

By Senator Kirkpatrick

5-1354-99

1 A bill to be entitled
 2 An act relating to title insurance; amending s.
 3 627.7711, F.S.; providing definitions; amending
 4 s. 627.782, F.S.; providing for the adoption of
 5 risk premium rates; requiring title insurers to
 6 establish and use a title insurance rate,
 7 rating schedule, or rating manual that allows
 8 the title insurer a reasonable rate of return
 9 on each policy of title insurance issued in
 10 this state; requiring the schedule and manual
 11 to be filed with the Department of Insurance;
 12 providing factors to be considered by the
 13 department in determining whether the rates are
 14 excessive; providing an effective date.

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

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 18 Section 1. Section 627.7711, Florida Statutes, is
 19 amended to read:

20 627.7711 Definitions.--As used in this part, the term:

21 (1) "Charge made by a title insurer or title agent for
 22 solicitation and issuance of the policy" means the amounts
 23 retained by the title insurer or agent as a commission for
 24 solicitation of the policy, performing administrative tasks in
 25 connection with issuing binders and policies, and providing
 26 underwriting information to the insurer.

27 (2)~~(1)~~ "Related title services" means services
 28 performed by a title insurer or title insurance agent,
 29 including, but not limited to, preparing or obtaining title
 30 information, title search and examination, preparing documents
 31 necessary to close the transaction, conducting the closing, or

1 handling the disbursing of funds related to the closing in a
2 real estate closing transaction in which a title insurance
3 binder, commitment, or policy is to be issued. At least the
4 actual cost of providing the service must be charged the
5 person or entity receiving the benefit of the service ~~The risk~~
6 ~~premium, together with the charge for related title services,~~
7 ~~constitutes the regular title insurance premium.~~

8 (3)~~(2)~~ "Risk premium" means the charge, as specified
9 by rule of the department, that is made by a title insurer for
10 the assumption of the risk, under the several classifications
11 of title insurance contracts and forms, and upon which charge
12 a premium tax is paid under s. 624.509. As used in this part
13 or in any other law, with respect to title insurance, the
14 words "premium" or "risk premium" mean only the risk premium
15 as defined in this section and do not include any other charge
16 related incidental to title insurance.

17 (4) "Title insurance rate" means the amount charged by
18 the title insurer for insuring or guaranteeing titles to real
19 property or interests in real property. The term includes the
20 risk premium charged by the insurer for assumption of the risk
21 created by the issuance of the policy and any charge made by
22 the title insurer or title agent in connection with
23 solicitation or issuance of the policy.

24 (5)~~(3)~~ "Title insurer" means any domestic company
25 organized and authorized to do business under the provisions
26 of chapter 624, for the purpose of issuing title insurance, or
27 any insurer organized under the laws of another state, the
28 District of Columbia, or a foreign country and holding a
29 certificate of authority to transact business in this state,
30 for the purpose of issuing title insurance.

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1 Section 2. Section 627.782, Florida Statutes, is
2 amended to read:

3 627.782 Adoption of rates.--

4 (1) Subject to the rating provisions of this code, the
5 department must adopt a rule specifying the risk premium to be
6 charged in this state by insurers for the respective types of
7 title insurance contracts ~~and services incident thereto.~~ The
8 ~~department may, by rule, establish limitations on such~~
9 ~~reasonable charges made in addition to the risk premium based~~
10 ~~upon the expenses associated with the services rendered and~~
11 ~~other relevant factors.~~ The department must also adopt rules
12 incident to the applicability of the risk premium, including
13 ~~the percentage or amount of the risk premium required to be~~
14 ~~maintained by the title insurer, and related rules to ensure~~
15 ~~that the amounts required to be maintained by the insurer~~
16 retains the entire ~~are not less than 30 percent of the risk~~
17 premium for policies sold by agents.

18 (2) In adopting the risk premium rates, the department
19 must give due consideration to the following:

20 (a) The insurers' loss experience and prospective loss
21 experience under insured closing service letters, search and
22 examination services, and policy liabilities.

23 (b) A reasonable margin for underwriting profit and
24 contingencies, including contingent liability under s.
25 627.7865, sufficient to allow insurers ~~and agents~~ to earn a
26 rate of return on their capital that will attract and retain
27 adequate capital investment in the title insurance business.

28 (c) Past expenses and prospective expenses for
29 administration and handling of risks.

30 (d) Liability for defalcation.

31 (e) Other relevant factors.

1 (3) In accordance with the rating provisions of this
2 chapter, each title insurer shall establish and use a title
3 insurance rate, rating schedule, or rating manual that allows
4 the title insurer a reasonable rate of return on each policy
5 of title insurance issued in this state. A copy of the rates,
6 rating schedules, and rating manual must be filed with the
7 department at least annually. The department shall review the
8 rate or rate change to determine whether the rate is
9 excessive, inadequate, or unfairly discriminatory. In making
10 that determination, the department shall, in accordance with
11 generally accepted and reasonable actuarial techniques,
12 consider the following factors:

13 (a) The promulgated risk premium;

14 (b) The past and prospective expenses related to
15 policy solicitation and issuance;

16 (c) The degree of competition among insurers for the
17 risk insured;

18 (d) The adequacy of loss reserves;

19 (e) Investment income; and

20 (f) Other relevant factors that affect the severity of
21 claims and expenses.

22 ~~(4)(3)~~ Rates may be grouped by classification or
23 schedule and may differ as to class of risk assumed.

24 ~~(5)(4)~~ Rates may not be excessive, inadequate, or
25 unfairly discriminatory.

26 ~~(6)(5)~~ The rate ~~risk premium~~ applies to each \$100 of
27 insurance issued to an insured.

28 ~~(7)(6)~~ The risk premium rates apply throughout this
29 state.

30 ~~(8)(7)~~ The department shall, in accordance with the
31 standards provided in subsection (2), review the title

1 insurance rate, including the risk premium and the related
2 title services charges rate as needed, but not less frequently
3 than once every 3 years, and shall, based upon the review
4 required by this subsection, revise the risk premium ~~and the~~
5 ~~related title services rate~~ if the results of the review so
6 warrant.

7 (9)~~(8)~~ The department may, by rule, require insurers
8 ~~licensees~~ under this part to annually submit statistical
9 information, including loss and expense data, as the
10 department determines to be necessary to analyze the title
11 insurance rate, including the risk premium ~~and related title~~
12 ~~services rates, retention rates,~~ and the condition of the
13 title insurance industry.

14 Section 3. This act shall take effect October 1, 1999.

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17 SENATE SUMMARY

18 Provides definitions relating to the regulation of title
19 insurers. Provides for the adoption of risk premium
20 rates. Requires title insurers to establish and use a
21 title insurance rate, rating schedule, or rating manual
22 that allows the title insurer a reasonable rate of return
23 on each policy of title insurance issued in this state.
24 Requires the schedule and manual to be filed with the
25 Department of Insurance annually. Provides factors to be
26 considered by the department in determining whether the
27 rates are excessive.
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