



ENROLLED

CS/CS/HB 321, Engrossed 1

2014 Legislature

1  
2 An act relating to title insurance; amending s.  
3 625.041, F.S.; revising criteria with respect to  
4 liabilities charged against assets in determinations  
5 of financial condition; amending s. 625.111, F.S.;  
6 specifying the reserves that certain title insurers  
7 must set aside after a certain date; specifying the  
8 manner in which reserves must be released; specifying  
9 which state law governs the amount of the reserve for  
10 a title insurer who transfers domicile to this state;  
11 providing that a domestic title insurer is not  
12 required to record separate bulk reserves; revising  
13 and providing definitions; amending ss. 624.407 and  
14 624.408, F.S.; conforming cross-references; amending  
15 s. 626.8412, F.S.; specifying that only a licensed and  
16 appointed agent or agency is authorized to sell title  
17 insurance; amending s. 626.8413, F.S.; providing  
18 additional limitations on the name that a title agent  
19 or agency may adopt; providing applicability; amending  
20 s. 626.8417, F.S.; conforming provisions to changes  
21 made by the act; amending s. 626.8418, F.S.; revising  
22 the application requirements for a title insurance  
23 agency license; deleting certain bonding requirements  
24 and procedures; amending s. 626.8419, F.S.; conforming  
25 provisions to changes made by the act; amending s.



ENROLLED

CS/CS/HB 321, Engrossed 1

2014 Legislature

26 | 626.8437, F.S.; revising terms relating to grounds for  
 27 | actions against a licensee or appointee; amending s.  
 28 | 627.778, F.S.; limiting the remedies available for the  
 29 | breach of duty arising from a title insurance  
 30 | contract; amending s. 627.782, F.S.; revising the date  
 31 | by which certain information relating to title  
 32 | insurance rates must be submitted to the Office of  
 33 | Insurance Regulation by title insurance agencies and  
 34 | insurers; amending s. 627.7845, F.S.; revising terms  
 35 | relating to determination of insurability and  
 36 | preservation of evidence of title search and  
 37 | examination; providing an effective date.

38 |

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

40 |

41 | Section 1. Section 625.041, Florida Statutes, is amended  
 42 | to read:

43 | 625.041 Liabilities, in general.—In any determination of  
 44 | the financial condition of an insurer, liabilities to be charged  
 45 | against its assets ~~shall~~ include:

46 | (1) The amount, estimated in accordance ~~consistent~~ with  
 47 | ~~the provisions of~~ this code, necessary to pay all of its unpaid  
 48 | losses and claims incurred on or before ~~prior to~~ the date of  
 49 | statement, whether reported or unreported, together with the  
 50 | expenses of adjustment or settlement thereof.



ENROLLED

CS/CS/HB 321, Engrossed 1

2014 Legislature

51        (2) With respect to title insurance, the amount, estimated  
52 in accordance with this code, necessary to pay all of its known  
53 unpaid losses and claims incurred on or before the date of  
54 statement, together with the expenses of adjustment or  
55 settlement thereof. This requirement is in addition to the  
56 reserves required under s. 625.111.

57        (3)-(2) With respect ~~reference~~ to life and health insurance  
58 and annuity contracts:

59            (a) The amount of reserves on life insurance policies and  
60 annuity contracts in force, valued according to the tables of  
61 mortality, rates of interest, and methods adopted pursuant to  
62 this code which are applicable thereto.

63            (b) Reserves for disability benefits, for both active and  
64 disabled lives.

65            (c) Reserves for accidental death benefits.

66            (d) Any additional reserves that may be required by the  
67 office in accordance ~~consistent~~ with practice formulated or  
68 approved by the National Association of Insurance Commissioners  
69 or its successor organization, on account of such insurance,  
70 including contract and premium deficiency reserves.

71        (4)-(3) With respect ~~reference~~ to insurance other than that  
72 specified in subsections ~~subsection~~ (2) and (3), and other than  
73 ~~title insurance,~~ the amount of reserves equal to the unearned  
74 portions of the gross premiums charged on policies in force,  
75 computed in accordance with this part.



ENROLLED

CS/CS/HB 321, Engrossed 1

2014 Legislature

76        (5)~~(4)~~ Taxes, expenses, and other obligations due or  
77 accrued at the date of the statement.

78        (6)~~(5)~~ An ~~Any~~ insurer in this state that writes workers'  
79 compensation insurance shall accrue a liability on its financial  
80 statements for all Special Disability Trust Fund assessments  
81 that are due within the current calendar year. ~~In addition,~~  
82 Those insurers shall also disclose in the notes to the financial  
83 statements required to be filed pursuant to s. 624.424 an  
84 estimate of future Special Disability Trust Fund assessments, if  
85 the assessments are likely to occur and can be estimated with  
86 reasonable certainty.

87        Section 2. Section 625.111, Florida Statutes, is amended  
88 to read:

89        625.111 Title insurance reserve.—In addition to an  
90 adequate reserve as to outstanding losses relating to known  
91 claims, as required under s. 625.041, a domestic title insurer  
92 shall establish, segregate, and maintain a guaranty fund or  
93 unearned premium reserve as provided in this section. The sums  
94 ~~required under this section~~ to be reserved for unearned premiums  
95 on title guarantees and policies ~~at all times and for all~~  
96 ~~purposes~~ shall be considered and constitute unearned portions of  
97 the original premiums and shall be charged as a reserve  
98 liability of the ~~such~~ insurer in determining its financial  
99 condition. ~~While~~ Such ~~sums are so~~ reserved funds, ~~they~~ shall be  
100 withdrawn from the use of the insurer for its general purposes,



ENROLLED

CS/CS/HB 321, Engrossed 1

2014 Legislature

101 impressed with a trust in favor of the holders of title  
102 guarantees and policies, and held available for reinsurance of  
103 the title guarantees and policies in the event of the insolvency  
104 of the insurer. ~~Nothing contained in~~ This section does not shall  
105 preclude the ~~such~~ insurer from investing such reserve in  
106 investments authorized by law, ~~for such an insurer~~ and the  
107 income from such investments ~~invested reserve~~ shall be included  
108 in the general income of the insurer and may ~~to~~ be used by such  
109 insurer for any lawful purpose.

110 (1) For an unearned premium reserve ~~reserves~~ established  
111 on or after July 1, 1999, such ~~unearned premium~~ reserve must be  
112 in ~~shall consist of not less than~~ an amount at least equal to  
113 the sum of paragraphs (a), (b), and (d) for title insurers  
114 holding less than \$50 million in surplus as to policyholders as  
115 of the previous year end and the sum of paragraphs (c) and (d)  
116 for title insurers holding \$50 million or more in surplus as to  
117 policyholders as of the previous year end:

118 (a) A reserve with respect to unearned premiums for  
119 policies written or title liability assumed in reinsurance  
120 before July 1, 1999, equal to the reserve established on June  
121 30, 1999, for those unearned premiums with such reserve being  
122 subsequently released as provided in subsection (2). For  
123 domestic title insurers subject to this section, such amounts  
124 shall be calculated in accordance with ~~provisions of law of this~~  
125 state law in effect at the time the associated premiums were



ENROLLED

CS/CS/HB 321, Engrossed 1

2014 Legislature

126 written or assumed and as amended before ~~prior to~~ July 1, 1999.

127 (b) A total amount equal to 30 cents for each \$1,000 of  
128 net retained liability for policies written or title liability  
129 assumed in reinsurance on or after July 1, 1999, with such  
130 reserve being subsequently released as provided in subsection  
131 (2). For the purpose of calculating this reserve, the total of  
132 the net retained liability for all simultaneous issue policies  
133 covering a single risk shall be equal to the liability for the  
134 policy with the highest limit covering that single risk, net of  
135 any liability ceded in reinsurance.

136 (c) On or after January 1, 2014, for title insurers  
137 holding \$50 million or more in surplus as to policyholders as of  
138 the previous year end, a minimum of 6.5 percent of the total of  
139 the following:

140 1. Direct premiums written; and  
141 2. Premiums for reinsurance assumed, plus other income,  
142 less premiums for reinsurance ceded as displayed in Schedule P  
143 of the title insurer's most recent annual statement filed with  
144 the office with such reserve being subsequently released as  
145 provided in subsection (2). Title insurers with less than \$50  
146 million in surplus as to policyholders must continue to record  
147 unearned premium reserve in accordance with paragraph (b).

148 (d) ~~(e)~~ An additional amount, if deemed necessary by a  
149 qualified actuary, to which shall be subsequently released as  
150 provided in subsection (2). Using financial results as of



ENROLLED

CS/CS/HB 321, Engrossed 1

2014 Legislature

151 | December 31 of each year, all domestic title insurers shall  
152 | obtain a Statement of Actuarial Opinion from a qualified actuary  
153 | regarding the insurer's loss and loss adjustment expense  
154 | reserves, including reserves for known claims, ~~adverse~~  
155 | ~~development on known claims~~, incurred but not reported claims,  
156 | and unallocated loss adjustment expenses. The actuarial opinion  
157 | must ~~shall~~ conform to the annual statement instructions for  
158 | title insurers adopted by the National Association of Insurance  
159 | Commissioners and ~~shall~~ include the actuary's professional  
160 | opinion of the insurer's reserves as of the date of the annual  
161 | statement. If the amount of the reserve stated in the opinion  
162 | and displayed in Schedule P of the annual statement for that  
163 | reporting date is greater than the sum of the known claim  
164 | reserve and unearned premium reserve as calculated under this  
165 | section, as of the same reporting date and including any  
166 | previous actuarial provisions added at earlier dates, the  
167 | insurer shall add to the insurer's unearned premium reserve an  
168 | actuarial amount equal to the reserve shown in the actuarial  
169 | opinion, minus the known claim reserve and the unearned premium  
170 | reserve, as of the current reporting date and calculated in  
171 | accordance with this section, but not ~~in no event~~ calculated as  
172 | of any date before ~~prior to~~ December 31, 1999. The comparison  
173 | shall be made using that line on Schedule P displaying the Total  
174 | Net Loss and Loss Adjustment Expense which is comprised of the  
175 | Known Claim Reserve, and any associated Adverse Development



ENROLLED

CS/CS/HB 321, Engrossed 1

2014 Legislature

176 Reserve, the reserve for Incurred But Not Reported Losses, and  
177 Unallocated Loss Adjustment Expenses.

178 (2)~~(a)~~ With respect to reserves ~~the reserve~~ established in  
179 accordance with:

180 (a) Paragraph (1)(a), the domestic title insurer shall  
181 release the reserve over the subsequent ~~a period of 20~~  
182 ~~subsequent~~ years as provided in this paragraph. The insurer  
183 shall release 30 percent of the initial aggregate sum during  
184 1999, with one quarter of that amount being released on March  
185 31, June 30, September 30, and December 31, 1999, with the March  
186 31 and June 30 releases to be retroactive and reflected on the  
187 September 30 financial statements. Thereafter, the insurer shall  
188 release, on the same quarterly basis as specified for reserves  
189 released during 1999, a percentage of the initial aggregate sum  
190 as follows: 15 percent during calendar year 2000, 10 percent  
191 during each of calendar years 2001 and 2002, 5 percent during  
192 each of calendar years 2003 and 2004, 3 percent during each of  
193 calendar years 2005 and 2006, 2 percent during each of calendar  
194 years 2007-2013, and 1 percent during each of calendar years  
195 2014-2018.

196 ~~(b) With respect to reserves established in accordance~~  
197 ~~with~~ Paragraph (1)(b), the unearned premium for policies written  
198 or title liability assumed during a particular calendar year  
199 shall be earned, and released from reserve, over the subsequent  
200 ~~a period of 20 subsequent~~ years as provided in this paragraph.





ENROLLED

CS/CS/HB 321, Engrossed 1

2014 Legislature

201 The insurer shall release 30 percent of the initial sum during  
202 the year following ~~next succeeding~~ the year the premium was  
203 written or assumed, with one quarter of that amount being  
204 released on March 31, June 30, September 30, and December 31 of  
205 such year. Thereafter, the insurer shall release, on the same  
206 quarterly basis as specified for reserves released during the  
207 year following ~~first succeeding~~ the year the premium was written  
208 or assumed, a percentage of the initial sum as follows: 15  
209 percent during the next succeeding year, 10 percent during each  
210 of the next succeeding 2 years, 5 percent during each of the  
211 next succeeding 2 years, 3 percent during each of the next  
212 succeeding 2 years, 2 percent during each of the next succeeding  
213 7 years, and 1 percent during each of the next succeeding 5  
214 years.

215 (c) Paragraph (1)(c), the unearned premium for policies  
216 written or title liability assumed during a particular calendar  
217 year shall be earned, and released from reserve, over the  
218 subsequent 20 years at an amortization rate not to exceed the  
219 formula in this paragraph. The insurer shall release 35 percent  
220 of the initial sum during the year following the year the  
221 premium was written or assumed, with one-fourth of that amount  
222 being released on March 31, June 30, September 30, and December  
223 31 of such year. Thereafter, the insurer shall release, on the  
224 same quarterly basis, as specified for reserve released during  
225 the year following the year the premium was written or assumed,



ENROLLED

CS/CS/HB 321, Engrossed 1

2014 Legislature

226 a percentage of the initial sum as follows: 15 percent during  
227 each year of the next succeeding 2 years, 10 percent during the  
228 next succeeding year, 3 percent during each of the next  
229 succeeding 3 years, 2 percent during each of the succeeding 3  
230 years, and 1 percent during each of the next succeeding 10  
231 years.

232 ~~(d)(e)~~ ~~With respect to reserves established in accordance~~  
233 ~~with~~ Paragraph (1)(d) ~~(1)(e)~~, any additional amount established  
234 in any calendar year shall be released in the years subsequent  
235 to its establishment as provided in paragraph (c) ~~(b)~~, with the  
236 timing and percentage of releases being in all respects  
237 identical to those of unearned premium reserves that are  
238 calculated as provided in paragraph (c) ~~(b)~~ and established with  
239 regard to premiums written or liability assumed in reinsurance  
240 in the same year as the year in which any additional amount was  
241 originally established.

242 (3) If a title insurer that is organized under the laws of  
243 another state transfers its domicile to this state, the  
244 statutory or unearned premium reserve shall be the amount  
245 required by the laws of the state of the title insurer's former  
246 state of domicile as of the date of transfer of domicile and  
247 shall be released from reserve according to the requirements of  
248 law in effect in the former state at the time of domicile. On or  
249 after January 1, 2014, for new business written after the  
250 effective date of the transfer of domicile to this state, the



ENROLLED

CS/CS/HB 321, Engrossed 1

2014 Legislature

251 domestic title insurer shall add to and set aside in the  
252 statutory or unearned premium reserve such amount as provided in  
253 subsection (1).

254 (4)~~(3)~~ At any reporting date, the amount of the required  
255 releases of existing unearned premium reserves under subsection  
256 (2) shall be calculated and deducted from the total unearned  
257 premium reserve before any additional amount is established for  
258 the current calendar year in accordance with ~~the provisions of~~  
259 paragraph (1) (d) ~~(1) (e)~~.

260 (5) A domestic title insurer is not required to record a  
261 separate bulk reserve. However, if a separate bulk reserve is  
262 recorded, the statutory premium reserve must be reduced by the  
263 amount recorded for such bulk reserve. A domestic title insurer  
264 must obtain approval from the office before using or recording a  
265 bulk reserve.

266 (6)~~(4)~~ As used in this section, the term:

267 (a) "Bulk reserve" means provision for subsequent  
268 development on known claims.

269 (b)~~(a)~~ "Net retained liability" means the total liability  
270 retained by a title insurer for a single risk, after taking into  
271 account the deduction for ceded liability, if any.

272 (c)~~(b)~~ "Qualified actuary" means a person who is, as  
273 detailed in the National Association of Insurance Commissioners'  
274 Annual Statement Instructions:

275 1. A member in good standing of the Casualty Actuarial



ENROLLED

CS/CS/HB 321, Engrossed 1

2014 Legislature

276 Society;

277 2. A member in good standing of the American Academy of  
 278 Actuaries who has been approved as qualified for signing  
 279 casualty loss reserve opinions by the Casualty Practice Council  
 280 of the American Academy of Actuaries; or

281 3. A person who otherwise has competency in loss reserve  
 282 evaluation as demonstrated to the satisfaction of the insurance  
 283 regulatory official of the domiciliary state. In such case, at  
 284 least 90 days before ~~prior to the~~ filing ~~of~~ its annual  
 285 statement, the insurer must request ~~approval~~ that the person be  
 286 deemed qualified and that request must be approved or denied.  
 287 The request must include the National Association of Insurance  
 288 Commissioners' Biographical Form and a list of all loss reserve  
 289 opinions issued in the last 3 years by this person.

290 (d) ~~(e)~~ "Single risk" means the insured amount of a ~~any~~  
 291 title insurance policy, except that where two or more title  
 292 insurance policies are issued simultaneously covering different  
 293 estates in the same real property, "single risk" means the sum  
 294 of the insured amounts of all such ~~title insurance~~ policies. A  
 295 ~~Any~~ title insurance policy insuring a mortgage interest, a claim  
 296 payment under which reduces the insured amount of a fee or  
 297 leasehold title insurance policy, shall be excluded in computing  
 298 the amount of a single risk to the extent that the insured  
 299 amount of the mortgage title insurance policy does not exceed  
 300 the insured amount of the fee or leasehold title insurance



ENROLLED

CS/CS/HB 321, Engrossed 1

2014 Legislature

301 policy.

302 Section 3. Subsection (5) of section 624.407, Florida  
303 Statutes, is amended to read:

304 624.407 Surplus required; new insurers.—

305 (5) For the purposes of this section, liabilities do not  
306 include liabilities required under s. 625.041(5) ~~625.041(4)~~. For  
307 purposes of computing minimum surplus as to policyholders  
308 pursuant to s. 625.305(1), liabilities include liabilities  
309 required under s. 625.041(5) ~~625.041(4)~~.

310 Section 4. Subsection (2) of section 624.408, Florida  
311 Statutes, is amended to read:

312 624.408 Surplus required; current insurers.—

313 (2) For purposes of this section, liabilities do not  
314 include liabilities required under s. 625.041(5) ~~625.041(4)~~. For  
315 purposes of computing minimum surplus as to policyholders  
316 pursuant to s. 625.305(1), liabilities include liabilities  
317 required under s. 625.041(5) ~~625.041(4)~~.

318 Section 5. Paragraph (a) of subsection (1) of section  
319 626.8412, Florida Statutes, is amended to read:

320 626.8412 License and appointments required.—

321 (1) Except as otherwise provided in this part:

322 (a) Title insurance may be sold only by a licensed and  
323 appointed title insurance agent employed by a licensed and  
324 appointed title insurance agency or employed by a title insurer.

325 Section 6. Section 626.8413, Florida Statutes, is amended



ENROLLED

CS/CS/HB 321, Engrossed 1

2014 Legislature

326 to read:

327 626.8413 Title insurance agents; certain names  
328 prohibited.—After October 1, 2014 ~~1985~~, a title insurance agent  
329 or title insurance agency may as defined in s. 626.841 shall not  
330 adopt a name that ~~which~~ contains the words "title insurance,"  
331 "title company," "title guaranty," or "title guarantee," unless  
332 such words are followed by the word "agent" or "agency" in the  
333 same size and type as the words preceding it ~~them~~. This section  
334 does not apply to a title insurer acting as an agent for another  
335 title insurer if both insurers hold active certificates of  
336 authority to transact title insurance business in this state and  
337 both are acting under the names designated on such certificates.

338 Section 7. Section 626.8417, Florida Statutes, is amended  
339 to read:

340 626.8417 Title insurance agent licensure; exemptions.—

341 (1) A person may not act as a title insurance agent ~~as~~  
342 ~~defined in s. 626.841~~ until a valid title insurance agent's  
343 license has been issued to that person by the department.

344 (2) An application for license as a title insurance agent  
345 shall be filed with the department on ~~printed~~ forms furnished by  
346 the department.

347 (3) The department may ~~shall~~ not grant or issue a license  
348 as a title insurance agent to an ~~any~~ individual who is found by  
349 the department ~~it~~ to be untrustworthy or incompetent, who does  
350 not meet the qualifications for examination specified in s.



ENROLLED

CS/CS/HB 321, Engrossed 1

2014 Legislature

351 626.8414, or who does not meet the following qualifications:

352 (a) Within the 4 years immediately preceding the date of  
353 the application for license, the applicant must have completed a  
354 40-hour classroom course in title insurance, 3 hours of which  
355 are ~~shall be~~ on the subject matter of ethics, as approved by the  
356 department, or must have had at least 12 months of experience in  
357 responsible title insurance duties, under the supervision of a  
358 licensed title insurance agent, title insurer, or attorney while  
359 working in the title insurance business as a substantially full-  
360 time, bona fide employee of a title insurance agency, title  
361 insurance agent, title insurer, or attorney who conducts real  
362 estate closing transactions and issues title insurance policies  
363 but who is exempt from licensure under subsection (4) ~~pursuant~~  
364 ~~to paragraph (4)(a)~~. If an applicant's qualifications are based  
365 upon the periods of employment at responsible title insurance  
366 duties, the applicant must submit, with the license application  
367 ~~for license on a form prescribed by the department, an~~ the  
368 affidavit of the applicant and of the employer affirming ~~setting~~  
369 ~~forth~~ the period of such employment, that the employment was  
370 substantially full time, and giving a brief abstract of the  
371 nature of the duties performed by the applicant.

372 (b) The applicant must have passed any examination for  
373 licensure required under s. 626.221.

374 (4) ~~(a)~~ Title insurers or attorneys duly admitted to  
375 practice law in this state and in good standing with The Florida



ENROLLED

CS/CS/HB 321, Engrossed 1

2014 Legislature

376 Bar are exempt from the provisions of this chapter relating with  
377 ~~regard~~ to title insurance licensing and appointment  
378 requirements.

379 (5) ~~(b)~~ An insurer may designate a corporate officer of the  
380 insurer to occasionally issue and countersign binders,  
381 commitments, and policies of title insurance ~~policies, or~~  
382 ~~guarantees of title~~. The A designated officer is exempt from the  
383 provisions of this chapter relating with ~~regard~~ to title  
384 insurance licensing and appointment requirements while the  
385 officer is acting within the scope of the designation.

386 (6) ~~(c)~~ If an attorney owns ~~or attorneys own~~ a corporation  
387 or other legal entity that ~~which~~ is doing business as a title  
388 insurance agency, other than an entity engaged in the active  
389 practice of law, the agency must be licensed and appointed as a  
390 title insurance agent.

391 Section 8. Section 626.8418, Florida Statutes, is amended  
392 to read:

393 626.8418 Application for title insurance agency license.—  
394 Before ~~Prior to~~ doing business in this state as a title  
395 insurance agency, ~~a title insurance agency must meet all of the~~  
396 ~~following requirements:~~

397 ~~(1)~~ the applicant must file with the department an  
398 application for a license as a title insurance agency, on  
399 ~~printed~~ forms furnished by the department, which ~~that~~ includes  
400 all of the following:





ENROLLED

CS/CS/HB 321, Engrossed 1

2014 Legislature

401        (1)~~(a)~~ The name of each majority owner, partner, officer,  
402 and director of the title insurance agency.

403        (2)~~(b)~~ The residence address of each person required to be  
404 listed under subsection (1) paragraph~~(a)~~.

405        (3)~~(c)~~ The name of the title insurance agency and its  
406 principal business address.

407        (4)~~(d)~~ The location of each title insurance agency office  
408 and the name under which each agency office conducts or will  
409 conduct business.

410        (5)~~(e)~~ The name of each title insurance agent to be in  
411 full-time charge of a title insurance ~~an~~ agency office and  
412 specification of which office.

413        (6)~~(f)~~ Such additional information as the department  
414 requires by rule to ascertain the trustworthiness and competence  
415 of persons required to be listed on the application and to  
416 ascertain that such persons meet the requirements of this code.

417        ~~(2) The applicant must have deposited with the department~~  
418 ~~securities of the type eligible for deposit under s. 625.52 and~~  
419 ~~having at all times a market value of not less than \$35,000. In~~  
420 ~~place of such deposit, the title insurance agency may post a~~  
421 ~~surety bond of like amount payable to the department for the~~  
422 ~~benefit of any appointing insurer damaged by a violation by the~~  
423 ~~title insurance agency of its contract with the appointing~~  
424 ~~insurer. If a properly documented claim is timely filed with the~~  
425 ~~department by a damaged title insurer, the department may remit~~



ENROLLED

CS/CS/HB 321, Engrossed 1

2014 Legislature

426 ~~an appropriate amount of the deposit or the proceeds that are~~  
427 ~~received from the surety in payment of the claim. The required~~  
428 ~~deposit or bond must be made by the title insurance agency, and~~  
429 ~~a title insurer may not provide the deposit or bond directly or~~  
430 ~~indirectly on behalf of the title insurance agency. The deposit~~  
431 ~~or bond must secure the performance by the title insurance~~  
432 ~~agency of its duties and responsibilities under the issuing~~  
433 ~~agency contracts with each title insurer for which it is~~  
434 ~~appointed. The agency may exchange or substitute other~~  
435 ~~securities of like quality and value for securities on deposit,~~  
436 ~~may receive the interest and other income accruing on such~~  
437 ~~securities, and may inspect the deposit at all reasonable times.~~  
438 ~~Such deposit or bond must remain unimpaired as long as the title~~  
439 ~~insurance agency continues in business in this state and until 1~~  
440 ~~year after termination of all title insurance agency~~  
441 ~~appointments held by the title insurance agency. The title~~  
442 ~~insurance agency is entitled to the return of the deposit or~~  
443 ~~bond together with accrued interest after such year has passed,~~  
444 ~~if no claim has been made against the deposit or bond. If a~~  
445 ~~surety bond is unavailable generally, the department may adopt~~  
446 ~~rules for alternative methods to comply with this subsection.~~  
447 ~~With respect to such alternative methods for compliance, the~~  
448 ~~department must be guided by the past business performance and~~  
449 ~~good reputation and character of the proposed title insurance~~  
450 ~~agency. A surety bond is deemed to be unavailable generally if~~



ENROLLED

CS/CS/HB 321, Engrossed 1

2014 Legislature

451 ~~the prevailing annual premium exceeds 25 percent of the~~  
452 ~~principal amount of the bond.~~

453 Section 9. Paragraphs (a), (b), and (c) of subsection (1)  
454 of section 626.8419, Florida Statutes, are amended to read:

455 626.8419 Appointment of title insurance agency.—

456 (1) The title insurer engaging or employing the title  
457 insurance agency must file with the department, on forms  
458 furnished by the department, an application certifying that the  
459 proposed title insurance agency meets all of the following  
460 requirements:

461 (a) The title insurance agency has ~~must have~~ obtained a  
462 fidelity bond in an amount of at least, ~~not less than~~ \$50,000,  
463 acceptable to the insurer appointing the agency. If a fidelity  
464 bond is unavailable generally, the department shall ~~must~~ adopt  
465 rules for alternative methods to comply with this paragraph.

466 (b) The title insurance agency must have obtained errors  
467 and omissions insurance in an amount acceptable to the insurer  
468 appointing the agency. The amount of the coverage must be at  
469 least ~~may not be less than~~ \$250,000 per claim and an aggregate  
470 limit with a deductible no greater than \$10,000. If errors and  
471 omissions insurance is unavailable generally, the department  
472 shall ~~must~~ adopt rules for alternative methods that ~~to~~ comply  
473 with this paragraph.

474 (c) ~~Notwithstanding s. 626.8418(2),~~ The title insurance  
475 agency must have obtained a surety bond in an amount of at least



ENROLLED

CS/CS/HB 321, Engrossed 1

2014 Legislature

476 | ~~not less than~~ \$35,000 made payable to the title insurer or title  
477 | insurers appointing the agency. The surety bond must be for the  
478 | benefit of any appointing title insurer damaged by a violation  
479 | by the title insurance agency of its contract with the  
480 | appointing title insurer. If the surety bond is payable to  
481 | multiple title insurers, the surety bond must provide that each  
482 | title insurer is to be notified if ~~in the event~~ a claim is made  
483 | upon the surety bond or the bond is terminated.

484 | Section 10. Subsections (3) and (4) of section 626.8437,  
485 | Florida Statutes, are amended to read:

486 | 626.8437 Grounds for denial, suspension, revocation, or  
487 | refusal to renew license or appointment.—The department shall  
488 | deny, suspend, revoke, or refuse to renew or continue the  
489 | license or appointment of any title insurance agent or agency,  
490 | and it shall suspend or revoke the eligibility to hold a license  
491 | or appointment of such person, if it finds that as to the  
492 | applicant, licensee, appointee, or any principal thereof, any  
493 | one or more of the following grounds exist:

494 | (3) Willful misrepresentation of any title insurance  
495 | policy, ~~guarantee of title, binder,~~ or commitment, or willful  
496 | deception with regard to any such policy, ~~guarantee, binder,~~ or  
497 | commitment, done either in person or by any form of  
498 | dissemination of information or advertising.

499 | (4) Demonstrated lack of fitness or trustworthiness to  
500 | represent a title insurer in the issuance of its commitments or



ENROLLED

CS/CS/HB 321, Engrossed 1

2014 Legislature

501 ~~, binders,~~ policies of title insurance, ~~or guarantees of title.~~

502 Section 11. Subsection (3) is added to section 627.778,  
503 Florida Statutes, to read:

504 627.778 Limit of risk.—

505 (3) Only contractual remedies are available for a breach  
506 of a duty which arises solely from the terms of a contract of  
507 title insurance or an instrument issued pursuant to s.  
508 627.786(3).

509 Section 12. Subsection (8) of section 627.782, Florida  
510 Statutes, is amended to read:

511 627.782 Adoption of rates.—

512 (8) Each title insurance agency and insurer licensed to do  
513 business in this state and each insurer's direct or retail  
514 business in this state shall maintain and submit information,  
515 including revenue, loss, and expense data, as the office  
516 determines necessary to assist in the analysis of title  
517 insurance premium rates, title search costs, and the condition  
518 of the title insurance industry in this state. Such ~~This~~  
519 information shall ~~must~~ be transmitted to the office annually by  
520 May ~~March~~ 31 of the year after the reporting year. The  
521 commission shall adopt rules relating to ~~regarding~~ the  
522 collection and analysis of the data from the title insurance  
523 industry.

524 Section 13. Subsection (2) of section 627.7845, Florida  
525 Statutes, is amended to read:



ENROLLED

CS/CS/HB 321, Engrossed 1

2014 Legislature

526           627.7845 Determination of insurability required;  
527 preservation of evidence of title search and examination.-  
528           (2) The title insurer shall cause the evidence of the  
529 determination of insurability and the reasonable title search or  
530 search of the records of a Uniform Commercial Code filing office  
531 to be preserved and retained in its files or in the files of its  
532 title insurance agent or agency for at least ~~a period of not~~  
533 ~~less than~~ 7 years after the title insurance commitment or ~~7~~ title  
534 insurance policy, ~~or guarantee of title~~ was issued. The title  
535 insurer or its agent or agency must produce the evidence  
536 required to be maintained under ~~by~~ this subsection at its  
537 offices upon the demand of the office. Instead of retaining the  
538 original evidence, the title insurer or its ~~the title insurance~~  
539 agent or agency may, in the regular course of business,  
540 establish a system under which all or part of the evidence is  
541 recorded, copied, or reproduced by any photographic,  
542 photostatic, microfilm, microcard, miniature photographic, or  
543 other process that ~~which~~ accurately reproduces or forms a  
544 durable medium for reproducing the original.  
545           Section 14. This act shall take effect July 1, 2014.