

Committee Substitute for Senate Bill No. 1226

An act relating to insurance; amending s. 284.33, F.S.; authorizing the Department of Insurance to directly purchase annuities through a structured settlement insurance services consultant; providing procedures and requirements; amending s. 625.121, F.S.; deleting a reference to deficiency reserves for certain term life insurance policies; authorizing the Department of Insurance to adopt a certain valuation of life insurance policies model regulation; amending s. 626.99, F.S.; revising a reference to a more current edition of a cited buyer's guide; amending s. 627.6487, F.S.; clarifying that creditable coverage must have been in effect in this state; amending s. 627.901, F.S.; increasing maximum service charge for financing insurance premiums; amending s. 627.902, F.S.; revising applicability of premium finance rate of interest; creating a study commission on the availability of health care coverage for the employee leasing industry; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Subsection (1) of section 284.33, Florida Statutes, is amended to read:

284.33 Purchase of insurance, reinsurance, and services.—

(1) The Department of Insurance is authorized to provide insurance, specific excess insurance, and aggregate excess insurance through the Department of Management Services, pursuant to the provisions of part I of chapter 287, as necessary to provide insurance coverages authorized by this part, consistent with market availability. However, the Department of Insurance may directly purchase annuities by using a structured settlement insurance consulting firm selected by the department to assist in the settlement of claims being handled by the Division of Risk Management. The selection of the structured settlement insurance services consultant shall be made by using competitive sealed proposals. The consulting firm shall act as an agent of record for the department in procuring the best annuity products available to facilitate structured settlement of claims, considering price, insurer financial strength, and the best interests of the state risk management program. Purchase of annuities by the department using a structured settlement method is excepted from competitive sealed bidding or proposal requirements. The Department of Insurance is further authorized to purchase such risk management services, including, but not limited to, risk and claims control; safety management; and legal, investigative, and adjustment services, as may be required and pay claims. The department may contract with a service organization for such services and advance money to such service organization for deposit in a special checking account for paying claims made against the state under the provisions of this part. The special checking account shall be maintained in this state in a bank or savings association organized under the laws of this state or of the United States. The department may replenish such account as often as necessary

upon the presentation by the service organization of documentation for payments of claims equal to the amount of the requested reimbursement.

Section 2. Subsections (5), (7), and (11) of section 625.121, Florida Statutes, are amended to read:

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; and

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.

(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 department.

(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 department; 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); and

3. For policies issued prior to January 1, 1961, the class three disability table (1926).

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; and

3. For policies issued prior to January 1, 1961, the Intercompany Double Indemnity Mortality Table.

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 department 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 department, 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 department, 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 department, 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 department, 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 department, 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 department, 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 department, 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 department, and the applicable calendar year statutory valuation interest rate as described in subsection (6).

After July 1, 1973, any insurer may file with the department 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 adopted by the department, 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 the operative date of this section until the department, on a date certain that is on or after January 1, 1998, adopts by rule that table for determining the minimum standard for valuation purposes.

4. Use the 1994 GAR Table for determining the minimum standard of valuation for annuities and pure endowments purchased on or after the operative date of this section under group annuity and pure endowment contracts until the department, on a date certain that is on or after January 1, 1998, adopts by rule that table for determining the minimum standard for valuation purposes.

(j) The department 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 January 1, 2000.

(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), ~~except that any extra premiums charged because of impairments, nonrecurring expense factors, or special hazards shall be disregarded in the determination of modified net premiums.~~

(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.

(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. ~~As regards renewable term life insurance, the policy reserve and foregoing deficiency reserve shall be calculated using the current term period only.~~ 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.

Section 3. Subsection (6) of section 626.99, Florida Statutes, is amended to read:

626.99 Life insurance solicitation.—

(6) **ADOPTION OF BUYER'S GUIDE; REQUIREMENTS.**—Any insurer soliciting life insurance in this state on or after October 1, 1980, shall adopt and use a buyer's guide, and the adoption and use by an insurer of the buyer's guide adopted October 1, 1996, May 4, 1976, by the National Association of Insurance Commissioners in the NAIC Life Insurance Disclosure Solicitation Model Regulation shall be in compliance with the requirements of this section.

Section 4. Subsection (3) of section 627.6487, Florida Statutes, is amended to read:

627.6487 Guaranteed availability of individual health insurance coverage to eligible individuals.—

(3) For the purposes of this section, the term "eligible individual" means an individual:

(a)1. For whom, as of the date on which the individual seeks coverage under this section, the aggregate of the periods of creditable coverage, as defined in s. 627.6561(5) and (6), is 18 or more months; and

2.a. Whose most recent prior creditable coverage was under a group health plan, governmental plan, or church plan, or health insurance coverage offered in connection with any such plan; or

b. Whose most recent prior creditable coverage was under an individual plan issued in this state by a health insurer or health maintenance organization, which coverage is terminated due to the insurer or health maintenance organization becoming insolvent or discontinuing the offering of all individual coverage in the State of Florida, or due to the insured no longer living

in the service area in the State of Florida of the insurer or health maintenance organization that provides coverage through a network plan in the State of Florida;

(b) Who is not eligible for coverage under:

1. A group health plan, as defined in s. 2791 of the Public Health Service Act;

2. A conversion policy or contract issued by an authorized insurer or health maintenance organization under s. 627.6675 or s. 641.3921, respectively, offered to an individual who is no longer eligible for coverage under either an insured or self-insured employer plan;

3. Part A or part B of Title XVIII of the Social Security Act; or

4. A state plan under Title XIX of such act, or any successor program, and does not have other health insurance coverage;

(c) With respect to whom the most recent coverage within the coverage period described in paragraph (a) was not terminated based on a factor described in s. 627.6571(2)(a) or (b), relating to nonpayment of premiums or fraud, unless such nonpayment of premiums or fraud was due to acts of an employer or person other than the individual;

(d) Who, having been offered the option of continuation coverage under a COBRA continuation provision or under s. 627.6692, elected such coverage; and

(e) Who, if the individual elected such continuation provision, has exhausted such continuation coverage under such provision or program.

Section 5. Section 627.901, Florida Statutes, is amended to read:

627.901 Premium financing by an insurance agent or agency.—

(1) A general lines agent may make reasonable service charges for financing insurance premiums on policies issued or business produced by such an agent or agency, s. 626.9541 notwithstanding. The service charge shall not exceed \$1 per installment, or a \$6 total service charge per year, for any premium balance of \$120 or less. For any premium balance greater than \$120 but not more than \$220, the service charge shall not exceed \$9 per year. The maximum service charge of ~~\$1 per installment~~ for any premium balance greater than \$220 shall not exceed \$12 per year. In lieu of such service charges, an insurance agent or agency may charge a rate of interest not to exceed 18 percent simple interest per year on the unpaid balance.

(2) Every such agent or agency engaging in premium financing whose total service charge per year or rate of interest is more than as provided in subsection (1) shall be subject to part XV of this chapter.

Section 6. Section 627.902, Florida Statutes, is amended to read:

627.902 Premium financing by an insurer or subsidiary.—An insurer, a subsidiary of an insurer, or a corporation under substantially the same

management or control as an authorized insurer or group of authorized insurers may finance property, casualty, surety, and marine insurance premiums on policies issued or business produced by such insurer or insurers; however, any such insurer, subsidiary, or corporation or group of insurers the total service charge per year or rate of interest of which is substantially more than that provided in s. 627.901 shall be subject to part XV of this chapter.

Section 7. There is created the Commission for Health Care for the Employee Leasing Industry. The purpose of the commission is to study the availability and affordability of health care and the delivery methods for providing health care. The study shall include, but is not limited to, health care provided by standard carriers, partial self-insurance, self-insurance under Pub. L. No. 93-406, the Employee Retirement Income Security Act as amended, association self-insurance trusts, and the cost and value of those delivery methods.

(1) The commission shall submit a report on the results of the study to both Houses of the Legislature and the Governor by January 1, 2001.

(2) The commission shall be created with the following membership: two members of the Senate appointed by the Senate President; two members of the House of Representatives appointed by the Speaker of the House of Representatives; three members of industry regulated and licensed under sections 468.520-468.535, Florida Statutes, appointed by the President of the Senate; three members of industry regulated and licensed under sections 468.520-468.535, Florida Statutes, appointed by the Speaker of the House of Representatives; the Treasurer or his designee; and the Secretary of Business and Professional Regulation or his designee. The members of the industry appointed to serve on the commission shall serve without pay or travel reimbursement.

(3) All meetings of the commission shall be held at the Capitol. Meetings shall be called by the chairperson, who shall be selected by vote of the Senate and House of Representative members of the commission. Staff support shall be provided by the Senate Committee on Banking and Insurance and the House of Representatives Committee on Insurance.

Section 8. This act shall take effect upon becoming a law.

Approved by the Governor June 26, 2000.

Filed in Office Secretary of State June 26, 2000.