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CS/HB 695

2016 Legislature

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2 An act relating to title insurance; amending s.
3 625.111, F.S.; revising the reserves that certain
4 title insurers must set aside after a certain date;
5 revising the manner in which reserves must be
6 released; revising reserve requirements for a title
7 insurer who transfers domicile to this state;
8 requiring the calculation of an adjusted statutory
9 premium reserve; requiring increases to statutory
10 premium reserves under certain circumstances;
11 authorizing the release of reserves to surplus in
12 certain circumstances; providing an effective date.

13
14 Be It Enacted by the Legislature of the State of Florida:

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16 Section 1. Subsections (1) and (3) of section 625.111,
17 Florida Statutes, are amended to read:

18 625.111 Title insurance reserve.—In addition to an
19 adequate reserve as to outstanding losses relating to known
20 claims as required under s. 625.041, a domestic title insurer
21 shall establish, segregate, and maintain a guaranty fund or
22 unearned premium reserve as provided in this section. The sums
23 to be reserved for unearned premiums on title guarantees and
24 policies shall be considered and constitute unearned portions of
25 the original premiums and shall be charged as a reserve
26 liability of the insurer in determining its financial condition.

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27 Such reserved funds shall be withdrawn from the use of the
28 insurer for its general purposes, impressed with a trust in
29 favor of the holders of title guarantees and policies, and held
30 available for reinsurance of the title guarantees and policies
31 in the event of the insolvency of the insurer. This section does
32 not preclude the insurer from investing such reserve in
33 investments authorized by law, and the income from such
34 investments shall be included in the general income of the
35 insurer and may be used by such insurer for any lawful purpose.

36 (1) For an unearned premium reserve established on or
37 after July 1, 1999, such reserve must be in an amount at least
38 equal to the sum of paragraphs (a), (b), and (d) for title
39 insurers holding less than \$50 million in surplus as to
40 policyholders as of the previous year end and the sum of
41 paragraphs (c) and (d) for title insurers holding \$50 million or
42 more in surplus as to policyholders as of the previous year end
43 or title insurers that are members of an insurance holding
44 company system holding \$1 billion or more in surplus as to
45 policyholders and a superior, excellent, exceptional, or
46 equivalent financial strength rating by a rating agency
47 acceptable to the office:

48 (a) A reserve with respect to unearned premiums for
49 policies written or title liability assumed in reinsurance
50 before July 1, 1999, equal to the reserve established on June
51 30, 1999, for those unearned premiums with such reserve being
52 subsequently released as provided in subsection (2). For

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53 domestic title insurers subject to this section, such amounts
54 shall be calculated in accordance with state law in effect at
55 the time the associated premiums were written or assumed and as
56 amended before July 1, 1999.

57 (b) A total amount equal to 30 cents for each \$1,000 of
58 net retained liability for policies written or title liability
59 assumed in reinsurance on or after July 1, 1999, with such
60 reserve being subsequently released as provided in subsection
61 (2). For the purpose of calculating this reserve, the total of
62 the net retained liability for all simultaneous issue policies
63 covering a single risk shall be equal to the liability for the
64 policy with the highest limit covering that single risk, net of
65 any liability ceded in reinsurance.

66 (c) On or after January 1, 2014, for title insurers
67 holding \$50 million or more in surplus as to policyholders as of
68 the previous year end or title insurers that are members of an
69 insurance holding company system holding \$1 billion or more in
70 surplus as to policyholders and a superior, excellent,
71 exceptional, or equivalent financial strength rating by a rating
72 agency acceptable to the office, a minimum of 6.5 percent of the
73 total of the following:

- 74 1. Direct premiums written; and
- 75 2. Premiums for reinsurance assumed, plus other income,
76 less premiums for reinsurance ceded as displayed in Schedule P
77 of the title insurer's most recent annual statement filed with
78 the office with such reserve being subsequently released as

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79 | provided in subsection (2). Title insurers with less than \$50
80 | million in surplus as to policyholders and are not members of an
81 | insurance holding company system with \$1 billion or more in
82 | surplus as to policyholders and a superior, excellent,
83 | exceptional, or equivalent financial strength rating by a rating
84 | agency acceptable to the office must continue to record unearned
85 | premium reserve in accordance with paragraph (b).

86 | (d) An additional amount, if deemed necessary by a
87 | qualified actuary, to be subsequently released as provided in
88 | subsection (2). Using financial results as of December 31 of
89 | each year, all domestic title insurers shall obtain a Statement
90 | of Actuarial Opinion from a qualified actuary regarding the
91 | insurer's loss and loss adjustment expense reserves, including
92 | reserves for known claims, incurred but not reported claims, and
93 | unallocated loss adjustment expenses. The actuarial opinion must
94 | conform to the annual statement instructions for title insurers
95 | adopted by the National Association of Insurance Commissioners
96 | and include the actuary's professional opinion of the insurer's
97 | reserves as of the date of the annual statement. If the amount
98 | of the reserve stated in the opinion and displayed in Schedule P
99 | of the annual statement for that reporting date is greater than
100 | the sum of the known claim reserve and unearned premium reserve
101 | as calculated under this section, as of the same reporting date
102 | and including any previous actuarial provisions added at earlier
103 | dates, the insurer shall add to the insurer's unearned premium
104 | reserve an actuarial amount equal to the reserve shown in the

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105 actuarial opinion, minus the known claim reserve and the
106 unearned premium reserve, as of the current reporting date and
107 calculated in accordance with this section, but not calculated
108 as of any date before December 31, 1999. The comparison shall be
109 made using that line on Schedule P displaying the Total Net Loss
110 and Loss Adjustment Expense which is comprised of the Known
111 Claim Reserve, and any associated Adverse Development Reserve,
112 the reserve for Incurred But Not Reported Losses, and
113 Unallocated Loss Adjustment Expenses.

114 (3) If a title insurer that is organized under the laws of
115 another state transfers its domicile to this state, the insurer
116 must calculate an adjusted statutory or unearned premium reserve
117 as of the effective date of its redomestication to this state.
118 The adjusted statutory or unearned premium reserve must be
119 calculated as if subsections (1) and (2) had been in effect as
120 to the insurer's foreign statutory premium reserve for all years
121 beginning 20 years before the date of redomestication. For
122 purposes of calculating the adjusted statutory or unearned
123 premium reserve, the balance of the insurer's foreign statutory
124 premium reserve as of the date 20 years before the
125 redomestication shall be \$0. If the adjusted statutory or
126 unearned premium reserve exceeds the aggregate amount set aside
127 for statutory or unearned premium in the insurer's annual
128 statement on file with the office on the date of
129 redomestication, the insurer must, out of the total charges for
130 policies of title insurance, increase its statutory or unearned

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131 premium reserve by an amount equal to one-sixth of that excess
 132 in each of the following 6 years, beginning with the calendar
 133 year that includes the redomestication, until the entire excess
 134 has been added. If the adjusted statutory or unearned premium
 135 reserve is less than the aggregate amount set aside for
 136 statutory or unearned premiums in the insurer's annual statement
 137 on file with the office on the date of redomestication, the
 138 insurer may release the excess into surplus statutory or
 139 ~~unearned premium reserve shall be the amount required by the~~
 140 ~~laws of the state of the title insurer's former state of~~
 141 ~~domicile as of the date of transfer of domicile and shall be~~
 142 ~~released from reserve according to the requirements of law in~~
 143 ~~effect in the former state at the time of domicile. On or after~~
 144 ~~January 1, 2014, for new business written after the effective~~
 145 ~~date of the transfer of domicile to this state, the domestic~~
 146 ~~title insurer shall add to and set aside in the statutory or~~
 147 ~~unearned premium reserve such amount as provided in subsection~~
 148 ~~(1).~~

149 Section 2. This act shall take effect July 1, 2016.