

By the Committee on Banking and Insurance; and Senator Lee

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1                   A bill to be entitled  
 2           An act relating to title insurer reserves; amending s.  
 3           625.041, F.S.; specifying that a title insurer is  
 4           liable for all of its unpaid losses and claims;  
 5           amending s. 625.111, F.S.; revising and specifying the  
 6           reserves certain title insurers must set aside;  
 7           specifying how such reserves will be released;  
 8           specifying which state law governs the amount of the  
 9           reserve when a title insurer transfers its domicile to  
 10          this state; defining "bulk reserve"; amending ss.  
 11          624.407 and 624.408, F.S.; conforming cross-  
 12          references; providing an effective date.

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

16           Section 1. Section 625.041, Florida Statutes, is amended to  
 17           read:

18           625.041 Liabilities, in general.—In any determination of  
 19           the financial condition of an insurer, liabilities to be charged  
 20           against its assets ~~shall~~ include:

21           (1) The amount, estimated in accordance ~~consistent with the~~  
 22           ~~provisions of~~ this code, necessary to pay all of its unpaid  
 23           losses and claims incurred on or prior to the date of statement,  
 24           whether reported or unreported, together with the expenses of  
 25           adjustment or settlement thereof.

26           (2) With respect to title insurance, the amount, estimated  
 27           in accordance with this code, necessary to pay all of its known  
 28           unpaid losses and claims incurred on or before the date of  
 29           statement, together with the expenses of adjustment or

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30 settlement thereof. This requirement is in addition to the  
31 reserves required under s. 625.111.

32 (3)~~(2)~~ With respect ~~reference~~ to life and health insurance  
33 and annuity contracts:

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

38 (b) Reserves for disability benefits, for both active and  
39 disabled lives.

40 (c) Reserves for accidental death benefits.

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

46 (4)~~(3)~~ With respect ~~reference~~ to insurance other than that  
47 specified in subsections (2) and (3) ~~subsection (2), and other~~  
48 ~~than title insurance~~, the amount of reserves equal to the  
49 unearned portions of the gross premiums charged on policies in  
50 force, computed in accordance with this part.

51 (5)~~(4)~~ Taxes, expenses, and other obligations due or  
52 accrued at the date of the statement.

53 (6)~~(5)~~ An ~~Any~~ insurer in this state that writes workers'  
54 compensation insurance shall accrue a liability on its financial  
55 statements for all Special Disability Trust Fund assessments  
56 that are due within the current calendar year. ~~In addition,~~  
57 Those insurers shall also disclose in the notes to the financial  
58 statements required to be filed pursuant to s. 624.424 an

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59 estimate of future Special Disability Trust Fund assessments, if  
60 the assessments are likely to occur and can be estimated with  
61 reasonable certainty.

62 Section 2. Section 625.111, Florida Statutes, is amended to  
63 read:

64 625.111 Title insurance reserve.—In addition to an adequate  
65 reserve as to outstanding losses relating to known claims, as  
66 required under s. 625.041, a domestic title insurer shall  
67 establish, segregate, and maintain a guaranty fund or unearned  
68 premium reserve as provided in this section. The sums ~~required~~  
69 ~~under this section~~ to be reserved for unearned premiums on title  
70 guarantees and policies ~~at all times and for all purposes~~ shall  
71 be considered and constitute unearned portions of the original  
72 premiums and shall be charged as a reserve liability of the ~~such~~  
73 insurer in determining its financial condition. ~~While~~ Such ~~sums~~  
74 ~~are so~~ reserved funds, ~~they~~ shall be withdrawn from the use of  
75 the insurer for its general purposes, impressed with a trust in  
76 favor of the holders of title guarantees and policies, and held  
77 available for reinsurance of the title guarantees and policies  
78 in the event of the insolvency of the insurer. ~~Nothing contained~~  
79 ~~in~~ This section does not ~~shall~~ preclude the ~~such~~ insurer from  
80 investing such reserve in investments authorized by law, ~~for~~  
81 ~~such an insurer~~ and the income from such investments ~~invested~~  
82 ~~reserve~~ shall be included in the general income of the insurer  
83 and may ~~to~~ be used by such insurer for any lawful purpose.

84 (1) For an unearned premium reserve ~~reserves~~ established on  
85 or after July 1, 1999, such ~~unearned premium~~ reserve must be in  
86 ~~shall consist of not less than~~ an amount at least equal to the  
87 sum of the amounts specified in paragraphs (a), (b), and (d) for

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88 title insurers holding less than \$50 million in surplus as to  
89 policyholders as of the previous year end, and the sum of the  
90 amounts specified in paragraphs (c) and (d) for title insurers  
91 holding \$50 million or more in surplus as to policyholders as of  
92 the previous year end:

93 (a) A reserve with respect to unearned premiums for  
94 policies written or title liability assumed in reinsurance  
95 before July 1, 1999, equal to the reserve established on June  
96 30, 1999, for those unearned premiums with such reserve being  
97 subsequently released as provided in subsection (2). For  
98 domestic title insurers subject to this section, such amounts  
99 shall be calculated in accordance with ~~provisions of law of this~~  
100 state law in effect at the time the associated premiums were  
101 written or assumed and as amended before ~~prior to~~ July 1, 1999.

102 (b) A total amount equal to 30 cents for each \$1,000 of net  
103 retained liability for policies written or title liability  
104 assumed in reinsurance on or after July 1, 1999, with such  
105 reserve being subsequently released as provided in subsection  
106 (2). For the purpose of calculating this reserve, the total of  
107 the net retained liability for all simultaneous issue policies  
108 covering a single risk shall be equal to the liability for the  
109 policy with the highest limit covering that single risk, net of  
110 any liability ceded in reinsurance.

111 (c) On or after January 1, 2014, for title insurers holding  
112 \$50 million or more in surplus as to policyholders as of the  
113 previous year-end, a minimum of 6.5 percent of the total of the  
114 following:

- 115 1. Direct premiums written; and
- 116 2. Premiums for reinsurance assumed, plus other income,

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117 less premiums for reinsurance ceded as displayed in Schedule P  
118 of the title insurer's most recent annual statement filed with  
119 the office with such reserve being subsequently released as  
120 provided in subsection (2). Title insurers with less than \$50  
121 million in surplus as to policyholders must continue to record  
122 unearned premium reserve in accordance with paragraph (b).

123 (d)~~(e)~~ An additional amount, if deemed necessary by a  
124 qualified actuary, to which shall be subsequently released as  
125 provided in subsection (2). Using financial results as of  
126 December 31 of each year, all domestic title insurers shall  
127 obtain a Statement of Actuarial Opinion from a qualified actuary  
128 regarding the insurer's loss and loss adjustment expense  
129 reserves, including reserves for known claims, ~~adverse~~  
130 ~~development on known claims,~~ incurred but not reported claims,  
131 and unallocated loss adjustment expenses. The actuarial opinion  
132 must shall conform to the annual statement instructions for  
133 title insurers adopted by the National Association of Insurance  
134 Commissioners and ~~shall~~ include the actuary's professional  
135 opinion of the insurer's reserves as of the date of the annual  
136 statement. If the amount of the reserve stated in the opinion  
137 and displayed in Schedule P of the annual statement for that  
138 reporting date is greater than the sum of the known claim  
139 reserve and unearned premium reserve as calculated under this  
140 section, as of the same reporting date and including any  
141 previous actuarial provisions added at earlier dates, the  
142 insurer shall add to the insurer's unearned premium reserve an  
143 actuarial amount equal to the reserve shown in the actuarial  
144 opinion, minus the known claim reserve and the unearned premium  
145 reserve, as of the current reporting date and calculated in

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146 accordance with this section, but ~~not in no event~~ calculated as  
147 of any date before ~~prior to~~ December 31, 1999. The comparison  
148 shall be made using that line on Schedule P displaying the Total  
149 Net Loss and Loss Adjustment Expense which is comprised of the  
150 Known Claim Reserve, and any associated Adverse Development  
151 Reserve, the reserve for Incurred But Not Reported Losses, and  
152 Unallocated Loss Adjustment Expenses.

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

155 (a) Paragraph (1) (a), the domestic title insurer shall  
156 release the reserve over the subsequent ~~a period of~~ 20  
157 ~~subsequent~~ years as provided in this paragraph. The insurer  
158 shall release 30 percent of the initial aggregate sum during  
159 1999, with one quarter of that amount being released on March  
160 31, June 30, September 30, and December 31, 1999, with the March  
161 31 and June 30 releases to be retroactive and reflected on the  
162 September 30 financial statements. Thereafter, the insurer shall  
163 release, on the same quarterly basis as specified for reserves  
164 released during 1999, a percentage of the initial aggregate sum  
165 as follows: 15 percent during calendar year 2000, 10 percent  
166 during each of calendar years 2001 and 2002, 5 percent during  
167 each of calendar years 2003 and 2004, 3 percent during each of  
168 calendar years 2005 and 2006, 2 percent during each of calendar  
169 years 2007-2013, and 1 percent during each of calendar years  
170 2014-2018.

171 (b) ~~With respect to reserves established in accordance with~~  
172 Paragraph (1) (b), the unearned premium for policies written or  
173 title liability assumed during a particular calendar year shall  
174 be earned, and released from reserve, over the subsequent ~~a~~

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175 ~~period of 20 subsequent~~ years as provided in this paragraph. The  
176 insurer shall release 30 percent of the initial sum during the  
177 year following ~~next succeeding~~ the year the premium was written  
178 or assumed, with one quarter of that amount being released on  
179 March 31, June 30, September 30, and December 31 of such year.  
180 Thereafter, the insurer shall release, on the same quarterly  
181 basis as specified for reserves released during the year  
182 following ~~first succeeding~~ the year the premium was written or  
183 assumed, a percentage of the initial sum as follows: 15 percent  
184 during the next succeeding year, 10 percent during each of the  
185 next succeeding 2 years, 5 percent during each of the next  
186 succeeding 2 years, 3 percent during each of the next succeeding  
187 2 years, 2 percent during each of the next succeeding 7 years,  
188 and 1 percent during each of the next succeeding 5 years.

189 (c) ~~With respect to reserves established in accordance with~~  
190 Paragraph (1)(c), the unearned premium for policies written or  
191 title liability assumed during a particular calendar year shall  
192 be earned, and released from reserve, over the subsequent 20  
193 years at an amortization rate not to exceed the formula in this  
194 paragraph. The insurer shall release 35 percent of the initial  
195 sum during the year following the year the premium was written  
196 or assumed, with one quarter of that amount being released on  
197 March 31, June 30, September 30, and December 31 of such year.  
198 Thereafter, the insurer shall release, on the same quarterly  
199 basis as specified for reserve released during the year  
200 following the year the premium was written or assumed, a  
201 percentage of the initial sum as follows: 15 percent during each  
202 year of the next succeeding 2 years, 10 percent during the next  
203 succeeding year, 3 percent during each of the next succeeding 3

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204 years, 2 percent during each of the next succeeding 3 years, and  
205 1 percent during each of the next succeeding 10 years.

206 (d) Paragraph (1) (d), any additional amount established in  
207 any calendar year shall be released in the years subsequent to  
208 its establishment as provided in paragraph (c) ~~(b)~~, with the  
209 timing and percentage of releases being in all respects  
210 identical to those of unearned premium reserves that are  
211 calculated as provided in paragraph (c) ~~(b)~~ and established with  
212 regard to premiums written or liability assumed in reinsurance  
213 in the same year as the year in which any additional amount was  
214 originally established.

215 (3) If a title insurer that is organized under the laws of  
216 another state transfers its domicile to this state, the  
217 statutory or unearned premium reserve shall be the amount  
218 required by the laws of the title insurer's former state of  
219 domicile as of the date of transfer of domicile and shall be  
220 released from reserve according to the requirements of law in  
221 effect in the former state at the time of domicile. On or after  
222 January 1, 2014, for new business written after the effective  
223 date of the transfer of domicile to this state, the domestic  
224 title insurer shall add to and set aside in the statutory or  
225 unearned premium reserve such amount as provided in paragraph  
226 (1) (c).

227 (4) ~~(3)~~ At any reporting date, the amount of the required  
228 releases of existing unearned premium reserves under subsection  
229 (2) shall be calculated and deducted from the total unearned  
230 premium reserve before any additional amount is established for  
231 the current calendar year in accordance with ~~the provisions of~~  
232 paragraph (1) (d) ~~(1) (e)~~.



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233 (5) A domestic title insurer is not required to record a  
234 separate bulk reserve. However, if a separate bulk reserve is  
235 recorded, the statutory premium reserve must be reduced by the  
236 amount recorded for such bulk reserve.

237 (6)~~(4)~~ As used in this section, the term:

238 (a) "Bulk reserve" means provision for subsequent  
239 development on known claims.

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

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

246 1. A member in good standing of the Casualty Actuarial  
247 Society;

248 2. A member in good standing of the American Academy of  
249 Actuaries who has been approved as qualified for signing  
250 casualty loss reserve opinions by the Casualty Practice Council  
251 of the American Academy of Actuaries; or

252 3. A person who otherwise has competency in loss reserve  
253 evaluation as demonstrated to the satisfaction of the insurance  
254 regulatory official of the domiciliary state. In such case, at  
255 least 90 days before ~~prior to the filing of~~ its annual  
256 statement, the insurer must request ~~approval~~ that the person be  
257 deemed qualified and that request must be approved or denied.  
258 The request must include the National Association of Insurance  
259 Commissioners' Biographical Form and a list of all loss reserve  
260 opinions issued in the last 3 years by this person.

261 (d)~~(e)~~ "Single risk" means the insured amount of a ~~any~~

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262 title insurance policy, except that where two or more title  
263 insurance policies are issued simultaneously covering different  
264 estates in the same real property, "single risk" means the sum  
265 of the insured amounts of all such ~~title insurance~~ policies. A  
266 ~~Any~~ title insurance policy insuring a mortgage interest, a claim  
267 payment under which reduces the insured amount of a fee or  
268 leasehold title insurance policy, shall be excluded in computing  
269 the amount of a single risk to the extent that the insured  
270 amount of the mortgage title insurance policy does not exceed  
271 the insured amount of the fee or leasehold title insurance  
272 policy.

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

275 624.407 Surplus required; new insurers.—

276 (5) For the purposes of this section, liabilities do not  
277 include liabilities required under s. 625.041(5) ~~s. 625.041(4)~~.  
278 For purposes of computing minimum surplus as to policyholders  
279 pursuant to s. 625.305(1), liabilities include liabilities  
280 required under s. 625.041(5) ~~s. 625.041(4)~~.

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

283 624.408 Surplus required; current insurers.—

284 (2) For purposes of this section, liabilities do not  
285 include liabilities required under s. 625.041(5) ~~s. 625.041(4)~~.  
286 For purposes of computing minimum surplus as to policyholders  
287 pursuant to s. 625.305(1), liabilities include liabilities  
288 required under s. 625.041(5) ~~s. 625.041(4)~~.

289 Section 5. This act shall take effect upon becoming a law.