</u>
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1. Minutes of the Financial Services Commission for August 2, 2011 and August 16, 2011.

**(ATTACHMENT 1)**

**FOR APPROVAL**

2. Request for Approval for Adoption of Amendments to Proposed Rules

69O-138.047; Description of Actuarial Memorandum including an Asset Adequacy Analysis and Regulatory Asset Adequacy Issues Summary  
Assignment #44313

69O-162.203; Adoption of 2001 Commissioners Standard Ordinary (CSO) Preferred Mortality Tables for Determining Reserve Liabilities for Ordinary Life Insurance  
Assignment #44314

69O-164.020; Valuation of Life Insurance Policies  
Assignment #44315

These rule amendments are consistent with changes to move away from rule-based reserve requirements and toward principle-based reserve requirements. Rule-based reserves specify mortality tables, interest rates, and method (formulas) as a one size fits all approach. Principle-based reserves permit greater judgment on the part of a company actuary to use assumptions based, to the extent statistically credible, on a company's own experience. Changing to principle-based reserving is occurring at both the national and international levels.

Until recent technology made expanded underwriting criteria practical, mortality tables were based on standard and substandard (health history and/or dangerous hobby) risks, age, sex, and smoker/non-smoker status. Newly developed tables permit super-preferred,

preferred, standard, and substandard risk classifications. These tables were first available for policies issued in 2007. Since company underwriting during 2005 and 2006 was essentially the same as in 2007, the industry requested that reserves for policies issued in these two years be calculated using the preferred mortality tables. During the economic downturn, this would provide “surplus relief,” that is lowering reserves on the balance sheet would increase capital and surplus.

An initial step toward the use of principle-based reserves in the U.S. was the adoption by the National Association of Insurance Commissioners (NAIC) of changes to two model regulations which are a national standard for life insurance reserve calculations. The purpose of the NAIC models are for each state to adopt them so that the regulation of insurers is consistent among all the states.

At the request of the life insurance industry, the Life and Health Actuarial Task Force of the NAIC developed the changes which ultimately were adopted by the NAIC. An initial draft of the proposed changes to our rules adopting the NAIC amendments was emailed to a senior American Council of Life Insurers (ACLI) actuary last year and minor changes were made based upon his suggestions. (The ACLI represents more than 300 legal reserve life insurer and fraternal benefit society member companies operating in the United States.) Additional changes were made to conform to statutory requirements at the request of the attorney who reviews proposed rules on behalf of the Joint Administrative Procedures Committee of the Florida Legislature. The revised draft was sent to the ACLI actuary who did not object to the changes.

With the adoption of these amended rules, an insurer will have the option to extend the use of preferred mortality tables currently permitted for policies issued on or after 2007 to policies issued in 2005 and 2006. In addition, a company’s appointed actuary will be able to adjust mortality used to calculate additional premium reserves to levels consistent with the experience studies performed by the company and anticipated future mortality. The initial impact of the rule will be to lower reserve requirements, thus increasing capital and surplus. After that initial impact, reserves will increase or decrease according to changes in the number of policies remaining in force (reserves will decrease if the number of policies decreases) and the aging of the insured population (reserves will increase as the ages of the insured population increases).

**(ATTACHMENT 2)**

**APPROVAL FOR FINAL ADOPTION**

3. Request for Approval for Adoption of Amendments to Proposed Rule 69O-138.001, NAIC Financial Condition Examiners Handbook Adopted

Section 624.316, Florida Statutes, requires the Office to examine insurers’ financial condition, using generally accepted accounting procedures. This statute also allows the Office to adopt the NAIC Financial Condition Examiners Handbook to facilitate these exams. By adopting the newest version of the handbook, this rule ensures that the procedures used by the Office to examine insurers are the current generally accepted accounting practices.

**(ATTACHMENT 3)**

**APPROVAL FOR FINAL ADOPTION**

4. Appointment of Raquel (Rocky) Rodriguez to Workers Compensation Joint Underwriting Association Board of Governors

**(ATTACHMENT 4)**

**APPOINTMENT TO BOARD**

5. Approval of the Office of Insurance Regulation to Contract with the Proposed Consultant to Conduct the Workers' Compensation Peer Review

Section 627.285, Florida Statutes, requires that the Financial Services Commission contract, at least once every other year, for an independent actuarial peer review and analysis of the ratemaking processes of any licensed rating organization that makes rate filings for workers' compensation insurance in Florida.

The National Council on Compensation Insurance (NCCI) is responsible for collecting statistical information and making workers' compensation rate filings on behalf of Florida's insurers. By law, the contract requires the submission of a final report to the Commission, the President of the Senate, and the Speaker of the House of Representatives by February 1, 2012.

The Office, through its involvement in the National Association of Insurance Commissioners (NAIC), is currently participating in a multistate, comprehensive market conduct examination of NCCI. The multistate examination process is a collaborative process that promotes regulatory coordination on nationally-significant insurers, such as NCCI. It would be economically efficient and reduce the costs to the State of Florida and NCCI to allow specified portions of this multistate examination be utilized to comply with the provisions of Section 627.285, F.S. The independent consultant conducting the multistate examination is Examination Resources, LLC.

In order to meet this statutory requirement, it is recommended that the Office, on behalf of the Financial Services Commission, enter into the attached agreement with Examination Resources, LLC to perform the required peer review.

**(ATTACHMENT 5)**

**FOR WITHDRAWAL**

**Minutes of the Financial Services Commission**  
**August 2, 2011**

<i>Members</i> Rick Scott, Governor Jeff Atwater, Chief Financial Officer Pam Bondi, Attorney General Adam Putnam, Agriculture Commissioner	Presented by: Kevin McCarty Cabinet Meeting Room, Lower Level, The Capitol Tallahassee, Florida 32399
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**Item 1: Request for Minutes of the Financial Services Commission for June 16, 2011**

Upon motion by Attorney General Pam Bondi and seconded by Chief Financial Officer Jeff Atwater, the item was approved.

**Item 2: Request for Approval of Appointments to the Workers' Compensation Joint Underwriting Association Board of Governors**

Upon motion by Agriculture Commissioner Adam Putnam, and simultaneously seconded by Attorney General Pam Bondi and Chief Financial Officer Jeff Atwater, the item was approved.

**Minutes of the Financial Services Commission  
August 16, 2011**

<i>Members</i> Rick Scott, Governor Jeff Atwater, Chief Financial Officer Pam Bondi, Attorney General Adam Putnam, Agriculture Commissioner	Presented by: Kevin McCarty Cabinet Meeting Room, Lower Level, The Capitol Tallahassee, Florida 32399
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**Item 1: Request for Approval for Adoption of Amendments to Proposed Rule 690-137.001; Annual and Quarterly Reporting Requirements**

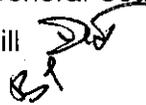
Upon motion by Chief Financial Officer Jeff Atwater and seconded by Attorney General Pam Bondi, the item was approved.

**Item 2: Briefing on Personal Injury Protection Insurance in Florida**

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M E M O R A N D U M

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**DATE:** August 5, 2011  
**TO:** Kevin M. McCarty, Commissioner, Office of Insurance Regulation  
**THROUGH:** Belinda Miller, General Counsel  
**FROM:** Dennis Threadgill   
Bob Prentiss   
**SUBJECT:** Cabinet Agenda for September 20, 2011  
Request for Final Approval to Adopt Amendments to Rules

69O-138.047; Description of Actuarial Memorandum Including an Asset Adequacy Analysis and Regulatory Asset Adequacy Issues Summary  
Assignment #44313

69O-162.203; Adoption of 2001 Commissioners Standard Ordinary (CSO) Preferred Mortality Tables for Determining Reserve Liabilities for Ordinary Life Insurance  
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69O-164.020; Valuation of Life Insurance Policies  
Assignment #44315

The Office of Insurance Regulation requests that these proposed rule amendments be presented to the Cabinet aides on or before September 14, 2011 and to the Financial Services Commission on September 20, 2011, with a request for Final Approval to Adopt the proposed rules. A notice of the Commission Final Rule Hearing will be published in the *Florida Administrative Weekly* on August 19, 2011.

The notice of proposed rules was published July 1, 2011 in Volume 37, No. 26, of the *Weekly*. The hearing was not requested, therefore, the hearing was not held.

These rule amendments are consistent with changes from rule-based reserve requirements and toward principle-based reserve requirements. Rules based reserves specify mortality tables, interest rates, and method (formulas) as a one size fits all approach. Principle-based reserves permit greater judgment on the part of a company actuary to use assumptions based, to the extent statistically credible, on a company's own experience. Changing to principle-based reserving is occurring at both the national and international levels.

Until recent technology made expanded underwriting criteria practical, mortality tables were based on standard and substandard (health history and/or dangerous hobby) risks, age, sex, and smoker/non-smoker status. Newly developed tables permit super-preferred, preferred, standard, and substandard risk classifications. These tables were first available for policies issued in 2007. Since company underwriting during 2005 and 2006 was essentially the same as in 2007, the industry requested that reserves for policies issued in these two years be calculated using the preferred mortality tables. During the economic downturn, this would

provide "surplus relief," that is lowering reserves on the balance sheet would increase capital and surplus.

An initial step toward the use of principle-based reserves in the U.S. was the adoption by the National Association of Insurance Commissioners (NAIC) of changes to two model regulations which are a national standard for life insurance reserve calculations. The purpose of the NAIC models are for each state to adopt them so that the regulation of insurers is consistent among all the states.

At the request of the life insurance industry, the Life and Health Actuarial Task Force of the NAIC developed the changes which ultimately were adopted by the NAIC. An initial draft of the proposed changes to our rules to adopt the NAIC amendments was emailed to a senior American Council of Life Insurers (ACLI) actuary last year and minor changes were made based upon his suggestions. (The ACLI represents more than 300 legal reserve life insurer and fraternal benefit society member companies operating in the United States.) Additional changes were made to conform to statutory requirements at the request of the attorney who reviews proposed rules on behalf of the Joint Administrative Procedures Committee of the Florida Legislature. The revised draft was sent to the ACLI actuary who did not object to the changes.

The Office believes adoption of these rule changes is in the best interest of the insurance industry and those insured.

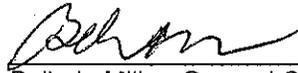
After the rules are adopted, an insurer will have the option to extend the use of preferred mortality tables currently permitted for policies issued on or after 2007 to policies issued in 2005 and 2006. In addition, a company's appointed actuary will be able to adjust mortality used to calculate additional premium reserves to levels consistent with the experience studies performed by the company and anticipated future mortality. The initial impact of the rule will be to lower reserve requirements, thus increasing capital and surplus. After that initial impact, reserves will increase or decrease according to changes in the number of policies remaining in force (reserves will decrease if the number of policies decreases) and the aging of the insured population (reserves will increase as the ages of the insured population increases).

Sections 624.308(1), 624.307(1), 625.121(5), F.S., provide rulemaking authority and laws implemented for these rules.

The Legal Services Office has communicated with the Joint Administrative Procedures Committee, and ascertained that their review of the rules has been completed.

 Leeann Johns is the attorney handling this rule. Attached are: 1) the proposed rule(s); 2) any incorporated materials, such as forms; 3) copies of the rulemaking statutory authority and law implemented.

Approved for signature:



Belinda Miller, General Counsel

Approved for submission to Financial Services  
Commission:



Kevin M. McCarty, Commissioner  
Office of Insurance Regulation

**69O-138.047 Description of Actuarial Memorandum Including an Asset Adequacy Analysis and Regulatory Asset Adequacy Issues Summary.**

(1) General.

(a)1. In accordance with subsection (3) of the Standard Valuation Law, the appointed actuary shall prepare a memorandum to the company describing the analysis done in support of his or her opinion regarding the reserves.

2. The memorandum shall be made available for examination by the Office upon its request. Any memorandum in support of the opinion, and any other material provided by the company to the Office in connection therewith, is confidential and exempt from the provisions of Section 119.07(1), F.S., as provided in Section 625.121(3)(a)10., Florida Statutes.

(b) In preparing the memorandum, the appointed actuary may include as a part of his or her own memorandum, memoranda prepared and signed by other actuaries who are qualified within the meaning of subsection 69O-138.043(2), F.A.C., with respect to the areas covered in the memoranda, and shall so state in their memoranda.

(c) If the Office requests a memorandum and no such memorandum exists, or if the Office finds that the analysis described in the memorandum fails to meet the standards of the Actuarial Standards Board or the standards and requirements of this part, the Office may designate a qualified actuary to review the opinion and prepare for review the required supporting memorandum. The reasonable and necessary expense of the independent review shall be paid by the company but shall be directed and controlled by the Office.

(d)1. The reviewing actuary shall have the same status as an examiner for purposes of obtaining data from the company.

2. The work papers and documentation of the reviewing actuary shall be retained by the Office.

3. Any information provided by the company to the reviewing actuary and included in the work papers shall be considered as material provided by the company to the Office and kept confidential to the same extent prescribed by law with respect to other material provided by the company to the Office pursuant to the statute governing this part.

4. The reviewing actuary shall not be an employee of a consulting firm involved with the preparation of any prior memorandum or opinion for the insurer pursuant to this part for the current year or any one of the preceding 3 years.

(e) In accordance with Section 625.121(3), Florida Statutes, the appointed actuary shall prepare a regulatory asset adequacy issues summary, the contents of which are specified in subsection 69O-138.047(3), F.A.C.

1. The regulatory asset adequacy issues summary shall be submitted no later than March 15 of the year following the year for which a statement of actuarial opinion based on asset adequacy is required.

2. The regulatory asset adequacy issues summary shall be kept confidential to the same extent and under the same conditions as the actuarial memorandum.

(2) Details of the Memorandum Section Documenting Asset Adequacy Analysis. When an actuarial opinion is provided, the memorandum shall demonstrate that the analysis has been done in accordance with the standards for asset adequacy referred to in subsection 69O-138.043(3), F.A.C., and any additional standards under this part. It

shall specify:

(a) For reserves:

1. Product descriptions, including market description, underwriting, and other aspects of a risk profile, and the specific risks the appointed actuary deems significant;

2. Source of liability in force;

3. Reserve method and basis;

4. Investment reserves;

5. Reinsurance arrangements.

6. Identification of any explicit or implied guarantees made by the general account in support of benefits provided through a separate account or under a separate account policy or contract and the methods used by the appointed actuary to provide for the guarantees in the asset adequacy analysis.

7.a. Documentation of assumptions to test reserves for the following:

(I) Lapse rates (both base and excess);

(II) Interest crediting rate strategy;

(III) Mortality;

(IV) Policyholder dividend strategy;

(V) Competitor or market interest rate;

(VI) Annuitization rates;

(VII) Commissions and expenses; and

(VIII) Morbidity.

b. The documentation of the assumptions shall be such that an actuary reviewing the actuarial memorandum can form a conclusion as to the reasonableness of the

assumptions.

(b) For assets:

1. Portfolio descriptions, including a risk profile disclosing the quality, distribution, and types of assets;

2. Investment and disinvestment assumptions;

3. Source of asset data;

4. Asset valuation bases; and

5.a. Documentation of assumptions made for:

(I) Default costs;

(II) Bond call function;

(III) Mortgage prepayment function;

(IV) Determining market value for assets sold due to disinvestment strategy; and

(V) Determining yield on assets acquired through the investment strategy.

b. The documentation of the assumptions shall be such that an actuary reviewing the actuarial memorandum can form a conclusion as to the reasonableness of the assumptions.

(c) For the analysis basis:

1. Methodology;

2. Rationale for inclusion/exclusion of different blocks of business, and how pertinent risks were analyzed;

3. Rationale for degree of rigor in analyzing different blocks of business (include in the rationale the level of "materiality" that was used in determining how rigorously to analyze different blocks of business);

4. Criteria for determining asset adequacy (include in the criteria the precise basis for determining if assets are adequate to cover reserves under "moderately adverse conditions" or other conditions as specified in relevant actuarial standards of practice); and

5. Whether the impact of federal income taxes was considered and the method of treating reinsurance in the asset adequacy analysis.

(d) Summary of material changes in methods, procedures, or assumptions from prior year's asset adequacy analysis;

(e) Summary of Results; and

(f) Conclusion(s).

(3) Details of the Regulatory Asset Adequacy Issues Summary.

(a) The regulatory asset adequacy issues summary shall include:

1. Descriptions of the scenarios tested (including whether those scenarios are stochastic or deterministic) and the sensitivity testing done relative to those scenarios.

a. If negative ending surplus results under certain tests in the aggregate, the actuary should describe those tests and the amount of additional reserve as of the valuation date which, if held, would eliminate the negative aggregate surplus values.

b. Ending surplus values shall be determined by either extending the projection period until the in force and associated assets and liabilities at the end of the projection period are immaterial or by adjusting the surplus amount at the end of the projection period by an amount that appropriately estimates the value that can reasonably be expected to arise from the assets and liabilities remaining in force.

2. The extent to which the appointed actuary uses assumptions in the asset

adequacy analysis that are materially different than the assumptions used in the previous asset adequacy analysis;

3. The amount of reserves and the identity of the product lines that had been subjected to asset adequacy analysis in the prior opinion but were not subject to analysis for the current opinion;

4. Comments on any interim results that may be of significant concern to the appointed actuary; For example, the impact of the insufficiency of assets to support the payment of benefits and expenses and the establishment of statutory reserves during one or more interim periods;

5. The methods used by the actuary to recognize the impact of reinsurance on the company's cash flows, including both assets and liabilities, under each of the scenarios tested; and

6. Whether the actuary has been satisfied that all options whether explicit or embedded, in any asset or liability (including but not limited to those affecting cash flows embedded in fixed income securities) and equity-like features in any investments have been appropriately considered in the asset adequacy analysis.

(b) The regulatory asset adequacy issues summary shall contain the name of the company for which the regulatory asset adequacy issues summary is being supplied and shall be signed and dated by the appointed actuary rendering the actuarial opinion.

(4) Conformity to Standards of Practice. The memorandum shall include a statement:

"Actuarial methods, considerations, and analyses used in the preparation of this memorandum conform to the appropriate Standards of Practice as promulgated by the

Actuarial Standards Board which form the basis for this memorandum.”

(5) Use of Assets Supporting the Interest Maintenance Reserve and the Asset Valuation Reserve.

(a) An appropriate allocation of assets in the amount of the Interest Maintenance Reserve (IMR), whether positive or negative, shall be used in any asset adequacy analysis.

1. Analysis of risks regarding asset default may include an appropriate allocation of assets supporting the Asset Valuation Reserve (AVR); these AVR assets may not be applied for any other risks with respect to reserve adequacy.

2. Analysis of these and other risks may include assets supporting other mandatory or voluntary reserves available to the extent not used for risk analysis and reserve support.

(b)1. The amount of the assets used for the AVR shall be disclosed in the Table of Reserves and Liabilities of the opinion and in the memorandum.

2. The method used for selecting particular assets or allocated portions of assets shall be disclosed in the memorandum.

(6) Documentation. The appointed actuary shall retain on file for at least seven (7) years sufficient documentation so that it will be possible to determine the procedures followed, the analyses performed, the bases for assumptions and the results obtained.

*Rulemaking Specific Authority 625.121(3)(a) FS. Law Implemented 625.121(3) FS.*

*History—New 5-18-93, Amended 1-23-03, Formerly 4-138.047.*

69O-162.203 Adoption of 2001 Commissioners Standard Ordinary (CSO) Preferred Mortality Tables for Determining Reserve Liabilities for Ordinary Life Insurance.

(1) Scope. This rule shall govern mortality tables for use in reserves as set forth in Section 625.121, F.S.

(2) Purpose. The purpose of this rule is to recognize, permit and prescribe the use of mortality tables that reflect differences in mortality between Preferred and Standard lives in determining minimum reserve liabilities in accordance with Section 625.121(5)(a)3., F.S., and subsection 69O-164.020(5), F.A.C.

(3) Definitions.

(a) "2001 CSO Mortality Table" means that mortality table, consisting of separate rates of mortality for male and female lives, developed by the American Academy of Actuaries CSO Task Force from the Valuation Basic Mortality Table developed by the Society of Actuaries Individual Life Insurance Valuation Mortality Task Force, and adopted by the NAIC in December 2002. The 2001 CSO Mortality Table is included in the Proceedings of the NAIC (2nd Quarter 2002) and supplemented by the 2001 CSO Preferred Class Structure Mortality Table defined below in Subsection (b). Unless the context indicates otherwise, the "2001 CSO Mortality Table" includes both the ultimate form of that table and the select and ultimate form of that table and includes both the smoker and nonsmoker mortality tables and the composite mortality tables. It also includes both the age-nearest-birthday and age-last-birthday bases of the mortality tables. Mortality tables in the 2001 CSO Mortality Table include the following:

1. "2001 CSO Mortality Table (F)" means that mortality table consisting of the rates of mortality for female lives from the 2001 CSO Mortality Table.

2. "2001 CSO Mortality Table (M)" means that mortality table consisting of the rates of mortality for male lives from the 2001 CSO Mortality Table.

3. "Composite mortality tables" means mortality tables with rates of mortality that do not distinguish between smokers and nonsmokers.

4. "Smoker and nonsmoker mortality tables" means mortality tables with separate rates of mortality for smokers and nonsmokers.

(b) "2001 CSO Preferred Class Structure Mortality Table" means mortality tables with separate rates of mortality for Super Preferred Nonsmokers, Preferred Nonsmokers, Residual Standard Nonsmokers, Preferred Smokers, and Residual Standard Smoker splits of the 2001 CSO Nonsmoker and Smoker tables as adopted by the NAIC September 10, 2006, which is available in the NAIC Proceedings (3rd Quarter 2006) which is adopted herein and incorporated by reference. Unless the context indicates otherwise, the "2001 CSO Preferred Class Structure Mortality Table" includes both the ultimate form of that table and the select and ultimate form of that table. It includes both the smoker and nonsmoker mortality tables. It includes both the male and female mortality tables and the gender composite mortality tables. It also includes both the age-nearest-birthday and age-last-birthday bases of the mortality table.

(c) "Statistical agent" means an entity with proven systems for protecting the confidentiality of individual insured and insurer information; demonstrated resources for and history of ongoing electronic communications and data transfer ensuring data integrity with insurers, which are its members or subscribers; and a history of and

means for aggregation of data and accurate promulgation of the experience modifications in a timely manner.

(4) 2001 CSO Preferred Class Structure Table.

(a) At the election of the company, for each calendar year of issue, for any one or more specified plans of insurance and subject to satisfying the conditions stated in this rule, the 2001 CSO Preferred Class Structure Mortality Table may be substituted in place of the 2001 CSO Smoker or Nonsmoker Mortality Table as the minimum valuation standard for policies issued on or after January 1, 2007.

1. On valuation dates beginning with December 31, 2010, for policies issued on or after January 1, 2005 for policies not issued in this state, and on or after June 8, 2005, for policies issued in this state, and prior to January 1, 2007 wherever issued, these tables may be substituted at the option of the insurer and subject to the conditions of subsection (5), if the Regulatory Asset Adequacy Issues Summary required by rule chapter 69O-138 includes, if applicable, the impact of the insufficiency of assets to support the payment of benefits and expenses and the establishment of statutory reserves during one or more interim periods.

2. On valuation dates beginning with December 31, 2010, these tables may be substituted by an insurer not domiciled in this state at its option to value the policies identified in (a)(1), if the insurer provides the office with a statement from the commissioner of its state of domicile that the conditions for substituting these tables required by that state have been met.

(b) No such election shall be made until the company demonstrates at least 20% of the business to be valued on this table is in one or more of the preferred classes.

(c) A table from the 2001 CSO Preferred Class Structure Mortality Table used in place of a 2001 CSO Mortality Table, pursuant to the requirements of this rule, will be treated as part of the 2001 CSO Mortality Table only for purposes of reserve valuation pursuant to the requirements of Rule 690-162.201, F.A.C., Adoption of 2001 Commissioners Standard Ordinary (CSO) Mortality Tables.

(5) Conditions.

(a) For each plan of insurance with separate rates for Preferred and Standard Nonsmoker lives, an insurer may use the Super Preferred Nonsmoker, Preferred Nonsmoker, and Residual Standard Nonsmoker tables to substitute for the Nonsmoker mortality table found in the 2001 CSO Mortality Table to determine minimum reserves. At the time of election and annually thereafter, except for business valued under the Residual Standard Nonsmoker Table, the appointed actuary shall certify that:

1. The present value of death benefits over the next ten years after the valuation date, using the anticipated mortality experience without recognition of mortality improvement beyond the valuation date for each class, is less than the present value of death benefits using the valuation basic table corresponding to the valuation table being used for that class.

2. The present value of death benefits over the future life of the contracts, using anticipated mortality experience without recognition of mortality improvement beyond the valuation date for each class, is less than the present value of death benefits using the valuation basic table corresponding to the valuation table being used for that class.

(b) For each plan of insurance with separate rates for Preferred and Standard Smoker lives, an insurer may use the Preferred Smoker and Residual Standard Smoker

tables to substitute for the Smoker mortality table found in the 2001 CSO Mortality Table to determine minimum reserves. At the time of election and annually thereafter, for business valued under the Preferred Smoker Table, the appointed actuary shall certify that:

1. The present value of death benefits over the next ten years after the valuation date, using the anticipated mortality experience without recognition of mortality improvement beyond the valuation date for each class, is less than the present value of death benefits using the Preferred Smoker valuation basic table corresponding to the valuation table being used for that class.

2. The present value of death benefits over the future life of the contracts, using anticipated mortality experience without recognition of mortality improvement beyond the valuation date for each class, is less than the present value of death benefits using the Preferred Smoker valuation basic table.

(c) The use of the 2001 CSO Preferred Class Structure Table for the valuation of policies issued prior to January 1, 2007 shall not be permitted in any statutory financial statement in which a company reports, with respect to any policy or portion of a policy coinsured, either of the following:

1. In cases where the mode of payment of the reinsurance premium is less frequent than the mode of payment of the policy premium, a reserve credit that exceeds, by more than the amount specified in this paragraph as Y, the gross reserve calculated before reinsurance. Y is the amount of the gross reinsurance premium that (a) provides coverage for the period from the next policy premium due date to the earlier of the end

of the policy year and the next reinsurance premium due date, and (b) would be refunded to the ceding entity upon the termination of the policy.

2.a. In cases where the mode of payment of the reinsurance premium is more frequent than the mode of payment of the policy premium, a reserve credit that is less than the gross reserve, calculated before reinsurance, by an amount that is less than the amount specified in this paragraph as Z. Z is the amount of the gross reinsurance premium that the ceding entity would need to pay the assuming company to provide reinsurance coverage from the period of the next reinsurance premium due date to the next policy premium due date minus any liability established for the proportionate amount not remitted to the reinsurer.

b. For purposes of this condition, the reserve (i) for the mean reserve method shall be defined as the mean reserve minus the deferred premium asset, and (ii) for the midterminal reserve method shall include the unearned premium reserve. A company may estimate and adjust its accounting on an aggregate basis in order to meet the conditions to use the 2001 CSO Preferred Class Structure Table.

(6) Effective Date. This rule shall be effective for policies issued on or after January 1, 2007, for valuation dates on or after the date this rule becomes effective.

*Rulemaking Specific Authority 624.308(1), 625.121 FS. Law Implemented 624.307(1), 625.121 FS. History--New 1-16-08.*

69O-164.020 Valuation of Life Insurance Policies.

(1) Purpose.

(a) The purpose of this rule is to provide:

1. Tables of select mortality factors, identified as Appendix to Rule 69O-164.020, F.A.C., included as an Appendix to NAIC model regulation 830 effective January 1, 2000, which is hereby adopted and incorporated by reference, and rules for their use;
2. Rules concerning a minimum standard for the valuation of plans with nonlevel premiums or benefits; and
3. Rules concerning a minimum standard for the valuation of plans with secondary guarantees.

(b) The method for calculating basic reserves defined in this rule will constitute the Commissioners' Reserve Valuation Method for policies to which this rule is applicable.

(2)(a) This rule is consistent with Appendix A-830 of the NAIC Accounting Practices and Procedures Manual as adopted in Rule 69O-137.001, F.A.C.

(b) This rule applies to policies issued during calendar year 2000 in addition to those issued on or after January 1, 2001.

(3) Applicability. This rule shall apply to all life insurance policies, with or without nonforfeiture values, issued on or after January 1, 2000, subject to the following exceptions and conditions:

(a) Exceptions.

1. This rule shall not apply to any individual life insurance policy issued on or after the effective date of this rule if the policy is issued in accordance with and as a result of

the exercise of a reentry provision contained in the original life insurance policy of the same or greater face amount, issued before January 1, 2000, that guarantees the premium rates of the new policy. This rule also shall not apply to subsequent policies issued as a result of the exercise of such a provision, or a derivation of the provision, in the new policy.

2. This rule shall not apply to any universal life policy that meets all the following requirements:

- a. Secondary guarantee period, if any, is 5 years or less;
- b. Specified premium for the secondary guarantee period is not less than the net level reserve premium for the secondary guarantee period based on the CSO valuation tables as defined in paragraph (4)(f), or the ultimate mortality tables specified in subsection 69O-162.201(6), F.A.C., and the applicable valuation interest rate; and
- c. The initial surrender charge is not less than 100 percent of the first year annualized specified premium for the secondary guarantee period.

3. This rule shall not apply to any variable life insurance policy that provides for life insurance the amount or duration of which varies according to the investment experience of any separate account or accounts.

4. This rule shall not apply to any variable universal life insurance policy that provides for life insurance the amount or duration of which varies according to the investment experience of any separate account or accounts.

5. This rule shall not apply to a group life insurance certificate unless the certificate provides for a stated or implied schedule of maximum gross premiums required in order to continue coverage in force for a period in excess of one year.

(b) Conditions.

1. Calculation of the minimum valuation standard for policies with guaranteed nonlevel gross premiums or guaranteed nonlevel benefits (other than universal life policies), or both, shall be in accordance with the provisions of subsection (6).

2. Calculation of the minimum valuation standard for flexible premium and fixed premium universal life insurance policies that contain provisions resulting in the ability of a policyholder to keep a policy in force over a secondary guarantee period shall be in accordance with the provisions of subsection (7).

(4) Definitions. For purposes of this rule:

(a) "Basic reserves" means reserves calculated in accordance with Section 625.121(7), Florida Statutes.

(b)1. "Contract segmentation method" means the method of dividing the period from issue to mandatory expiration of a policy into successive segments, with the length of each segment being defined as the period from the end of the prior segment (from policy inception for the first segment) to the end of the latest policy year as determined below. All calculations are made using the 1980 CSO valuation tables, as defined in paragraph (f), or the mortality tables specified in subsection 69O-162.201(6), F.A.C., and, if elected, the optional minimum mortality standard for deficiency reserves stipulated in paragraph (5)(b) of this rule.

2. The length of a particular contract segment shall be set equal to the minimum of the value  $t$  for which  $G_t$  is greater than  $R_t$  (if  $G_t$  never exceeds  $R_t$  the segment length is deemed to be the number of years from the beginning of the segment to the mandatory expiration date of the policy), where  $G_t$  and  $R_t$  are defined as follows:

$$G_t = \frac{GP_{x+k+t}}{GP_{x+k+t-1}}$$

where:

x = original issue age;

k = the number of years from the date of issue to the beginning of the segment;

t = 1, 2, ...; t is reset to 1 at the beginning of each segment;

$GP_{x+k+t-1}$  = Guaranteed gross premium per thousand of face amount for year t of the segment, ignoring policy fees only if level for the premium paying period of the policy.

$q_{x+k+t}$

$R_t = \frac{q_{x+k+t}}{q_{x+k+t-1}}$ ; however,  $R_t$  may be increased or decreased by one

$q_{x+k+t-1}$  percent in any policy year, at the company's option, but  $R_t$  shall not be less than one;

where:

x, k and t are as defined above, and

$q_{x+k+t-1}$  = valuation mortality rate for deficiency reserves in policy year k+t but using the mortality of Section 5B(2) if Section 5B(3) is elected for deficiency reserves.

However, if  $GP_{x+k+t}$  is greater than 0 and  $GP_{x+k+t-1}$  is equal to 0,  $G_t$  shall be deemed to be 1000. If  $GP_{x+k+t}$  and  $GP_{x+k+t-1}$  are both equal to 0,  $G_t$  shall be deemed to be 0.

(c) "Deficiency reserves" means the excess, if greater than zero, of

1. Minimum reserves calculated in accordance with Section 625.121(11), Florida Statutes, over

2. Basic reserves.

(d) "Guaranteed gross premiums" means the premiums under a policy of life insurance that are guaranteed and determined at issue.

(e) "Maximum valuation interest rates" means the interest rates defined in Section 625.121(6), Florida Statutes, (Computation of Minimum Standard by Calendar Year of Issue) that are to be used in determining the minimum standard for the valuation of life insurance policies.

(f) "1980 CSO valuation tables" means the Commissioners' 1980 Standard Ordinary Mortality Table (1980 CSO Table) without 10-year selection factors, incorporated into the 1980 amendments to the NAIC Standard Valuation Law, and variations of the 1980 CSO Table approved by the NAIC, such as the smoker and nonsmoker versions approved in December 1983.

(g) "Scheduled gross premium" means the smallest illustrated gross premium at issue for other than universal life insurance policies. For universal life insurance policies, scheduled gross premium means the smallest specified premium described in subparagraph (7)(a)3., if any, or else the minimum premium described in subparagraph (7)(a)4.

(h)1. "Segmented reserves" means reserves, calculated using segments produced by the contract segmentation method, equal to the present value of all future guaranteed benefits less the present value of all future net premiums to the mandatory expiration of a policy, where the net premiums within each segment are a uniform percentage of the respective guaranteed gross premiums within the segment. The uniform percentage for each segment is such that, at the beginning of the segment, the present value of the net premiums within the segment equals:

- a. The present value of the death benefits within the segment, plus
- b. The present value of any unusual guaranteed cash value (see paragraph (6)(d))

occurring at the end of the segment, less

c. Any unusual guaranteed cash value occurring at the start of the segment, plus

d. For the first segment only, the excess of the Item (I) over Item (II), as follows:

(I) A net level annual premium equal to the present value at the date of issue of the benefits provided for in the first segment after the first policy year; divided by the present value at the date of issue of an annuity of 1 per year payable on the first and each subsequent anniversary within the first segment on which a premium falls due. However, the net level annual premium shall not exceed the net level annual premium on the 19 year premium whole life plan of insurance of the same renewal year equivalent level amount at an age one year higher than the age at issue of the policy.

(II) A net 1 year term premium for the benefits provided for in the first policy year.

2. The length of each segment is determined by the "contract segmentation method," as defined in this rule.

3. The interest rates used in the present value calculations for any policy shall not exceed the maximum valuation interest rate, determined with a guarantee duration equal to the sum of the lengths of all segments of the policy.

4. For both basic reserves and deficiency reserves computed by the segmented method, present values shall include future benefits and net premiums in the current segment and in all subsequent segments.

a. The segmentation requirement shall not be limited to plans with no cash surrender values; otherwise companies could avoid segmentation entirely by designing policies with minimal (positive) cash values.

b. Segmentation for plans with cash surrender values shall be based solely upon

gross premium levels.

c. Basing segmentation upon the level of cash surrender values introduces complications because of the inter-relationship between minimum cash surrender values and gross premium patterns.

d. The requirements of this rule relating to reserves for plans with unusual cash values and to reserves if cash values exceed calculated reserves serve to link required reserves and cash surrender values.

e. The calculation of segmented reserves shall not be linked to the occurrence of a positive unitary terminal reserve at the end of a segment.

f. The requirement of this rule to hold the greater of the segmented reserve or the unitary reserve eliminates the need for any linkage.

(i) "Tabular cost of insurance" means the net single premium at the beginning of a policy year for 1 year term insurance in the amount of the guaranteed death benefit in that policy year.

(j) "Ten-year select factors" means the select factors adopted with the 1980 amendments to the NAIC Standard Valuation Law.

(k)1. "Unitary reserves" means the present value of all future guaranteed benefits less the present value of all future modified net premiums, where:

a. Guaranteed benefits and modified net premiums are considered to the mandatory expiration of the policy; and

b. Modified net premiums are a uniform percentage of the respective guaranteed gross premiums, where the uniform percentage is such that at issue the present value of the net premiums equals the present value of all death benefits and pure

endowments, plus the excess of Item (I) over Item (II), as follows:

(I) A net level annual premium equal to the present value at the date of issue of the benefits provided for after the first policy year, divided by the present value, at the date of issue, of an annuity of one per year payable on the first and each subsequent anniversary of the policy on which a premium falls due. However, the net level annual premium shall not exceed the net level annual premium on the 19 year premium whole life plan of insurance of the same renewal year equivalent level amount at an age 1 year higher than the age at issue of the policy.

(II) A net 1 year term premium for the benefits provided for in the first policy year.

2. The interest rates used in the present value calculations for any policy shall not exceed the maximum valuation interest rate, determined with a guarantee duration equal to the length from issue to the mandatory expiration of the policy.

(I) "Universal life insurance policy" means any individual life insurance policy under the provisions of which separately identified interest credits (other than in connection with dividend accumulations, premium deposit funds, or other supplementary accounts) and mortality or expense charges are made to the policy.

(5) General Calculation Requirements for Basic Reserves and Premium Deficiency Reserves.

(a) At the election of the insurer for any one or more specified plans of life insurance, the minimum mortality standard for basic reserves may be calculated using the 1980 CSO valuation tables with select mortality factors or the mortality tables specified in subsection 69O-162.201(6), F.A.C. If select mortality factors are elected for use with the 1980 CSO valuation tables, they may be:

1. The 10 year select mortality factors incorporated into the 1980 amendments to the NAIC Standard Valuation Law; or

2. The select mortality factors in the Appendix.

(b) Deficiency reserves, if any, are calculated for each policy as the excess, if greater than zero, of the quantity A over the basic reserve.

1. The quantity A is obtained by recalculating the basic reserve for the policy using guaranteed gross premiums instead of net premiums when the guaranteed gross premiums are less than the corresponding net premiums.

2. At the election of the insurer for any one or more specified plans of insurance, the quantity A and the corresponding net premiums used in the determination of quantity A may be based upon the 1980 CSO valuation tables with select mortality factors or the mortality tables specified in subsection 690-162.201(6), F.A.C. If select mortality factors are elected for use with the 1980 CSO valuation tables, they may be:

a. The 10 year select mortality factors incorporated into the 1980 amendments to the NAIC Standard Valuation Law;

b. The select mortality factors in the Appendix of this rule;

c. For durations in the first segment, X percent of the select mortality factors in the Appendix, subject to the following:

(I) X may vary by policy year, policy form, underwriting classification, issue age, or any other policy factor expected to affect mortality experience;

~~(II) X shall not be less than 20 percent;~~

~~(III) X shall not decrease in any successive policy years;~~

(II) ~~(IV)~~ X is such that, when using the valuation interest rate used for basic reserves,

item (A) is greater than or equal to Item (B);

(A) The actuarial present value of future death benefits, calculated using the mortality rates resulting from the application of X;

(B) The actuarial present value of future death benefits calculated using anticipated mortality experience without recognition of mortality improvement beyond the valuation date;

(III) ~~(V)~~ X is such that the mortality rates resulting from the application of X are at least as great as the anticipated mortality experience, without recognition of mortality improvement beyond the valuation date, in each of the first 5 years after the valuation date;

(IV) ~~(VI)~~ The appointed actuary shall increase X at any valuation date where it is necessary to continue to meet all the requirements of subparagraph (b)3.;

(V) ~~(VII)~~ The appointed actuary may decrease X at any valuation date as long as X does not decrease in any successive policy years and as long as it continues to meet all the requirements of subparagraph (b)3.; and

(VI) ~~(VIII)~~ The appointed actuary shall specifically take into account the adverse effect on expected mortality and lapsation of any anticipated or actual increase in gross premiums.

(VII) ~~(IX)~~ If X is less than 100 percent at any duration for any policy, the following requirements shall be met:

(A) The appointed actuary shall annually prepare an actuarial opinion and memorandum for the company in conformance with the requirements of Rule Chapter 69O-138, F.A.C.; and

(B) The appointed actuary shall annually opine for all policies subject to this rule as to whether the mortality rates resulting from the application of X meet the requirements of subparagraph (b)2.c.

I. The opinion shall be supported by an actuarial report, subject to appropriate Actuarial Standards of Practice promulgated by the Actuarial Standards Board of the American Academy of Actuaries.

II. The X factors shall reflect anticipated future mortality without recognition of mortality improvement beyond the valuation date, taking into account relevant emerging experience.

(C) The appointed actuary shall disclose, in the Regulatory Asset Adequacy Issues Summary, the impact of the insufficiency of assets to support the payment of benefits and expenses and the establishment of statutory reserves during one or more interim periods;

(c) This subsection applies to both basic reserves and deficiency reserves. Any set of select mortality factors may be used only for the first segment. However, if the first segment is less than 10 years, the appropriate 10 year select mortality factors incorporated into the 1980 amendments to the NAIC Standard Valuation Law may be used thereafter through the tenth policy year from the date of issue.

(d) In determining basic reserves or deficiency reserves, guaranteed gross premiums without policy fees may be used where the calculation involves the guaranteed gross premium, but only if the policy fee is a level dollar amount after the first policy year. In determining deficiency reserves, policy fees may be included in guaranteed gross premiums even if not included in the actual calculation of basic

reserves.

(e) Reserves for policies that have changes to guaranteed gross premiums, guaranteed benefits, guaranteed charges, or guaranteed credits that are unilaterally made by the insurer after issue and that are effective for more than 1 year after the date of the change shall be the greatest of the following:

1. Reserves calculated ignoring the guarantee;
2. Reserves assuming the guarantee was made at issue; and
3. Reserves assuming that the policy was issued on the date of the guarantee.

(f) The company shall document the extent of the adequacy of reserves for material blocks, including policies issued prior to the effective date of this rule. The documentation shall include:

1. A demonstration of the extent to which aggregation with immaterial blocks of business is relied upon in the formation of the appointed actuary opinion pursuant to and consistent with the requirements of Chapter 69O-138, F.A.C.; and

2. A definition of material.

(6) Calculation of Minimum Valuation Standard for Policies with Guaranteed Nonlevel Gross Premiums or Guaranteed Nonlevel Benefits (Other than Universal Life Policies).

(a) Basic Reserves. Basic reserves shall be calculated as the greater of the segmented reserves and the unitary reserves. Both the segmented reserves and the unitary reserves for any policy shall use the same valuation mortality table and selection factors. At the option of the insurer in calculating segmented reserves and net premiums either of the adjustments described in subparagraph 1. or 2. below may be made:

1. Treat the unitary reserve, if greater than zero, applicable at the end of each segment as a pure endowment and subtract the unitary reserve, if greater than zero, applicable at the beginning of each segment from the present value of guaranteed life insurance and endowment benefits for each segment.

2. Treat the guaranteed cash surrender value, if greater than zero, applicable at the end of each segment as a pure endowment; and subtract the guaranteed cash surrender value, if greater than zero, applicable at the beginning of each segment from the present value of guaranteed life insurance and endowment benefits for each segment.

(b) Deficiency Reserves.

1. The deficiency reserve at any duration shall be calculated:

a. On a unitary basis if the corresponding basic reserve determined by paragraph (a) is unitary;

b. On a segmented basis if the corresponding basic reserve determined by paragraph (a) is segmented; or

c. On the segmented basis if the corresponding basic reserve determined by paragraph (a) is equal to both the segmented reserve and the unitary reserve.

2. This subsection shall apply to any policy for which the guaranteed gross premium at any duration is less than the corresponding modified net premium calculated by the method used in determining the basic reserves, but using the minimum valuation standards in paragraph (5)(b) and rate of interest.

3. Deficiency reserves, if any, shall be calculated for each policy as the excess if greater than zero, for the current and all remaining periods, of the quantity A over the

basic reserve, where A is obtained as indicated in paragraph (5)(b).

4. For deficiency reserves determined on a segmented basis, the quantity A is determined using segment lengths equal to those determined for segmented basic reserves.

(c) Minimum Value.

1. Basic reserves shall not be less than the tabular cost of insurance for the balance of the policy year if mean reserves are used.

2. Basic reserves shall not be less than the tabular cost of insurance for the balance of the current modal period or to the paid-to-date, if later, but not beyond the next policy anniversary, if mid-terminal reserves are used.

3. The tabular cost of insurance shall use the same valuation mortality table and interest rates as that used for the calculation of the segmented reserves.

4. Mortality tables specified in subsection 69O-162.201(6), F.A.C., may be used.

5. However, if select mortality factors are used with the 1980 CSO valuation tables, they shall be the 10 year select factors incorporated into the 1980 amendments of the NAIC Standard Valuation Law.

6. In no case may total reserves (including basic reserves, deficiency reserves and any reserves held for supplemental benefits that would expire upon contract termination) be less than the amount that the policyowner would receive (including the cash surrender value of the supplemental benefits, if any, referred to above), exclusive of any deduction for policy loans, upon termination of the policy.

(d) Unusual Pattern of Guaranteed Cash Surrender Values.

1. For any policy with an unusual pattern of guaranteed cash surrender values, the

reserves actually held prior to the first unusual guaranteed cash surrender value shall not be less than the reserves calculated by treating the first unusual guaranteed cash surrender value as a pure endowment and treating the policy as an n year policy providing term insurance plus a pure endowment equal to the unusual cash surrender value, where n is the number of years from the date of issue to the date the unusual cash surrender value is scheduled.

2. The reserves actually held subsequent to any unusual guaranteed cash surrender value shall not be less than the reserves calculated by treating the policy as an n year policy providing term insurance plus a pure endowment equal to the next unusual guaranteed cash surrender value, and treating any unusual guaranteed cash surrender value at the end of the prior segment as a net single premium, where

a. n is the number of years from the date of the last unusual guaranteed cash surrender value prior to the valuation date to the earlier of:

(I) The date of the next unusual guaranteed cash surrender value, if any, that is scheduled after the valuation date; or

(II) The mandatory expiration date of the policy; and

b. The net premium for a given year during the n year period is equal to the product of the net to gross ratio and the respective gross premium; and

c. The net to gross ratio is equal to Item I divided by Item II as follows:

(I)(A) The present value at the beginning of the n year period of death benefits payable during the n year period, plus

(B) The present value at the beginning of the n year period of the next unusual guaranteed cash surrender value, if any, minus

(C) The amount of the last unusual guaranteed cash surrender value, if any, scheduled at the beginning of the n year period.

(II) The present value at the beginning of the n year period of the scheduled gross premiums payable during the n year period.

3. For purposes of this subsection, a policy is considered to have an unusual pattern of guaranteed cash surrender values if any future guaranteed cash surrender value exceeds the prior year's guaranteed cash surrender value by more than the sum of:

a. 110 percent of the scheduled gross premium for that year;

b. 110 percent of one year's accrued interest on the sum of the prior year's guaranteed cash surrender value and the scheduled gross premium using the nonforfeiture interest rate used for calculating policy guaranteed cash surrender values; and

c. 5 percent of the first policy year surrender charge, if any.

(e) Optional Exemption for Yearly Renewable Term Reinsurance. At the option of the company, the following approach for reserves on YRT reinsurance may be used:

1. Calculate the valuation net premium for each future policy year as the tabular cost of insurance for that future year.

2. Basic reserves shall never be less than the tabular cost of insurance for the appropriate period, as defined in paragraph (c).

3. Deficiency reserves.

a. For each policy year, calculate the excess, if greater than zero, of the valuation net premium over the respective maximum guaranteed gross premium.

b. Deficiency reserves shall never be less than the sum of the present values, at the

date of valuation, of the excesses determined in accordance with paragraph (a) above.

4. For purposes of this subsection, the calculations use the maximum valuation interest rate and the 1980 CSO mortality tables with or without 10 year select mortality factors or the mortality tables specified in subsection 69O-162.201(6), F.A.C.

5. A reinsurance agreement shall be considered YRT reinsurance for purposes of this subsection if only the mortality risk is reinsured.

6. If the assuming company chooses this optional exemption, the ceding company's reinsurance reserve credit shall be limited to the amount of reserve held by the assuming company for the affected policies.

(f) Optional Exemption for Attained-Age-Based Yearly Renewable Term Life Insurance Policies. At the option of the company, the following approach for reserves for attained-age-based YRT life insurance policies may be used:

1. Calculate the valuation net premium for each future policy year as the tabular cost of insurance for that future year.

2. Basic reserves shall never be less than the tabular cost of insurance for the appropriate period, as defined in paragraph (6)(c).

3. Deficiency reserves.

a. For each policy year, calculate the excess, if greater than zero, of the valuation net premium over the respective maximum guaranteed gross premium.

b. Deficiency reserves shall never be less than the sum of the present values at the date of valuation of the excesses determined in accordance with sub-subparagraph a. above.

4. For purposes of this subsection, the calculations use the maximum valuation

interest rate and the 1980 CSO valuation tables with or without 10 year select mortality factors or the mortality tables specified in subsection 69O-162.201(6), F.A.C.

5. A policy shall be considered an attained-age-based YRT life insurance policy for purposes of this subsection if:

a. The premium rates on both the initial current premium scale and the guaranteed maximum premium scale are based upon the attained age of the insured such that the rate for any given policy at a given attained age of the insured is independent of the year the policy was issued; and

b. The premium rates on both the initial current premium scale and the guaranteed maximum premium scale are the same as the premium rates for policies covering all insureds of the same sex, risk class, plan of insurance, and attained age.

6. For policies that become attained-age-based YRT policies after an initial period of coverage, the approach of this subsection may be used after the initial period if:

a. The initial period is constant for all insureds of the same sex, risk class, and plan of insurance; or

b. The initial period runs to a common attained age for all insureds of the same sex, risk class, and plan of insurance; and

c. After the initial period of coverage, the policy meets the conditions of subparagraph 5. above.

7. If this election is made, this approach shall be applied in determining reserves for all attained-age-based YRT life insurance policies issued on or after the effective date of this rule.

(g) Exemption from Unitary Reserves for Certain n-Year Renewable Term Life

Insurance Policies. Unitary basic reserves and unitary deficiency reserves need not be calculated for a policy if the following conditions are met:

1. The policy consists of a series of n-year periods including the first period and all renewal periods where n is the same for each period, except that for the final renewal period, n may be truncated or extended to reach the expiry age, provided that:

a. This final renewal period is less than 10 years and less than twice the size of the earlier n-year periods, and

b. For each period, the premium rates on both the initial current premium scale and the guaranteed maximum premium scale are level;

2. The guaranteed gross premiums in all n-year periods are not less than the corresponding net premiums based upon the 1980 CSO Table with or without the 10 year select mortality factors or the mortality tables specified in subsection 690-162.201(6), F.A.C.; and

3. There are no cash surrender values in any policy year.

(h) Exemption from Unitary Reserves for Certain Juvenile Policies. Unitary basic reserves and unitary deficiency reserves need not be calculated for a policy if the following conditions are met, based upon the initial current premium scale at issue:

1. At issue, the insured is age 24 or younger;

2. Until the insured reaches the end of the juvenile period, which shall occur at or before age 25, the gross premiums and death benefits are level, and there are no cash surrender values; and

3. After the end of the juvenile period, gross premiums are level for the remainder of the premium paying period, and death benefits are level for the remainder of the life of

the policy.

(7) Calculation of Minimum Valuation Standard for Flexible Premium and Fixed Premium Universal Life Insurance Policies that Contain Provisions Resulting in the Ability of a Policyowner to Keep a Policy in Force Over a Secondary Guarantee Period.

(a) General.

1. Policies with a secondary guarantee include:

a. A policy with a guarantee that the policy will remain in force at the original schedule of benefits, subject only to the payment of specified premiums;

b. A policy in which the minimum premium at any duration is less than the corresponding 1 year valuation premium, calculated using the maximum valuation interest rate and the 1980 CSO valuation tables with or without 10 year select mortality factors or the mortality tables specified in subsection 69O-162.201(6), F.A.C.; or

c. A policy with any combination of subparagraph a. and b.

2. A secondary guarantee period is the period for which the policy is guaranteed to remain in force subject only to a secondary guarantee.

a. When a policy contains more than one secondary guarantee, the minimum reserve shall be the greatest of the respective minimum reserves at that valuation date of each unexpired secondary guarantee, ignoring all other secondary guarantees.

b. Secondary guarantees that are unilaterally changed by the insurer after issue shall be considered to have been made at issue.

c. Reserves described in paragraphs (b) and (c) below shall be recalculated from issue to reflect these changes.

3. Specified premiums mean the premiums specified in the policy, the payment of

which guarantees that the policy will remain in force at the original schedule of benefits but which otherwise would be insufficient to keep the policy in force in the absence of the guarantee if maximum mortality and expense charges and minimum interest credits were made and any applicable surrender charges were assessed.

4.a. For purposes of this section, the minimum premium for any policy year is the premium that, when paid into a policy with a zero account value at the beginning of the policy year, produces a zero account value at the end of the policy year.

b. The minimum premium calculation shall use the policy cost factors (including mortality charges, loads, and expense charges) and the interest crediting rate which are all guaranteed at issue.

5.a. The 1 year valuation premium means the net 1 year premium based upon the original schedule of benefits for a given policy year.

b. The 1 year valuation premiums for all policy years are calculated at issue.

c. The select mortality factors defined in subparagraphs (5)(b)2., 3., and 4. shall not be used to calculate the 1 year valuation premiums.

6. The 1 year valuation premium shall reflect the frequency of fund processing, as well as the distribution of deaths assumption employed in the calculation of the monthly mortality charges to the fund.

(b) Basic Reserves for the Secondary Guarantees.

1. Basic reserves for the secondary guarantees shall be the segmented reserves for the secondary guarantee period.

2. In calculating the segments and the segmented reserves, the gross premiums shall be set equal to the specified premiums, if any, or otherwise to the minimum

premiums that keep the policy in force.

3. The segments will be determined according to the contract segmentation method as defined in paragraph (4)(b).

(c) Deficiency Reserves for the Secondary Guarantees. Deficiency reserves, if any, for the secondary guarantees shall be calculated for the secondary guarantee period in the same manner as described in paragraph (6)(b) with gross premiums set equal to the specified premiums, if any, or otherwise to the minimum premiums that keep the policy in force.

(d) Minimum Reserves. The minimum reserves during the secondary guarantee period are the greater of:

1. The basic reserves for the secondary guarantee plus the deficiency reserve, if any, for the secondary guarantees; or

2. The minimum reserves required by Rule 69O-164.010, F.A.C., governing universal life plans.

(9) Effective Date.

(a) This rule shall be effective for policies issued on or after January 1, 2000 for valuation dates on or after the date this rule is adopted.

(b) For valuation dates prior to the effective date of this rule, at the option of the company, the company may report reserves for policies issued in calendar year 2000 based upon this rule.

*Rulemaking Specific Authority 624.308(1), 625.121(5) FS. Law Implemented 624.307(1), 625.121(5) FS. History—New 12-24-03, Formerly 4-164.020, Amended 6-8-05.*

625.121 Standard Valuation Law; life insurance.--

(3) ACTUARIAL OPINION OF RESERVES.--

- (a)1. Each life insurance company doing business in this state shall annually submit the opinion of a qualified actuary as to whether the reserves and related actuarial items held in support of the policies and contracts specified by the commission by rule are computed appropriately, are based on assumptions which satisfy contractual provisions, are consistent with prior reported amounts, and comply with applicable laws of this state. The commission by rule shall define the specifics of this opinion and add any other items determined to be necessary to its scope.
2. The opinion shall be submitted with the annual statement reflecting the valuation of such reserve liabilities for each year ending on or after December 31, 1992.
3. The opinion shall apply to all business in force, including individual and group health insurance plans, in the form and substance acceptable to the office as specified by rule of the commission.
4. The commission may adopt rules providing the standards of the actuarial opinion consistent with standards adopted by the Actuarial Standards Board on December 31, 2002, and subsequent revisions thereto, provided that the standards remain substantially consistent.
5. In the case of an opinion required to be submitted by a foreign or alien company, the office may accept the opinion filed by that company with the insurance supervisory official of another state if the office determines that the opinion reasonably meets the requirements applicable to a company domiciled in this state.
6. For the purposes of this subsection, "qualified actuary" means a member in good standing of the American Academy of Actuaries who also meets the requirements specified by rule of the commission.
7. Disciplinary action by the office against the company or the qualified actuary shall be in accordance with the insurance code and related rules adopted by the commission.
8. A memorandum in the form and substance specified by rule shall be prepared to support each actuarial opinion.
9. If the insurance company fails to provide a supporting memorandum at the request of the office within a period specified by rule of the commission, or if the office determines that the supporting memorandum provided by the insurance company fails to meet the standards prescribed by rule of the commission, the office may engage a qualified actuary at the expense of the company to review the opinion and the basis for the opinion and prepare such supporting memorandum as is required by the office.
10. Except as otherwise provided in this paragraph, any memorandum or other material in support of the opinion is confidential and exempt from the provisions of s. 119.07(1); however, the memorandum or other material may be released by the office with the written consent of the company, or to the American Academy of Actuaries upon request stating that the memorandum or other material is required for the purpose of professional disciplinary proceedings and setting forth procedures satisfactory to the office for preserving the confidentiality of the memorandum or other material. If any portion of the confidential memorandum is cited by the company in its marketing or is cited before any governmental agency other than a state insurance department or is released by the company to the news media, no portion of the memorandum is confidential.

625.121 Standard Valuation Law; life insurance.--

(3) ACTUARIAL OPINION OF RESERVES.--

- (a)1. Each life insurance company doing business in this state shall annually submit the opinion of a qualified actuary as to whether the reserves and related actuarial items held in support of the policies and contracts specified by the commission by rule are computed appropriately, are based on assumptions which satisfy contractual provisions, are consistent with prior reported amounts, and comply with applicable laws of this state. The commission by rule shall define the specifics of this opinion and add any other items determined to be necessary to its scope.
2. The opinion shall be submitted with the annual statement reflecting the valuation of such reserve liabilities for each year ending on or after December 31, 1992.
3. The opinion shall apply to all business in force, including individual and group health insurance plans, in the form and substance acceptable to the office as specified by rule of the commission.
4. The commission may adopt rules providing the standards of the actuarial opinion consistent with standards adopted by the Actuarial Standards Board on December 31, 2002, and subsequent revisions thereto, provided that the standards remain substantially consistent.
5. In the case of an opinion required to be submitted by a foreign or alien company, the office may accept the opinion filed by that company with the insurance supervisory official of another state if the office determines that the opinion reasonably meets the requirements applicable to a company domiciled in this state.
6. For the purposes of this subsection, "qualified actuary" means a member in good standing of the American Academy of Actuaries who also meets the requirements specified by rule of the commission.
7. Disciplinary action by the office against the company or the qualified actuary shall be in accordance with the insurance code and related rules adopted by the commission.
8. A memorandum in the form and substance specified by rule shall be prepared to support each actuarial opinion.
9. If the insurance company fails to provide a supporting memorandum at the request of the office within a period specified by rule of the commission, or if the office determines that the supporting memorandum provided by the insurance company fails to meet the standards prescribed by rule of the commission, the office may engage a qualified actuary at the expense of the company to review the opinion and the basis for the opinion and prepare such supporting memorandum as is required by the office.
10. Except as otherwise provided in this paragraph, any memorandum or other material in support of the opinion is confidential and exempt from the provisions of s. 119.07(1); however, the memorandum or other material may be released by the office with the written consent of the company, or to the American Academy of Actuaries upon request stating that the memorandum or other material is required for the purpose of professional disciplinary proceedings and setting forth procedures satisfactory to the office for preserving the confidentiality of the memorandum or other material. If any portion of the confidential memorandum is cited by the company in its marketing or is cited before any governmental agency other than a state insurance department or is released by the company to the news media, no portion of the memorandum is confidential.

(b) In addition to the opinion required by subparagraph (a)1., the office may, pursuant to commission rule, require an opinion of the same qualified actuary as to whether the reserves and related actuarial items held in support of the policies and contracts specified by the commission by rule, when considered in light of the assets held by the company with respect to the reserves and related actuarial items, including but not limited to the investment earnings on the assets and considerations anticipated to be received and retained under the policies and contracts, make adequate provision for the company's obligations under the policies and contracts, including, but not limited to, the benefits under, and expenses associated with, the policies and contracts.

(c) The commission may provide by rule for a transition period for establishing any higher reserves which the qualified actuary may deem necessary in order to render the opinion required by this subsection.

**624.308 Rules.--**

- (1) The department and the commission may each adopt rules pursuant to ss. 120.536(1) and 120.54 to implement provisions of law conferring duties upon the department or the commission, respectively.

**625.121 Standard Valuation Law; life insurance.--**

- (1) **SHORT TITLE.--**This section shall be known as the "Standard Valuation Law."
- (2) **ANNUAL VALUATION.--**The office shall annually value, or cause to be valued, the reserve liabilities, hereinafter called "reserves," for all outstanding life insurance policies and annuity and pure endowment contracts of every life insurer doing business in this state, and may certify the amount of any such reserves, specifying the mortality table or tables, rate or rates of interest, and methods, net-level premium method or others, used in the calculation of such reserves. In the case of an alien insurer, such valuation shall be limited to its insurance transactions in the United States. In calculating such reserves, the office may use group methods and approximate averages for fractions of a year or otherwise. It may accept in its discretion the insurer's calculation of such reserves. In lieu of the valuation of the reserves herein required of any foreign or alien insurer, it may accept any valuation made or caused to be made by the insurance supervisory official of any state or other jurisdiction when such valuation complies with the minimum standard herein provided and if the official of such state or jurisdiction accepts as sufficient and valid for all legal purposes the certificate of valuation of the office when such certificate states the valuation to have been made in a specified manner according to which the aggregate reserves would be at least as large as if they had been computed in the manner prescribed by the law of that state or jurisdiction. When any such valuation is made by the office, it may use the actuary of the office or employ an actuary for the purpose; and the reasonable compensation of the actuary, at a rate approved by the office, and reimbursement of travel expenses pursuant to s. 624.320 upon demand by the office, supported by an itemized statement of such compensation and expenses, shall be paid by the insurer. When a domestic insurer furnishes the office with a valuation of its outstanding policies as computed by its own actuary or by an actuary deemed satisfactory for the purpose by the office, the valuation shall be verified by the actuary of the office without cost to the insurer.

**(3) ACTUARIAL OPINION OF RESERVES.--**

- (a)1. Each life insurance company doing business in this state shall annually submit the opinion of a qualified actuary as to whether the reserves and related actuarial items held in support of the policies and contracts specified by the commission by rule are computed appropriately, are based on assumptions which satisfy contractual provisions, are consistent with prior reported amounts, and comply with applicable laws of this state. The commission by rule shall define the specifics of this opinion and add any other items determined to be necessary to its scope.
2. The opinion shall be submitted with the annual statement reflecting the valuation of such reserve liabilities for each year ending on or after December 31, 1992.
3. The opinion shall apply to all business in force, including individual and group health insurance plans, in the form and substance acceptable to the office as specified by rule of the commission.
4. The commission may adopt rules providing the standards of the actuarial opinion consistent with standards adopted by the Actuarial Standards Board on December 31, 2002, and subsequent revisions thereto, provided that the standards remain substantially consistent.
5. In the case of an opinion required to be submitted by a foreign or alien company, the office may accept the opinion filed by that company with the insurance supervisory official of another state if the

office determines that the opinion reasonably meets the requirements applicable to a company domiciled in this state.

6. For the purposes of this subsection, "qualified actuary" means a member in good standing of the American Academy of Actuaries who also meets the requirements specified by rule of the commission.
  7. Disciplinary action by the office against the company or the qualified actuary shall be in accordance with the insurance code and related rules adopted by the commission.
  8. A memorandum in the form and substance specified by rule shall be prepared to support each actuarial opinion.
  9. If the insurance company fails to provide a supporting memorandum at the request of the office within a period specified by rule of the commission, or if the office determines that the supporting memorandum provided by the insurance company fails to meet the standards prescribed by rule of the commission, the office may engage a qualified actuary at the expense of the company to review the opinion and the basis for the opinion and prepare such supporting memorandum as is required by the office.
  10. Except as otherwise provided in this paragraph, any memorandum or other material in support of the opinion is confidential and exempt from the provisions of s. 119.07(1); however, the memorandum or other material may be released by the office with the written consent of the company, or to the American Academy of Actuaries upon request stating that the memorandum or other material is required for the purpose of professional disciplinary proceedings and setting forth procedures satisfactory to the office for preserving the confidentiality of the memorandum or other material. If any portion of the confidential memorandum is cited by the company in its marketing or is cited before any governmental agency other than a state insurance department or is released by the company to the news media, no portion of the memorandum is confidential.
    - (b) In addition to the opinion required by subparagraph (a)1., the office may, pursuant to commission rule, require an opinion of the same qualified actuary as to whether the reserves and related actuarial items held in support of the policies and contracts specified by the commission by rule, when considered in light of the assets held by the company with respect to the reserves and related actuarial items, including but not limited to the investment earnings on the assets and considerations anticipated to be received and retained under the policies and contracts, make adequate provision for the company's obligations under the policies and contracts, including, but not limited to, the benefits under, and expenses associated with, the policies and contracts.
    - (c) The commission may provide by rule for a transition period for establishing any higher reserves which the qualified actuary may deem necessary in order to render the opinion required by this subsection.
- (4) **MINIMUM STANDARD FOR VALUATION OF POLICIES AND CONTRACTS ISSUED BEFORE OPERATIVE DATE OF STANDARD NONFORFEITURE LAW.**--The minimum standard for the valuation of all such policies and contracts issued prior to the operative date of s. 627.476 (Standard Nonforfeiture Law) shall be any basis satisfactory to the office. Any basis satisfactory to the former Department of Insurance on the effective date of this code shall be deemed to meet such minimum standards.
- (5) **MINIMUM STANDARD FOR VALUATION OF POLICIES AND CONTRACTS ISSUED ON OR AFTER OPERATIVE DATE OF STANDARD NONFORFEITURE LAW.**--Except as otherwise provided in paragraph (h) and subsections (6), (11), and (14), the minimum standard for the valuation of all such policies and contracts issued on or after the operative date of s. 627.476 (Standard Nonforfeiture Law for Life Insurance) shall be the commissioners' reserve valuation method defined in subsections (7), (11), and

(14); 5 percent interest for group annuity and pure endowment contracts and 3.5 percent interest for all other such policies and contracts, or in the case of life insurance policies and contracts, other than annuity and pure endowment contracts, issued on or after July 1, 1973, 4 percent interest for such policies issued prior to October 1, 1979, and 4.5 percent interest for such policies issued on or after October 1, 1979; and the following tables:

(a) For all ordinary policies of life insurance issued on the standard basis, excluding any disability and accidental death benefits in such policies:

1. For policies issued prior to the operative date of s. 627.476(9), the commissioners' 1958 Standard Ordinary Mortality Table; except that, for any category of such policies issued on female risks, modified net premiums and present values, referred to in subsection (7), may be calculated according to an age not more than 6 years younger than the actual age of the insured.
2. For policies issued on or after the operative date of s. 627.476(9), the commissioners' 1980 Standard Ordinary Mortality Table or, at the election of the insurer for any one or more specified plans of life insurance, the commissioners' 1980 Standard Ordinary Mortality Table with Ten-Year Select Mortality Factors.
3. For policies issued on or after July 1, 2004, ordinary mortality tables, adopted after 1980 by the National Association of Insurance Commissioners, adopted by rule by the commission for use in determining the minimum standard of valuation for such policies.

(b) For all industrial life insurance policies issued on the standard basis, excluding any disability and accidental death benefits in such policies:

1. For policies issued prior to the first date to which the commissioners' 1961 Standard Industrial Mortality Table is applicable according to s. 627.476, the 1941 Standard Industrial Mortality Table; and
2. For such policies issued on or after that date, the commissioners' 1961 Standard Industrial Mortality Table.

(c) For individual annuity and pure endowment contracts, excluding any disability and accidental death benefits in such policies, the 1937 Standard Annuity Mortality Table or, at the option of the insurer, the Annuity Mortality Table for 1949, Ultimate, or any modification of either of these tables approved by the office.

(d) For group annuity and pure endowment contracts, excluding any disability and accidental death benefits in such policies, the Group Annuity Mortality Table for 1951; any modification of such table approved by the office; or, at the option of the insurer, any of the tables or modifications of tables specified for individual annuity and pure endowment contracts.

(e) For total and permanent disability benefits in or supplementary to ordinary policies or contracts:

1. For policies or contracts issued on or after January 1, 1966, the tables of period 2 disablement rates and the 1930 to 1950 termination rates of the 1952 disability study of the Society of Actuaries, with due regard to the type of benefit;
2. For policies or contracts issued on or after January 1, 1961, and prior to January 1, 1966, either those tables or, at the option of the insurer, the class three disability table (1926);
3. For policies issued prior to January 1, 1961, the class three disability table (1926); and

4. For policies or contracts issued on or after July 1, 2004, tables of disablement rates and termination rates adopted after 1980 by the National Association of Insurance Commissioners, adopted by rule by the commission for use in determining the minimum standard of valuation for those policies or contracts.

Any such table for active lives shall be combined with a mortality table permitted for calculating the reserves for life insurance policies.

(f) For accidental death benefits in or supplementary to policies:

1. For policies issued on or after January 1, 1966, the 1959 Accidental Death Benefits Table;
2. For policies issued on or after January 1, 1961, and prior to January 1, 1966, either that table or, at the option of the insurer, the Intercompany Double Indemnity Mortality Table;
3. For policies issued prior to January 1, 1961, the Intercompany Double Indemnity Mortality Table;  
and
4. For policies issued on or after July 1, 2004, tables of accidental death benefits adopted after 1980 by the National Association of Insurance Commissioners, adopted by rule by the commission for use in determining the minimum standard of valuation for those policies.

Either table shall be combined with a mortality table permitted for calculating the reserves for life insurance policies.

(g) For group life insurance, life insurance issued on the substandard basis, and other special benefits, such tables as may be approved by the office as being sufficient with relation to the benefits provided by such policies.

(h) Except as provided in subsection (6), the minimum standard for the valuation of all individual annuity and pure endowment contracts issued on or after the operative date of this paragraph and for all annuities and pure endowments purchased on or after such operative date under group annuity and pure endowment contracts shall be the commissioners' reserve valuation method defined in subsection (7) and the following tables and interest rates:

1. For individual annuity and pure endowment contracts issued prior to October 1, 1979, excluding any disability and accidental death benefits in such contracts, the 1971 Individual Annuity Mortality Table, or any modification of this table approved by the office, and 6 percent interest for single-premium immediate annuity contracts and 4 percent interest for all other individual annuity and pure endowment contracts.
2. For individual single-premium immediate annuity contracts issued on or after October 1, 1979, and prior to October 1, 1986, excluding any disability and accidental death benefits in such contracts, the 1971 Individual Annuity Mortality Table, or any modification of this table approved by the office, and 7.5 percent interest. For such contracts issued on or after October 1, 1986, the 1983 Individual Annual Mortality Table, or any modification of such table approved by the office, and the applicable calendar year statutory valuation interest rate as described in subsection (6).
3. For individual annuity and pure endowment contracts issued on or after October 1, 1979, and prior to October 1, 1986, other than single-premium immediate annuity contracts, excluding any disability and accidental death benefits in such contracts, the 1971 Individual Annuity Mortality Table, or any modification of this table approved by the office, and 5.5 percent interest for single-premium deferred annuity and pure endowment contracts and 4.5 percent interest for all other such individual annuity

and pure endowment contracts. For such contracts issued on or after October 1, 1986, the 1983 Individual Annual Mortality Table, or any modification of such table approved by the office, and the applicable calendar year statutory valuation interest rate as described in subsection (6).

4. For all annuities and pure endowments purchased prior to October 1, 1979, under group annuity and pure endowment contracts, excluding any disability and accidental death benefits purchased under such contracts, the 1971 Group Annuity Mortality Table, or any modification of this table approved by the office, and 6 percent interest.
5. For all annuities and pure endowments purchased on or after October 1, 1979, and prior to October 1, 1986, under group annuity and pure endowment contracts, excluding any disability and accidental death benefits purchased under such contracts, the 1971 Group Annuity Mortality Table, or any modification of this table approved by the office, and 7.5 percent interest. For such contracts purchased on or after October 1, 1986, the 1983 Group Annuity Mortality Table, or any modification of such table approved by the office, and the applicable calendar year statutory valuation interest rate as described in subsection (6).

After July 1, 1973, any insurer may have filed with the former Department of Insurance a written notice of its election to comply with the provisions of this paragraph after a specified date before January 1, 1979, which shall be the operative date of this paragraph for such insurer. However, an insurer may elect a different operative date for individual annuity and pure endowment contracts from that elected for group annuity and pure endowment contracts. If an insurer makes no such election, the operative date of this paragraph for such insurer shall be January 1, 1979.

(i) In lieu of the mortality tables specified in this subsection, and subject to rules previously adopted by the former Department of Insurance, the insurance company may, at its option:

1. Substitute the applicable 1958 CSO or CET Smoker and Nonsmoker Mortality Tables, in lieu of the 1980 CSO or CET mortality table standard, for policies issued on or after the operative date of s. 627.476(9) and before January 1, 1989.
2. Substitute the applicable 1980 CSO or CET Smoker and Nonsmoker Mortality Tables in lieu of the 1980 CSO or CET mortality table standard;
3. Use the Annuity 2000 Mortality Table for determining the minimum standard of valuation for individual annuity and pure endowment contracts issued on or after January 1, 1998, and before July 1, 1998.
4. Use the 1994 GAR Table for determining the minimum standard of valuation for annuities and pure endowments purchased on or after January 1, 1998, and before July 1, 1998, under group annuity and pure endowment contracts.

(j) The commission may adopt by rule the model regulation for valuation of life insurance policies as approved by the National Association of Insurance Commissioners in March 1999, including tables of select mortality factors, and may make the regulation effective for policies issued on or after January 1, 2000.

(k) For individual annuity and pure endowment contracts issued on or after July 1, 2004, excluding any disability and accidental death benefits purchased under those contracts, individual annuity mortality tables adopted after 1980 by the National Association of Insurance Commissioners, adopted by rule by the commission for use in determining the minimum standard of valuation for those contracts.

- (l) For all annuities and pure endowments purchased on or after July 1, 2004, under group annuity and pure endowment contracts, excluding any disability and accidental death benefits purchased under those contracts, group annuity mortality tables adopted after 1980 by the National Association of Insurance Commissioners, adopted by rule by the commission for use in determining the minimum standard of valuation for those contracts.

(6) MINIMUM STANDARD OF VALUATION.--

(a) The interest rates used in determining the minimum standard for the valuation of:

1. All life insurance policies issued in a particular calendar year on or after the operative date of s. 627.476(9);
  2. All individual annuity and pure endowment contracts issued in a particular calendar year on or after January 1, 1982;
  3. All annuities and pure endowments purchased in a particular calendar year on or after January 1, 1982, under group annuity and pure endowment contracts; and
  4. The net increase, if any, in a particular calendar year after January 1, 1982, in amounts held under guaranteed interest contracts,
- shall be the calendar year statutory valuation interest rates for the year-of-issue purchase or increase as defined in this subsection.

(b) The calendar year statutory valuation interest rates shall be determined as follows, and the results rounded to the nearest 0.25 percent:

1. For life insurance:

$$I = 0.03 + W(R1-0.03) + (W/2)(R2-0.09).$$

For purposes of this subparagraph, "R1" is the lesser of R and .09; "R2" is the greater of R and .09; "R" is the reference interest rate defined in this subsection; and "W" is the weighting factor defined in this subsection.

2. For single-premium immediate annuities and for annuity benefits involving life contingencies arising from other annuities with cash settlement options and from guaranteed interest contracts with cash settlement options:

$$I = 0.03 + W(R-0.03).$$

For purposes of this subparagraph, "R" is the reference interest rate defined in this subsection, and "W" is the weighting factor defined in this subsection.

3. For other annuities with cash settlement options and guaranteed interest contracts with cash settlement options, valued on an issue-year basis, except as stated in subparagraph 2., the formula for life insurance stated in subparagraph 1. shall apply to annuities and guaranteed interest contracts with

guarantee durations in excess of 10 years, and the formula for single-premium immediate annuities stated in subparagraph 2. shall apply to annuities and guaranteed interest contracts with guarantee durations of 10 years or less.

4. For other annuities with no cash settlement options and for guaranteed interest contracts with no cash settlement options, the formula for single-premium immediate annuities stated in subparagraph 2. shall apply.

5. For other annuities with cash settlement options and guaranteed interest contracts with cash settlement options, valued on a change-in-fund basis, the formula for single-premium immediate annuities stated in subparagraph 2. shall apply.

However, if the calendar year statutory valuation interest rate for any life insurance policies issued in any calendar year determined without reference to this sentence differs from the corresponding actual rate for similar policies issued in the immediately preceding calendar year by less than 0.5 percent, the calendar year statutory valuation interest rate for such life insurance policies shall be equal to the corresponding actual rate for the immediately preceding calendar year. For purposes of applying the immediately preceding sentence, the calendar year statutory valuation interest rate for life insurance policies issued in a calendar year shall be determined for 1980, the reference interest rate defined for 1979 being used, and shall be determined for each subsequent calendar year regardless of when s. 627.476(9) becomes operative.

(c) The weighting factors referred to in the formulas stated in paragraph (b) are given in the following tables:

1. Weighting factors for life insurance:

Guarantee Duration  (Years)	Weighting  Factors
10 or less: .....	0.50
More than 10, but not more than 20: .....	0.45
More than 20: .....	0.35

For life insurance, the "guarantee duration" is the maximum number of years the life insurance can remain in force on a basis guaranteed in the policy or under options to convert to plans of life insurance with premium rates or nonforfeiture values or both which are guaranteed in the original policy.

2. Weighting factor for single-premium immediate annuities and for annuity benefits involving life contingencies arising from other annuities with cash settlement options and guaranteed interest contracts with cash settlement options: 0.80.

3. Weighting factors for other annuities and for guaranteed interest contracts, except as stated in subparagraph 2., shall be as specified in sub-subparagraphs a., b., and c., according to the rules and definitions in sub-subparagraphs d., e., and f. and in paragraph (f):

a. For annuities and guaranteed interest contracts valued on an issue-year basis:

Guarantee Duration	Weighting Factor
(Years)	for Plan Type
5 or less: .....	A--0.80
	B--0.60
	C--0.50
More than 5, but not more than 10: .....	A--0.75
	B--0.60
	C--0.50
More than 10, but not more than 20: .....	A--0.65
	B--0.50
	C--0.45

More than 20: ..... A--0.45

B--0.35

C--0.35

b. For annuities and guaranteed interest contracts valued on a change-in-fund basis, the factors shown in sub-subparagraph a. increased by: 0.15 for Plan Type A; 0.25 for Plan Type B; 0.05 for Plan Type C.

c. For annuities and guaranteed interest contracts valued on an issue-year basis, other than those with no cash settlement options, which do not guarantee interest on considerations received more than 1 year after issue or purchase and for annuities and guaranteed interest contracts valued on a change-in-fund basis which do not guarantee interest rates on considerations received more than 12 months beyond the valuation date, the factors shown in sub-subparagraph a. or derived in sub-subparagraph b. increased by: 0.05 for Plan Type A; 0.05 for Plan Type B; 0.05 for Plan Type C.

d. For other annuities with cash settlement options and guaranteed interest contracts with cash settlement options, the "guarantee duration" is the number of years for which the contract guarantees interest rates in excess of the calendar year statutory valuation interest rate for life insurance policies with guarantee duration in excess of 20 years. For other annuities with no cash settlement options and for guaranteed interest contracts with no cash settlement options, the guarantee duration is the number of years from the date of issue or date of purchase to the date annuity benefits are scheduled to commence.

e. "Plan type," as used in the tables above, is defined as follows:

(I) Plan Type A: At any time, the policyholder may withdraw funds only with an adjustment to reflect changes in interest rates or asset values since receipt of the funds by the insurer; the policyholder may withdraw funds only without such adjustment but in installments over 5 years or more; the policyholder may withdraw funds only as an immediate life annuity; or no withdrawal is permitted.

(II) Plan Type B: Before expiration of the interest rate guarantee, the policyholder may withdraw funds only with an adjustment to reflect changes in interest rates or asset values since receipt of the funds by the insurer; the policyholder may withdraw funds only without such adjustment but in installments over 5 years or more; or no withdrawal is permitted. At the end of interest rate guarantee, funds may be withdrawn without such adjustment in a single sum or installments over less than 5 years.

(III) Plan Type C: The policyholder may withdraw funds before expiration of interest rate guarantee in a single sum or installments over less than 5 years either without adjustment to reflect changes in interest rates or asset values since receipt of the funds by the insurer or subject only to a fixed surrender charge stipulated in the contract as a percentage of the fund.

f. An insurer may elect to value guaranteed interest contracts with cash settlement options and annuities with cash settlement options on either an issue-year basis or on a change-in-fund basis.

Guaranteed interest contracts with no cash settlement options and other annuities with no cash settlement options must be valued on an issue-year basis.

(d) The "reference interest rate" referred to in paragraph (b) is defined as follows:

1. For all life insurance, the lesser of the average over a period of 36 months and the average over a period of 12 months, ending on June 30 of the calendar year next preceding the year of issue, of the interest rate index.
2. For single-premium immediate annuities and for annuity benefits involving life contingencies arising from other annuities with cash settlement options and guaranteed interest contracts with cash settlement options, the average over a period of 12 months, ending on June 30 of the calendar year of issue or year of purchase, of the interest rate index.
3. For other annuities with cash settlement options and guaranteed interest contracts with cash settlement options, valued on a year-of-issue basis, except as stated in subparagraph 2., with guarantee duration in excess of 10 years, the lesser of the average over a period of 36 months and the average over a period of 12 months, ending on June 30 of the calendar year of issue or purchase, of the interest rate index.
4. For other annuities with cash settlement options and guaranteed interest contracts with cash settlement options, valued on a year-of-issue basis, except as stated in subparagraph 2., with guarantee duration of 10 years or less, the average over a period of 12 months, ending on June 30 of the calendar year of issue or purchase, of the interest rate index.
5. For other annuities with no cash settlement options and for guaranteed interest contracts with no cash settlement options, the average over a period of 12 months, ending on June 30 of the calendar year of issue or purchase, of the interest rate index.
6. For other annuities with cash settlement options and guaranteed interest contracts with cash settlement options, valued on a change-in-fund basis, except as stated in subparagraph 2., the average over a period of 12 months, ending on June 30 of the calendar year of the change in the fund, of the interest rate index.

(e) The interest rate index shall be the Moody's Corporate Bond Yield Average-Monthly Average Corporates as published by Moody's Investors Service, Inc., as long as this index is calculated by using substantially the same methodology as used by it on January 1, 1981. If Moody's corporate bond yield average ceases to be calculated in this manner, the interest rate index shall be the index approved by rule promulgated by the commission. The methodology used in determining the index approved by rule shall be substantially the same as the methodology employed on January 1, 1981, for determining Moody's Corporate Bond Yield Average-Monthly Average Corporates as published by Moody's Investors Service, Inc.

(f) As used in this subsection, an "issue-year basis" of valuation refers to a valuation basis under which the interest rate used to determine the minimum valuation standard for the entire duration of the annuity or guaranteed interest contract is the calendar year valuation interest rate for the year of purchase of the annuity or guaranteed interest contract; and the "change-in-fund" basis of valuation refers to a valuation basis under which the interest rate used to determine the minimum valuation standard applicable to each change in the fund held under the annuity or guaranteed interest contract is the calendar year valuation interest rate for the year of the change in the fund.

(7) COMMISSIONERS' RESERVE VALUATION METHOD.--

(a)1. Except as otherwise provided in this subsection and subsections (11) and (14), reserves according to the commissioners' reserve valuation method, for the life insurance and endowment benefits of policies providing for a uniform amount of insurance and requiring the payment of uniform premiums, shall be the excess, if any, of the present value, at the date of valuation, of such future guaranteed benefits provided for by such policies, over the then-present value of any future modified net premiums therefor. The modified net premiums for any such policy shall be such uniform percentage of the respective contract premiums for such benefits that the present value, at the date of issue of the policy, of all such modified net premiums shall be equal to the sum of the then-present value of such benefits provided for by the policy and the excess of sub-subparagraph a. over sub-subparagraph b. as follows:

a. A net-level annual premium equal to the present value, at the date of issue, of such benefits provided for after the first policy year, divided by the present value, at the date of issue, of an annuity of one per annum payable on the first and each subsequent anniversary of such policy on which a premium falls due; provided, however, that such net-level annual premium shall not exceed the net-level annual premium on the 19-year premium whole life plan for insurance of the same amount at an age 1 year higher than the age at issue of such policy.

b. A net-1-year-term premium for such benefits provided for in the first policy year.

2. For any life insurance policy which is issued on or after January 1, 1985, for which the contract premium in the first policy year exceeds that of the second year and for which no comparable additional benefit is provided in the first year for such excess, and which provides an endowment benefit, a cash surrender value, or a combination thereof in an amount greater than such excess premium, the reserve according to the commissioners' reserve valuation method as of any policy anniversary occurring on or before the assumed ending date, defined herein as the first policy anniversary on which the sum of any endowment benefit and any cash surrender value then available is greater than such excess premium, shall, except as otherwise provided in subsection (11), be the greater of the reserve as of such policy anniversary calculated as described in subparagraph 1. and the reserve as of such policy anniversary calculated as described in subparagraph 1. but with:

a. The value defined in subparagraph 1. being reduced by 15 percent of the amount of such excess first year premium;

b. All present values of benefits and premiums being determined without reference to premiums or benefits provided for by the policy after the assumed ending date;

c. The policy being assumed to mature on such date as an endowment; and

d. The cash surrender value provided on such date being considered as an endowment benefit.

In making the above comparison, the mortality and interest bases stated in subsections (5) and (6) shall be used.

(b) Reserves according to the commissioners' reserve valuation method for:

1. Life insurance policies providing for a varying amount of insurance or requiring the payment of varying premiums;

2. Group annuity and pure endowment contracts, purchased under a retirement plan or plan of deferred compensation, established or maintained by an employer, including a partnership or sole proprietorship, or by an employee organization, or by both, other than a plan providing individual

retirement accounts or individual retirement annuities under s. 408 of the Internal Revenue Code, as now or hereafter amended;

3. Disability and accidental death benefits in all policies and contracts; and

4. All other benefits, except life insurance and endowment benefits in life insurance policies, and benefits provided by all other annuity and pure endowment contracts,

shall be calculated by a method which is consistent with and yields results consistent with the principles of paragraph (a).

(c) This subsection shall apply to all annuity and pure endowment contracts other than group annuity and pure endowment contracts purchased under a retirement plan or plan of deferred compensation, established or maintained by an employer, including a partnership or sole proprietorship, or by an employee organization, or by both, other than a plan providing individual retirement accounts or individual retirement annuities under s. 408 of the Internal Revenue Code, as now or hereafter amended. Reserves according to the commissioners' annuity reserve method for benefits under annuity or pure endowment contracts, excluding any disability and accidental death benefits in such contracts, shall be the greatest of the respective excesses of the present values, at the date of valuation, of the future guaranteed benefits, including guaranteed nonforfeiture benefits, provided for by such contracts at the end of each respective contract year, over the present value, at the date of valuation, of any future valuation considerations derived from future gross considerations, required by the terms of such contract, that become payable prior to the end of such respective contract year. The future guaranteed benefits shall be determined by using the mortality table, if any, and the interest rate or rates specified in such contracts for determining guaranteed benefits. The valuation considerations are the portions of the respective gross considerations applied under the terms of such contracts to determine nonforfeiture values.

(8) MINIMUM AGGREGATE RESERVES.--

(a) In no event shall an insurer's aggregate reserves for all life insurance policies, excluding disability and accidental death benefits, issued on or after the operative date of s. 627.476, be less than the aggregate reserves calculated in accordance with the methods set forth in subsections (7), (11), and (12) and the mortality table or tables and rate or rates of interest used in calculating nonforfeiture benefits for such policies.

(b) In no event may the aggregate reserves for all policies, contracts, and benefits be less than the aggregate reserves determined by the qualified actuary to be necessary to render the opinion required by subsection (3).

(9) OPTIONAL RESERVE BASIS.--

(a) Reserves for all policies and contracts issued prior to the operative date of s. 627.476 may be calculated, at the option of the insurer, according to any standards which produce greater aggregate reserves for all such policies and contracts than the minimum reserves required by the laws in effect immediately prior to such date.

(b) For any category of policies, contracts, or benefits specified in subsections (5) and (6), issued on or after the operative date of s. 627.476 (the Standard Nonforfeiture Law for Life Insurance), reserves may be calculated, at the option of the insurer, according to any standard or standards which produce greater aggregate reserves for such category than those calculated according to the minimum standard herein provided; but the rate or rates of interest used for policies and contracts, other than annuity

and pure endowment contracts, shall not be higher than the corresponding rate or rates of interest used in calculating any nonforfeiture benefits provided for therein.

(10) LOWER VALUATIONS.--An insurer which at any time had adopted any standard of valuation producing greater aggregate reserves than those calculated according to the minimum standard herein provided may, with the approval of the office, adopt any lower standard of valuation, but not lower than the minimum herein provided; however, for the purposes of this subsection, the holding of additional reserves previously determined by a qualified actuary to be necessary to render the opinion required by subsection (3) shall not be deemed to be the adoption of a higher standard of valuation.

(11) DEFICIENCY RESERVE.--If in any contract year the gross premium charged by any life insurer on any policy or contract is less than the valuation net premium for the policy or contract calculated by the method used in calculating the reserve thereon but using the minimum valuation standards of mortality and rate of interest, there shall be maintained on such policy or contract a deficiency reserve in addition to the reserve defined by subsections (7) and (12). For each such policy or contract, the deficiency reserve shall be the present value, according to the minimum valuation standards of mortality and rate of interest, of the differences between all such valuation net premiums and the corresponding premiums charged for such policy or contract during the remainder of the premium-paying period. For any category of policies, contracts, or benefits specified in subsections (5) and (6), issued on or after the operative date of s. 627.476 (the Standard Nonforfeiture Law for Life Insurance), the aggregate deficiency reserves may be reduced by the amount, if any, by which the aggregate reserves actually calculated in accordance with subsection (9) exceed the minimum aggregate reserves prescribed by subsection (8). The minimum valuation standards of mortality and rate of interest referred to in this subsection are those standards stated in subsections (5) and (6). However, for any life insurance policy which is issued on or after January 1, 1985, for which the gross premium in the first policy year exceeds that of the second year and for which no comparable additional benefit is provided in the first year for such excess, and which provides an endowment benefit, a cash surrender value, or a combination thereof in an amount greater than such excess premium, the foregoing provisions of this subsection shall be applied as if the method actually used in calculating the reserve for such policy were the method described in subsection (7), the provisions of subparagraph (7)(a)2. being ignored. The amount of the deficiency reserve, if any, at each policy anniversary of such a policy shall be the excess, if any, of the amount determined by the foregoing provisions of this subsection plus the reserve calculated by the method described in subsection (7), the provisions of subparagraph (7)(a)2. being ignored, over the reserve actually calculated by the method described in subsection (7), the provisions of subparagraph (7)(a)2. being taken into account.

(12) ALTERNATE METHOD FOR DETERMINING RESERVES IN CERTAIN CASES.--In the case of any plan of life insurance which provides for future premium determination, the amounts of which are to be determined by the insurer based on then estimates of future experience, or in the case of any plan of life insurance or annuity which is of such a nature that the minimum reserves cannot be determined by the methods described in subsection (7), the reserves which are held under any such plan shall:

- (a) Be appropriate in relation to the benefits and the pattern of premiums for that plan; and
- (b) Be computed by a method which is consistent with the principles of this section, as determined by rules promulgated by the commission.

(13) CREDIT LIFE AND DISABILITY POLICIES.--

(a) For policies issued prior to January 1, 2004:

1. The minimum reserve for single-premium credit disability insurance, monthly premium credit life insurance, and monthly premium credit disability insurance shall be the unearned gross premium.

2. As to single-premium credit life insurance policies, the insurer shall establish and maintain reserves that are not less than the value, at the valuation date, of the risk for the unexpired portion of the period for which the premium has been paid as computed on the basis of the commissioners' 1980 Standard Ordinary Mortality Table and 3.5 percent interest. At the discretion of the office, the insurer may make a reasonable assumption as to the ages at which net premiums are to be determined. In lieu of the foregoing basis, reserves based upon unearned gross premiums may be used at the option of the insurer.

(b) For policies issued on or after January 1, 2004:

1. The minimum reserve for single-premium credit disability insurance shall be either:

a. The unearned gross premium, or

b. Based upon a morbidity table that is adopted by the National Association of Insurance Commissioners and is specified in a rule the commission adopts pursuant to subsection (14).

2. The minimum reserve for monthly premium credit disability insurance shall be the unearned gross premium.

3. The minimum reserve for monthly premium credit life insurance shall be the unearned gross premium.

4. As to single-premium credit life insurance policies, the insurer shall establish and maintain reserves that are not less than the value, at the valuation date, of the risk for the unexpired portion of the period for which the premium has been paid as computed on the basis of the commissioners' 1980 Standard Ordinary Mortality Table or any ordinary mortality table, adopted after 1980 by the National Association of Insurance Commissioners, that is approved by rule adopted by the commission for use in determining the minimum standard of valuation for such policies; and an interest rate determined in accordance with subsection (6). At the discretion of the office, the insurer may make a reasonable assumption as to the ages at which net premiums are to be determined. In lieu of the foregoing basis, reserves based upon unearned gross premiums may be used at the option of the insurer.

(14) MINIMUM STANDARDS FOR HEALTH PLANS.--The commission shall adopt a rule containing the minimum standards applicable to the valuation of health plans in accordance with sound actuarial principles.

#### 624.307 General powers; duties.--

(1) The department and office shall enforce the provisions of this code and shall execute the duties imposed upon them by this code, within the respective jurisdiction of each, as provided by law.

624.308 Rules.--

- (1) The department and the commission may each adopt rules pursuant to ss. 120.536(1) and 120.54 to implement provisions of law conferring duties upon the department or the commission, respectively.

625.121 Standard Valuation Law; life insurance.--

- (5) MINIMUM STANDARD FOR VALUATION OF POLICIES AND CONTRACTS ISSUED ON OR AFTER OPERATIVE DATE OF STANDARD NONFORFEITURE LAW.--Except as otherwise provided in paragraph (h) and subsections (6), (11), and (14), the minimum standard for the valuation of all such policies and contracts issued on or after the operative date of s. 627.476 (Standard Nonforfeiture Law for Life Insurance) shall be the commissioners' reserve valuation method defined in subsections (7), (11), and (14); 5 percent interest for group annuity and pure endowment contracts and 3.5 percent interest for all other such policies and contracts, or in the case of life insurance policies and contracts, other than annuity and pure endowment contracts, issued on or after July 1, 1973, 4 percent interest for such policies issued prior to October 1, 1979, and 4.5 percent interest for such policies issued on or after October 1, 1979; and the following tables:

- (a) For all ordinary policies of life insurance issued on the standard basis, excluding any disability and accidental death benefits in such policies:

1. For policies issued prior to the operative date of s. 627.476(9), the commissioners' 1958 Standard Ordinary Mortality Table; except that, for any category of such policies issued on female risks, modified net premiums and present values, referred to in subsection (7), may be calculated according to an age not more than 6 years younger than the actual age of the insured.
2. For policies issued on or after the operative date of s. 627.476(9), the commissioners' 1980 Standard Ordinary Mortality Table or, at the election of the insurer for any one or more specified plans of life insurance, the commissioners' 1980 Standard Ordinary Mortality Table with Ten-Year Select Mortality Factors.
3. For policies issued on or after July 1, 2004, ordinary mortality tables, adopted after 1980 by the National Association of Insurance Commissioners, adopted by rule by the commission for use in determining the minimum standard of valuation for such policies.

- (b) For all industrial life insurance policies issued on the standard basis, excluding any disability and accidental death benefits in such policies:

1. For policies issued prior to the first date to which the commissioners' 1961 Standard Industrial Mortality Table is applicable according to s. 627.476, the 1941 Standard Industrial Mortality Table; and
2. For such policies issued on or after that date, the commissioners' 1961 Standard Industrial Mortality Table.

- (c) For individual annuity and pure endowment contracts, excluding any disability and accidental death benefits in such policies, the 1937 Standard Annuity Mortality Table or, at the option of the insurer, the Annuity Mortality Table for 1949, Ultimate, or any modification of either of these tables approved by the office.

- (d) For group annuity and pure endowment contracts, excluding any disability and accidental death benefits in such policies, the Group Annuity Mortality Table for 1951; any modification of such table

approved by the office; or, at the option of the insurer, any of the tables or modifications of tables specified for individual annuity and pure endowment contracts.

(e) For total and permanent disability benefits in or supplementary to ordinary policies or contracts:

1. For policies or contracts issued on or after January 1, 1966, the tables of period 2 disablement rates and the 1930 to 1950 termination rates of the 1952 disability study of the Society of Actuaries, with due regard to the type of benefit;
2. For policies or contracts issued on or after January 1, 1961, and prior to January 1, 1966, either those tables or, at the option of the insurer, the class three disability table (1926);
3. For policies issued prior to January 1, 1961, the class three disability table (1926); and
4. For policies or contracts issued on or after July 1, 2004, tables of disablement rates and termination rates adopted after 1980 by the National Association of Insurance Commissioners, adopted by rule by the commission for use in determining the minimum standard of valuation for those policies or contracts.

Any such table for active lives shall be combined with a mortality table permitted for calculating the reserves for life insurance policies.

(f) For accidental death benefits in or supplementary to policies:

1. For policies issued on or after January 1, 1966, the 1959 Accidental Death Benefits Table;
2. For policies issued on or after January 1, 1961, and prior to January 1, 1966, either that table or, at the option of the insurer, the Intercompany Double Indemnity Mortality Table;
3. For policies issued prior to January 1, 1961, the Intercompany Double Indemnity Mortality Table; and
4. For policies issued on or after July 1, 2004, tables of accidental death benefits adopted after 1980 by the National Association of Insurance Commissioners, adopted by rule by the commission for use in determining the minimum standard of valuation for those policies.

Either table shall be combined with a mortality table permitted for calculating the reserves for life insurance policies.

(g) For group life insurance, life insurance issued on the substandard basis, and other special benefits, such tables as may be approved by the office as being sufficient with relation to the benefits provided by such policies.

(h) Except as provided in subsection (6), the minimum standard for the valuation of all individual annuity and pure endowment contracts issued on or after the operative date of this paragraph and for all annuities and pure endowments purchased on or after such operative date under group annuity and pure endowment contracts shall be the commissioners' reserve valuation method defined in subsection (7) and the following tables and interest rates:

1. For individual annuity and pure endowment contracts issued prior to October 1, 1979, excluding any disability and accidental death benefits in such contracts, the 1971 Individual Annuity Mortality Table, or any modification of this table approved by the office, and 6 percent interest for single-premium

immediate annuity contracts and 4 percent interest for all other individual annuity and pure endowment contracts.

2. For individual single-premium immediate annuity contracts issued on or after October 1, 1979, and prior to October 1, 1986, excluding any disability and accidental death benefits in such contracts, the 1971 Individual Annuity Mortality Table, or any modification of this table approved by the office, and 7.5 percent interest. For such contracts issued on or after October 1, 1986, the 1983 Individual Annual Mortality Table, or any modification of such table approved by the office, and the applicable calendar year statutory valuation interest rate as described in subsection (6).
3. For individual annuity and pure endowment contracts issued on or after October 1, 1979, and prior to October 1, 1986, other than single-premium immediate annuity contracts, excluding any disability and accidental death benefits in such contracts, the 1971 Individual Annuity Mortality Table, or any modification of this table approved by the office, and 5.5 percent interest for single-premium deferred annuity and pure endowment contracts and 4.5 percent interest for all other such individual annuity and pure endowment contracts. For such contracts issued on or after October 1, 1986, the 1983 Individual Annual Mortality Table, or any modification of such table approved by the office, and the applicable calendar year statutory valuation interest rate as described in subsection (6).
4. For all annuities and pure endowments purchased prior to October 1, 1979, under group annuity and pure endowment contracts, excluding any disability and accidental death benefits purchased under such contracts, the 1971 Group Annuity Mortality Table, or any modification of this table approved by the office, and 6 percent interest.
5. For all annuities and pure endowments purchased on or after October 1, 1979, and prior to October 1, 1986, under group annuity and pure endowment contracts, excluding any disability and accidental death benefits purchased under such contracts, the 1971 Group Annuity Mortality Table, or any modification of this table approved by the office, and 7.5 percent interest. For such contracts purchased on or after October 1, 1986, the 1983 Group Annuity Mortality Table, or any modification of such table approved by the office, and the applicable calendar year statutory valuation interest rate as described in subsection (6).

After July 1, 1973, any insurer may have filed with the former Department of Insurance a written notice of its election to comply with the provisions of this paragraph after a specified date before January 1, 1979, which shall be the operative date of this paragraph for such insurer. However, an insurer may elect a different operative date for individual annuity and pure endowment contracts from that elected for group annuity and pure endowment contracts. If an insurer makes no such election, the operative date of this paragraph for such insurer shall be January 1, 1979.

(i) In lieu of the mortality tables specified in this subsection, and subject to rules previously adopted by the former Department of Insurance, the insurance company may, at its option:

1. Substitute the applicable 1958 CSO or CET Smoker and Nonsmoker Mortality Tables, in lieu of the 1980 CSO or CET mortality table standard, for policies issued on or after the operative date of s. 627.476(9) and before January 1, 1989.
2. Substitute the applicable 1980 CSO or CET Smoker and Nonsmoker Mortality Tables in lieu of the 1980 CSO or CET mortality table standard;
3. Use the Annuity 2000 Mortality Table for determining the minimum standard of valuation for individual annuity and pure endowment contracts issued on or after January 1, 1998, and before July 1, 1998.

4. Use the 1994 GAR Table for determining the minimum standard of valuation for annuities and pure endowments purchased on or after January 1, 1998, and before July 1, 1998, under group annuity and pure endowment contracts.

(j) The commission may adopt by rule the model regulation for valuation of life insurance policies as approved by the National Association of Insurance Commissioners in March 1999, including tables of select mortality factors, and may make the regulation effective for policies issued on or after January 1, 2000.

(k) For individual annuity and pure endowment contracts issued on or after July 1, 2004, excluding any disability and accidental death benefits purchased under those contracts, individual annuity mortality tables adopted after 1980 by the National Association of Insurance Commissioners, adopted by rule by the commission for use in determining the minimum standard of valuation for those contracts.

(l) For all annuities and pure endowments purchased on or after July 1, 2004, under group annuity and pure endowment contracts, excluding any disability and accidental death benefits purchased under those contracts, group annuity mortality tables adopted after 1980 by the National Association of Insurance Commissioners, adopted by rule by the commission for use in determining the minimum standard of valuation for those contracts.

**624.307 General powers; duties.--**

(1) The department and office shall enforce the provisions of this code and shall execute the duties imposed upon them by this code, within the respective jurisdiction of each, as provided by law.

M E M O R A N D U M

**DATE:** August 8, 2011  
**TO:** Kevin M. McCarty, Commissioner, Office of Insurance Regulation  
**THROUGH:** Belinda Miller, General Counsel *BM*  
**FROM:** Dennis Threadgill *DK*  
Bob Prentiss *BP*  
**SUBJECT:** Cabinet Agenda for September 20, 2011  
Request for Final Approval to Adopt Amendments to  
Rule 69O-138.001  
Assmt. 113028-10

The Office of Insurance Regulation requests that these proposed rule amendments be presented to the Cabinet aides on or before September 14, 2011 and to the Financial Services Commission on September 20, 2011, with a request for Final Approval to Adopt the proposed rules. A notice of the Commission Final Rule Hearing will be published in the *Florida Administrative Weekly* on August 19, 2011.

The notice of proposed rules was published July 8, 2011 in Volume 37, No. 27, of the *Weekly*. The hearing was not requested, therefore, the hearing was not held. No changes were made.

Section 624.316, Florida Statutes, requires the Office to examine insurer's financial condition, using generally accepted accounting procedures. This statute also allows the Office to adopt the NAIC Financial Condition Examiners Handbook to facilitate these exams. By adopting the newest version of the handbook, this rule ensures that the procedures used by the Office to examine insurers are the current generally accepted accounting practices.

Sections 624.308(1), 624.316(1)(c), F.S., provide rulemaking authority and laws implemented for this rule.

The Legal Services Office has communicated with the Joint Administrative Procedures Committee, and ascertained that their review of the rules has been completed.

Jason Nelson is the attorney handling this rule. Attached are: 1) the proposed rule(s); 2) any incorporated materials, such as forms; 3) copies of the rulemaking statutory authority and law implemented.

*JN*

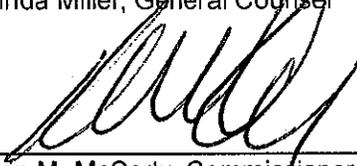
Approved for signature:



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Belinda Miller, General Counsel

Approved for submission to Financial Services  
Commission:



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Kevin M. McCarty, Commissioner  
Office of Insurance Regulation

690-138.001 NAIC Financial Condition Examiners Handbook Adopted.

(1)(a) The National Association of Insurance Commissioners Financial Condition Examiners Handbook 2010 (~~2006~~) is hereby adopted and incorporated by reference.

(b) The National Association of Insurance Commissioners Financial Condition Examiners Handbook 2011 (~~2009~~) is hereby adopted and incorporated by reference.

(2) – (3) No change.

*Rulemaking Authority 624.308(1), 624.316(1)(c) FS. Law Implemented 624.316(1)(c) FS. History—  
New 3-30-92, Amended 4-9-97, 4-4-99, 11-30-99, 2-11-01, 12-25-01, 8-18-02, 7-27-03, Formerly 4-  
138.001, Amended 1-6-05, 9-15-05, 1-25-07, 3-16-08, 3-4-09, 1-4-10.*

**624.308 Rules.--**

- (1) The department and the commission may each adopt rules pursuant to ss. 120.536(1) and 120.54 to implement provisions of law conferring duties upon the department or the commission, respectively.

**624.316 Examination of insurers.--**

- (1)(c) The office shall examine each insurer according to accounting procedures designed to fulfill the requirements of generally accepted insurance accounting principles and practices and good internal control and in keeping with generally accepted accounting forms, accounts, records, methods, and practices relating to insurers. To facilitate uniformity in examinations, the commission may adopt, by rule, the Market Conduct Examiners Handbook and the Financial Condition Examiners Handbook of the National Association of Insurance Commissioners, 2002, and may adopt subsequent amendments thereto, if the examination methodology remains substantially consistent.

Raquel (Rocky) has more than 25 years of extensive experience counseling clients on a wide variety of government, business and litigation matters. She provides unique insight and solutions to the legal, business, political, and public relations challenges that private and public companies face. Whether representing Fortune 500 clients, closely held companies, foreign governments, family businesses, nonprofit entities, or entrepreneurs, Rocky focuses on developing creative approaches and innovative strategies to complex issues. From 2002 through 2006, she was General Counsel to former Florida Governor Jeb Bush. In that capacity, Rocky worked on some of the most complex and urgent issues facing the state. This included conceiving and codrafting the legislation for and negotiating the largest economic development project in state history, a \$310 million economic incentive grant to The Scripps Research Institute. She counseled Governor Bush with respect to over 200 judicial appointments at all levels of the Florida judiciary.

SECOND  
SCOPE OF SERVICES ADDENDUM  
MARKET CONDUCT EXAMINATION  
National Council on Compensation Insurance, Inc.

Consultant: Examination Resources, LLC

Company: National Council on Compensation Insurance, Inc.

WHEREAS, the Florida Office of Insurance Regulation has called for a market conduct examination pursuant to section 624.3161, Florida Statutes, of the National Council on Compensation Insurance, Inc.(NCCI), pursuant to the Florida Insurance Code.

WHEREAS, section 627.285, Florida Statutes requires the Financial Services Commission to at least once every other year to contract for an independent actuarial peer review and analysis of the ratemaking processes of any licensed rating organization that makes rate filings for workers' compensation insurance.

WHEREAS, on May 5, 2010 the Office of Insurance Regulation entered into a Professional Services Agreement for a multi-state comprehensive market conduct examination, including a review of the ratemaking processes of the National Council for Compensation Insurance, Inc.(NCCI), a licensed rating organization doing business in the State of Florida.

WHEREAS, it would be economically efficient and reduce costs to the State of Florida and the NCCI, it hereby agreed to by the Consultant and the Office of Insurance Regulation, on behalf of the Financial Services Commission, to enter into this Second Addendum to the Market Conduct Professional Services Agreement to provide as follows:

Scope of Services

In accordance with the terms of the Agreement for Professional Services dated May 3, 2010, you are hereby authorized to perform the following services for the Financial Services Commission, Office of Insurance Regulation:

The following portions of the National Council on Compensation Insurance, Inc. examination will be extracted from the final report and transmitted to the Florida Office of Insurance Regulation with a cover letter signed by the lead actuary that certifies this portion of the examination has been completed in accordance with accepted actuarial practice and standards established by the Casualty Actuarial Society and the American Academy of Actuaries. The letter should acknowledged that these portions of the examination will be used to comply with the provisions of section 627.285, F.S. that require an independent peer review and analysis of the ratemaking processes of the NCCI.

**NCCI MULTI-STATE EXAMINATION  
PROJECT PLAN**

(a) OPERATIONS/MANAGEMENT/GOVERNANCE

*Standard 2* - The advisory organization has implemented policies and procedures to ensure the development of prospective loss costs and/or rates in accordance with sound actuarial principles.

- Evidence is provided that each loss cost and/or rate filing is in compliance with applicable actuarial standards of practice.
- Data used to develop prospective loss costs and/or rates is applicable, complete and actuarially sound.
- Procedures are in place to test the soundness of data prior to use for development of prospective loss costs and/or rates.
- An advisory group of actuaries are consulted about the methods used in the development of prospective loss costs and/or rates.
- The actuarial advisory group meets regularly and keeps agendas and minutes.
- Recommendations of the actuarial advisory group are either implemented or detailed documentation concerning the reasons for non-implementation is made.
- Underlying studies for all methods used in the development of prospective loss costs and/or rates is available.

*Standard 3* - The advisory organization adheres to applicable state filing and/or approval requirements prior to distribution of prospective loss cost and/or rates, policy forms, endorsements, factors, classifications or manuals.

- Filings are made on SERFF or other state approved filing systems or methods.
- Follows mandated time requirements (if applicable) following filing or approval before permitting use of materials.
- Is responsive to state filing analyst questions regarding filings.
- Distributed materials are the same as those filed with applicable Departments of Insurance.
- All negative actions are followed up to determine that safeguards are in place to prevent recurrence of the underlying problem(s).
- There is no concentration of warnings, fines, or other negative actions in a particular state or states above what could reasonably be expected.

*Standard 8* - The advisory organization conducts ongoing research and review of state insurance law and insurance-related case law and makes appropriate changes in prospective loss costs/rates, policy forms, endorsements, factors, classifications or manuals, as necessary and applicable.

- Conducts research into law changes during regular and reasonable intervals.
- Identifies applicable materials impacted by law or case law changes.

- Makes appropriate modifications, additions, deletions or withdrawals as necessitated by law changes or case law and performs applicable filings and timely notifications to member or subscriber companies
- Sufficiently staffed and trained to handle the normal volume of relevant insurance statutory and case law changes for every state in which it is licensed.
- Subscribes to appropriate services providing printed or electronic access to relevant statutory and case law changes.
- Is proactive in informing member/subscriber companies of changes in loss costs/rates, policy forms, endorsements, factors, classifications, or manuals that have been made as a result of legislative or judicial action.

*Standards 11* - When performing analysis and impact studies of proposed legislation, advisory organization presents thorough and objective information.

- Impact studies present information in an objective manner.
- Best estimates of impact are presented, using reasonable assumptions, research and data.
- Analyses and impact studies of proposed legislation are vetted internally and when appropriate with the actuarial advisory group.
- Analyses and impact studies of proposed legislation are prepared by personnel having the requisite education and experience.

(b)RATEMAKING

*Standard 1* - The advisory organization submits filings and/or submissions to the state within the established time frame.

- Identify which filings and submissions are required by the state, along with any required time frames. For filings that are optional, but require prior approval by the state; identify the required waiting periods, if any, between approval and usage.
- Determine compliance with state statutes, rules and regulations.
- Review regulators' requests for additional information and check for timeliness of the response to such requests.
- Prepares and disseminates information impacting the ratings of individual policies, such as experience rating modification factors, on a timely basis.
- Provides accurate information to subscribers relating to the states approval status and approved usage date of regulated materials and services such as forms and loss.

IN WITNESS WHEREOF, the parties have executed this Agreement.

Consultant

The Florida Office of Insurance Regulation

By: \_\_\_\_\_

\_\_\_\_\_

Printed Name: \_\_\_\_\_

James Pafford

Title: \_\_\_\_\_

Director, Market Investigations

Date: \_\_\_\_\_

Date: \_\_\_\_\_

SCOPE OF SERVICES ADDENDUM  
MARKET CONDUCT EXAMINATION  
National Council on Compensation Insurance, Inc.

Consultant: Examination Resources, LLC

Company: National Council on Compensation Insurance, Inc.

Whereas the Florida Office of Insurance Regulation has called for a market conduct examination pursuant to Section 624.3161, Florida Statutes, for regulated entities identified in the attached schedule, pursuant to the Florida Insurance Code.

Scope of Services

In accordance with the terms of our Agreement for Professional Services dated May3, 2010, you are hereby authorized to perform the following services for the Office:

1. The Consultant shall conduct the Market Conduct Examination as defined in Section 624.3161, Florida Statutes, and to the extent and in the manner directed by the Office. The scope of services is not an audit in accordance with generally accepted auditing standards.
2. Unless otherwise directed by the Office, the Consultant shall submit to the Office a bi-weekly status report of work completed and estimated time to complete all remaining work required.
3. The Consultant shall prepare work papers, which shall be the property of the Office, to support all work performed and conclusions reached by the Consultant in connection with the examination, to the extent and in the format and manner directed by the Office; make said work papers available to the Office on demand; and deliver said work papers to the Office within five (5) working days following the conclusion of each specific regulated entity's examination as identified in the attached schedule or the cancellation of this agreement.
4. The Consultant shall, unless this Agreement and/or Addendum is cancelled prior to completion of the Examination, if directed by the Office, prepare and deliver to the Office within five (5) working days following the conclusion of each specific regulated entity's examination as identified in the attached schedule a final examination report, prepared in the format and manner directed by the Office, which report shall be the property of the Office and may then be used in whole or in part by the Office. The Consultant shall modify any final report on the examination prepared by it in the manner and to the extent directed by the Office.

5. Compensation for services under this Addendum which shall be in accordance with the following hourly rates:

Exam Managers	\$150
Exam Supervisor	\$140
Examiner in Charge	\$130
Information Systems Specialists	\$130
Internal Control Examiners	\$125
Market Conduct Examiners	\$125
Actuaries	\$195
Legal Advisor	\$200
Workers' Compensation Advisor	\$300

6. The Consultant shall remain available to the Office on a fee-for-service basis, at the same hourly rates as contained above, for a period of three years following completion of the services under this agreement, to provide additional services, regarding the examination, to the Office, as determined necessary by the Office.
7. In performance of market conduct examination projects, the Office will provide forms which the Consultant shall utilize in order to assure uniformity of the market conduct examination project, including but not limited to templates for report of examination, weekly reporting, invoice packages, preliminary advisories and the billing memo.
8. Unless otherwise directed by the Office, procedures and conduct of the examination shall be in accordance with the Market Regulation Handbook produced by the National Association of Insurance Commissioners. Standardized data calls shall be used whenever possible.
9. Unless otherwise notified by the Office, the Consultant shall be responsible for: sending examination data requests; creation of detailed examination audit programs; coordination with regulated entity examination coordinators to conduct examination work; conduct field work as necessary; review and disseminate preliminary advisories as needed; preparation of draft examination reports; review of regulated entity responses or disputes to draft examination reports; invoicing regulated entities for related expenses that have been reviewed and approved by the Office; draft and submit final examination reports and related work papers to the Office.
10. Unless otherwise agreed to by the Office, the services described herein shall be completed on or before the <60<sup>th</sup>> day from the time all requested data is provided to the Consultant by the Company.

IN WITNESS WHEREOF, the parties have executed this Agreement.

Consultant

By: Todd Fatzinger

Printed Name: Todd Fatzinger

Title: Managing Member

Date: May 5, 2010

The Florida Office of Insurance Regulation

Jim Bennett

Jim Bennett

Director, Market Investigations

Date: 5-5-10

AUG 11 2009

## Bureau of Market Investigations

### Professional Services Agreement

*(This Agreement is not a state contractual services contract nor is it subject to the provisions of Chapter 287, Florida Statutes.)*

This Agreement is made on July 29, 2009 between Examination Resources, LLC, (the "Consultant"), and the Florida Office of Insurance Regulation (the "Office"), to furnish certain professional services with respect to a company that is subject to regulation by the Office (the "Company") upon the following terms and conditions:

#### I. CONSULTANT SERVICES AND RESPONSIBILITIES

The Office and the Consultant shall enter into a Scope of Services Agreement which will be an Addendum to this Agreement to perform the specific services required. The Scope of Service will state the particular area of concern, the specific services to be performed and the schedule for their completion. Section 624.3161(3), Florida Statutes, states that "the examination may be conducted by an independent professional examiner under contract to the office, in which case payment shall be made directly to the contracted examiner by the insurer examined in accordance with the rates and terms agreed to by the office and the examiner."

The Consultant will furnish all work product, reports, work papers, records, files, documents, schedules, computations, and correspondence, and other materials as required to the Office. Reports and other information shall not be provided to the Company unless authorized in advance by the Office.

#### II. TERM

- A. *Term of Agreement.* The term of this Agreement shall be for a three-year term from the date first written above unless terminated earlier in accordance with the terms, hereof, which term may be extended by the mutual agreement of the parties.
- B. *Termination.* This agreement and/ any addendum may be cancelled at any time by the Office upon written or electronically conveyed notification to the Consultant, or at any time by the Consultant upon written or electronically conveyed notification to the Office. If this agreement and/or any addendum is cancelled in accordance with this paragraph, the Consultant shall be entitled to fees and reimbursement of its travel expenses for services performed and travel incurred prior to said cancellation.

### III. GENERAL PROVISIONS

- A. *Independent Contractor.* The Consultant shall perform the services as an independent contractor and not as an agent or employee of the Office, the State of Florida, or the Company and as such shall be responsible for all applicable federal, state and local tax withholding payments and filings on its employees. The Consultant is responsible for the management or supervision of only its owners, employees, and representatives, and is not responsible for supervision of employees of the Company.
- B. *Subconsultants.* Subject to the approval of the Office, the Consultant shall contract for or employ, at its expense, such professional, as the Consultant deems necessary for the completion of the services. The Consultant may hire the services of Subconsultants with the Office's written approval in advance. The Consultant is as responsible for the performance of its Subconsultants as it would be if it had rendered these services itself. Nothing in the foregoing procedure shall create any contractual relationship between the Office or Company and the professionals or Subconsultants employed by the Consultant under the terms and conditions of this Agreement. The Consultant is solely responsible for payment of any Subconsultants.
- C. *Ownership and Use of Documents.* The Company shall arrange for and grant to the Office and to the Consultant access to its accounts, records, documents, agreements, files, information, assets and matters of it or any affiliated person or entity deemed by the Office or Consultant to be relevant to the work or financial examination.

All work product, reports, work papers, records, files, documents, schedules, computations, and correspondence created by or in the possession or control of the Consultant and related to the scope of services to be provided, including those in electronic format, shall be the exclusive property of the Office and shall be subject to the review and approval of the Office.

- D. *Security and Confidentiality:* The Consultant shall comply fully with all security procedures of the Office and the Company in performance of the Agreement. The Consultant shall not divulge to third parties any confidential information obtained by the Consultant or its agents, Subconsultants, officers, or employees in the course of performing work under this Agreement and/or Addendum, including but not limited to security procedures, business operations information, or commercial proprietary information in the possession of the Office or Company. To ensure confidentiality, the Consultant shall take appropriate steps as to its personnel, agents and subconsultants. The warranties of this paragraph shall survive this Agreement.

- E. *Public Records*: All work performed under this contract, including the workpapers and other information obtained during the course of an examination or investigation are confidential under Section 624.319, Florida Statutes, and are exempt from the public records law which is found in Chapter 119, Florida Statutes. Therefore, the workpapers and other information developed by the Consultant are not public records and must be kept confidential. However, if the Consultant receives a request for public records pursuant to Chapter 119, Florida Statutes, or a subpoena, the Consultant shall furnish copies of the request and of any records in its possession that are responsive to the request to the Office. The Office will either defend the request or produce any public records or subpoenaed records to the requesting party, if any of the records are determined to be subject to disclosure. In the event that a judge in a court of competent jurisdiction orders the Consultant to produce records in its possession directly to a court or other party, the Consultant shall comply with the order and shall furnish a copy of any records produced to the Office.
- F. *Conflict of Interest*. The Consultant affirms that to the best of its knowledge, there exist no actual or potential conflict between the Consultant's family, business, or financial interests and the services provided under this Agreement and/or Addendum, and that in the event of a change in either the private interest or services under this Agreement and/or Addendum, any questions regarding a possible conflict of interest that may arise as a result of this change shall be disclosed in writing to the Office.
- G. *Communication Between Parties*. The Consultant shall report directly to representatives of the Office regarding performance of the scope of services. Communication between the Company and the Consultant shall be limited to the solicitation of information by the Consultant from the Company regarding the scope of services. The Consultant shall not issue any draft or final report to the Company.
- H. *Equipment*. The Consultant shall provide all computers and other equipment needed to perform the services regarding this Agreement. The services under this agreement will, in part, be conducted at the premises of the Company. The Company is expected to provide access to fax machines and copy machines for use by the Consultant and the Office in performance of duties under this Agreement while present at the premises of the Company.
- I. *Insurance Requirements*. During the Agreement term, the Consultant at its sole expense shall provide commercial insurance ( e.g.: worker's compensation, employer's liability, commercial general liability) of such a type and with such terms and limits as may be reasonably associated with the providing services under this Agreement, covering all employees engaged in any work under this Agreement. Providing and maintaining adequate insurance coverage is a material obligation of the Consultant and is of the essence of the Agreement. The limits of any coverage under each policy maintained by the Consultant shall not be interpreted as limiting the Consultant's liability and obligations under the Agreement.

- J. *Limit on other engagements.* The Consultant will not accept any other engagement in any form whatsoever relating to any Company designated in any Addendum during the period of engagement under an Addendum, or for twelve (12) months after the date the Consultant last performed any engagement services concerning any Company under an Addendum to the Agreement, unless the Office consents in writing to waiver or modification of this restriction. This prohibition includes but is not limited to any parent or subsidiary corporation of the Company.

#### IV. COMPENSATION

- A. The Company shall make payment directly to the Office for administrative fees and any reimbursement for travel expenses resulting from services performed by the Office.
- B. The Company shall make payment directly to the Consultant for fees and any reimbursement for travel expenses, as directed in Section 624.3161, Florida Statutes, resulting from services performed by the Consultant relating to the scope of services within thirty (30) days of receipt by the Company of invoices or requests for reimbursement of travel expenses that have been reviewed by the Office.
- C. The Consultant shall contemporaneously record all time worked and travel expenses incurred with specific breakdown of the actual work performed each day and the related charges for that work. A copy of these records, as well as, all invoices, fees and requests for reimbursement of travel expenses of the Consultant shall be submitted to and reviewed by the Office prior to being submitted to the Company. The Company may, upon request, be provided a copy of the record of time worked and travel expenses incurred with the specific detail of activities by the Consultant.
- D. The Office reserves the right to disapprove any fee or expense that it deems to be excessive or unrelated to the services required under this Agreement and/or Addendum.
- E. Requests by the Consultant for reimbursement of travel expenses incurred shall be determined in accordance with the provisions of "Federal Travel Regulation: Maximum Per Diem Rates". Travel reimbursement shall also include the reasonable cost associated with travel to and from the official residence of the Consultant's representative every other weekend during the period of time that the on-site portion of the examination is in progress. With consent of the Company, the consultant may elect to return home each weekend if it becomes apparent that it is more cost effective than remaining at the site of the exam.
- F. The Consultant shall not invoice or attempt to collect from the Company any fees or expenses related to the services performed except as provided in this Agreement and/or Addendum.

- G. The Consultant shall not be entitled to receive, nor shall it seek to receive, compensation or reimbursement of travel expenses from the Office or the State of Florida in connection with the scope of services under this Agreement and/or any Addendum.

#### V. INDEMNIFICATION

The Office shall not be liable for any actions of the Consultant which fall outside the scope of the Consultant's duties in the performance of this Agreement and/or Addendum. The Office does not indemnify the Consultant for any liability and does not waive sovereign immunity.

The Consultant shall not be liable to the Company for any loss, cost, damage or expense sustained through the negligence or intentional acts of the Consultant. The Consultant may be liable to the Office for loss, cost, damage, or expense sustained through professional malpractice, bad faith, intentional acts or gross negligence of the Consultant, but only to the extent of payment for services performed pursuant to this Agreement

#### VI. STATUTORY REQUIREMENTS

- A. During the engagement services under any Addendum, the Consultant shall immediately communicate in writing to the Office any instances of non-compliance by the Company or any affiliate thereof with applicable provisions of Florida Statutes or Florida Administrative Code along with any documents or other proof of such violations.
- B. The Consultant shall not be responsible for the fraud or other illegal acts committed by the Company, but shall promptly bring to the Office's attention any evidence discovered by the Consultant that fraud or other illegal acts may have occurred.

#### VII. AUTHORITY OF AGREEMENT

- A. This Agreement represents the entire and integrated agreement between the parties and supersedes all prior negotiations, representations, or agreements, either written or oral. This Agreement and any Addendum may be amended only by a written instrument signed by the Office and the Consultant.
- B. If a court deems any provision of the Agreement and/or Addendum void or unenforceable, that provision shall be enforced only to the extent that it is not a violation of law or is not otherwise enforceable, and all other provisions shall remain in full force and effect.

C. Any unresolved disputes arising between the Consultant and Company in connection with work performed or compensation under an Addendum shall be resolved by the Office without formal hearing or Order. The Consultant and the Company consent to the Office's exclusive right to determine disputes arising under this agreement. The Company or any affiliated person, successor or assigns, shall have no private right of action or claim against the Consultant with regard to the duties performed under this Agreement and/or Addendum.

IN WITNESS WHEREOF, the parties have executed this Agreement.

Consultant

BY: Todd Fatzinger

Printed Name: Todd Fatzinger

Title: Managing Member

Date: August 7, 2009

Florida Office of Insurance Regulation

Jim Bennett

Jim Bennett

Director, Market Investigations

Date: 8-12-09



OFFICE OF INSURANCE REGULATION

KEVIN M. MCCARTY  
COMMISSIONER

FINANCIAL SERVICES  
COMMISSION  
CHARLIE CRIST  
GOVERNOR  
ALEX SINK  
CHIEF FINANCIAL OFFICER  
BILL MCCOLLUM  
ATTORNEY GENERAL  
CHARLES BRONSON  
COMMISSIONER OF  
AGRICULTURE

SENT VIA E-MAIL and CERTIFIED MAIL/RETURN RECEIPT

February 23, 2010

Mona Carter  
National Policy Executive  
National Council on Compensation Insurance, Inc.  
901 Peninsula Corporate Circle  
Boca Raton, FL 33487

Re: Notice of Florida Market Conduct Examination SBS # 8754  
Line of Business: Advisory Organization

Dear Ms. Carter:

Pursuant to Section 624.3161, Florida Statutes, the Office of Insurance Regulation, Market Investigations (the "Office") as the managing lead state, is initiating, a multi-state target Market Conduct Examination of the National Council on Compensation Insurance, Inc. ("NCCI") Pursuant to Section 624.3161 NCCI will be responsible for all reasonable expenses related to the multi-state examination.

The lead states for the multi-state examination are Florida, West Virginia and Maine. A current list of the participating states is attached. We anticipate additional states may join as the examination process moves forward.

Solicitations for Services have been sent to ten (10) prospective vendors. Vendor responses to the solicitations are due on March 1, 2010. The lead states will select the top four (4) or five (5) vendors for interviews to be conducted in Atlanta on March 18th and 19th, 2010. It is anticipated that the lead states will make a final vendor selection prior to the Spring NAIC meeting at the end of March.

Details will be provided later regarding final vendor selection and the anticipated date the on-site portion of the examination will begin. Please provide the Office, via e-mail, with the name of NCCI's representative(s) for the examination and the address for the office(s) where NCCI's records will be available for examination. Your cooperation and assistance is appreciated. Thank you.

Sincerely,

  
Jim L. Bennett

JIM L. BENNETT • DIRECTOR, MARKET INVESTIGATIONS  
200 EAST GAINES STREET • TALLAHASSEE, FLORIDA 32399-4210  
E-MAIL JIM.BENNETT@FLOIR.COM • PHONE (850) 413-2426 • FAX (850) 922-5680  
website: [www.floir.com](http://www.floir.com)

Affirmative Action / Equal Opportunity Employer

## CONTACT LIST

### 2010 National Council on Compensation Insurance (NCCI) Multi-State Exam

#### Lead States

State	Name	E-Mail	Telephone
Florida	Jim Bennett	<a href="mailto:jim.bennett@fior.com">jim.bennett@fior.com</a>	850-413-2426
Maine	Eric Cioppa	<a href="mailto:Eric.A.Cioppa@maine.gov">Eric.A.Cioppa@maine.gov</a>	207-624-8426
West Virginia	Mark Hooker	<a href="mailto:Mark.Hooker@wvinsurance.gov">Mark.Hooker@wvinsurance.gov</a>	304-558-6279 x1176

#### Participating States

State	Name	E-Mail	Telephone
Alaska	Sarah McNair-Grove	<a href="mailto:Sarah.McNair@Alaska.gov">Sarah.McNair@Alaska.gov</a>	907-465-4613
Arkansas	Bill Lacy	<a href="mailto:bill.lacy@arkansas.gov">bill.lacy@arkansas.gov</a>	501-371-2801
Arizona	Maria Chavira	<a href="mailto:mchavira@azinsurance.gov">mchavira@azinsurance.gov</a>	602-364-4922
Connecticut	Mark Franklin	<a href="mailto:Mark.Franklin@ct.gov">Mark.Franklin@ct.gov</a>	860.297.3854
	Back up: Kurt Swan	<a href="mailto:Kurt.Swan@ct.gov">Kurt.Swan@ct.gov</a>	860.297.3972
District of Columbia	Robert Nkojo	<a href="mailto:Robert.Nkojo@dc.gov">Robert.Nkojo@dc.gov</a>	202-442-7757
Hawaii	Gordon Ito	<a href="mailto:Gordon.I.Ito@dcca.hawaii.gov">Gordon.I.Ito@dcca.hawaii.gov</a>	808-586-2790
Illinois	Bill McAndrew	<a href="mailto:bill.mcandrew@illinois.gov">bill.mcandrew@illinois.gov</a>	217-782-4395
Iowa	David Cunningham	<a href="mailto:david.cunningham@iid.iowa.gov">david.cunningham@iid.iowa.gov</a>	515-281-5523
Kansas	Lyle Behrens	<a href="mailto:lbehrens@ksinsurance.org">lbehrens@ksinsurance.org</a>	785-296-7829
Kentucky	Laura Moore	<a href="mailto:laura.moore@ky.gov">laura.moore@ky.gov</a>	502-564-1936 x 249
Louisiana	Ron Musser	<a href="mailto:rmusser@ldi.state.la.us">rmusser@ldi.state.la.us</a>	225-342-8391
Maryland	Dudley Ewen	<a href="mailto:DEwen@mdinsurance.state.md.us">DEwen@mdinsurance.state.md.us</a>	410-468-2321
Missouri	Jim Mealer	<a href="mailto:Jim.Mealer@insurance.mo.gov">Jim.Mealer@insurance.mo.gov</a>	573-751-2430
Nebraska	Bruce Ramge and Alan Wickman	<a href="mailto:Bruce.Ramge@Nebraska.gov">Bruce.Ramge@Nebraska.gov</a>	402-471-4607
		<a href="mailto:Al.Wickman@nebraska.gov">Al.Wickman@nebraska.gov</a>	402-471-4646
Nevada	Marie Holt and Janice Moskowitz	<a href="mailto:mholt@doi.state.nv.us">mholt@doi.state.nv.us</a>	775-687-4270 x 283
		<a href="mailto:jmoskowi@doi.state.nv.us">jmoskowi@doi.state.nv.us</a>	775-687-4270 x 275
New Hampshire	Kent Dover	<a href="mailto:Kent.Dover@ins.nh.gov">Kent.Dover@ins.nh.gov</a>	603-271-7973 x 228
New Mexico	Tian Xiao	<a href="mailto:Tian.Xiao@state.nm.us">Tian.Xiao@state.nm.us</a>	505-827-4655
New York	Peter Harkin	<a href="mailto:pharkin@ins.state.ny.us">pharkin@ins.state.ny.us</a>	212- 480-5551
Oklahoma	James Charles	<a href="mailto:James.Charles@oid.ok.gov">James.Charles@oid.ok.gov</a>	405.521.3966
Oregon	Mike Lydon and Rae Taylor	<a href="mailto:Michael.B.Lydon@state.or.us">Michael.B.Lydon@state.or.us</a>	503-947-7219
		<a href="mailto:Rae.Taylor@state.or.us">Rae.Taylor@state.or.us</a>	503-947-7211
Rhode Island	Sharon Gordon	<a href="mailto:shrgn@dbr.state.ri.us">shrgn@dbr.state.ri.us</a>	401-462-9614
South Dakota	Randy Moses	<a href="mailto:randy.moses@state.sd.us">randy.moses@state.sd.us</a>	605-773-3563
Virginia	Eric Lowe	<a href="mailto:Eric.Lowe@scc.virginia.gov">Eric.Lowe@scc.virginia.gov</a>	804-371-9628

**SCOPE OF SERVICES ADDENDUM  
MARKET CONDUCT EXAMINATION  
National Council on Compensation Insurance, Inc.**

**Consultant:** Examination Resources, LLC

**Company:** National Council on Compensation Insurance, Inc.

Whereas the Florida Office of Insurance Regulation has called for a market conduct examination pursuant to Section 624.3161, Florida Statutes, for regulated entities identified in the attached schedule, pursuant to the Florida Insurance Code.

**Scope of Services**

In accordance with the terms of our Agreement for Professional Services dated May3, 2010, you are hereby authorized to perform the following services for the Office:

1. **The Consultant shall conduct the Market Conduct Examination as defined in Section 624.3161, Florida Statutes, and to the extent and in the manner directed by the Office. The scope of services is not an audit in accordance with generally accepted auditing standards.**
2. **Unless otherwise directed by the Office, the Consultant shall submit to the Office a bi-weekly status report of work completed and estimated time to complete all remaining work required.**
3. **The Consultant shall prepare work papers, which shall be the property of the Office, to support all work performed and conclusions reached by the Consultant in connection with the examination, to the extent and in the format and manner directed by the Office; make said work papers available to the Office on demand; and deliver said work papers to the Office within five (5) working days following the conclusion of each specific regulated entity's examination as identified in the attached schedule or the cancellation of this agreement.**
4. **The Consultant shall, unless this Agreement and/or Addendum is cancelled prior to completion of the Examination, if directed by the Office, prepare and deliver to the Office within five (5) working days following the conclusion of each specific regulated entity's examination as identified in the attached schedule a final examination report, prepared in the format and manner directed by the Office, which report shall be the property of the Office and may then be used in whole or in part by the Office. The Consultant shall modify any final report on the examination prepared by it in the manner and to the extent directed by the Office.**

5. Compensation for services under this Addendum which shall be in accordance with the following hourly rates:

Exam Managers	\$150
Exam Supervisor	\$140
Examiner in Charge	\$130
Information Systems Specialists	\$130
Internal Control Examiners	\$125
Market Conduct Examiners	\$125
Actuaries	\$195
Legal Advisor	\$200
Workers' Compensation Advisor	\$300

6. The Consultant shall remain available to the Office on a fee-for-service basis, at the same hourly rates as contained above, for a period of three years following completion of the services under this agreement, to provide additional services, regarding the examination, to the Office, as determined necessary by the Office.
7. In performance of market conduct examination projects, the Office will provide forms which the Consultant shall utilize in order to assure uniformity of the market conduct examination project, including but not limited to templates for report of examination, weekly reporting, invoice packages, preliminary advisories and the billing memo.
8. Unless otherwise directed by the Office, procedures and conduct of the examination shall be in accordance with the Market Regulation Handbook produced by the National Association of Insurance Commissioners. Standardized data calls shall be used whenever possible.
9. Unless otherwise notified by the Office, the Consultant shall be responsible for: sending examination data requests; creation of detailed examination audit programs; coordination with regulated entity examination coordinators to conduct examination work; conduct field work as necessary; review and disseminate preliminary advisories as needed; preparation of draft examination reports; review of regulated entity responses or disputes to draft examination reports; invoicing regulated entities for related expenses that have been reviewed and approved by the Office; draft and submit final examination reports and related work papers to the Office.
10. Unless otherwise agreed to by the Office, the services described herein shall be completed on or before the <60<sup>th</sup>> day from the time all requested data is provided to the Consultant by the Company.

IN WITNESS WHEREOF, the parties have executed this Agreement.

Consultant

By: Todd Fatzinger

Printed Name: Todd Fatzinger

Title: Managing Member

Date: May 5, 2010

The Florida Office of Insurance Regulation

Jim Bennett

Jim Bennett

Director, Market Investigations

Date: 5-5-10