

By Senators Dyer, Mitchell and Grant

14-406A-99

See CS/HB 93

1 A bill to be entitled
2 An act relating to title insurance reserve;
3 amending s. 625.111, F.S.; specifying the
4 components of unearned premium reserve for
5 certain financial statements; providing a
6 formula for releasing unearned premium reserve
7 over a period of years; providing an effective
8 date.

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

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12 Section 1. Section 625.111, Florida Statutes, is
13 amended to read:

14 (Substantial rewording of section. See
15 s. 625.111, F.S., for present text.)

16 625.111 Title insurance reserve.--In addition to an
17 adequate reserve as to outstanding losses relating to known
18 claims, as required under s. 625.041, a title insurer shall
19 establish, segregate, and maintain a guaranty fund or unearned
20 premium reserve as provided in this section. The sums
21 required under this section to be reserved for unearned
22 premiums on title guarantees and policies at all times and for
23 all purposes shall be considered and constitute unearned
24 portions of the original premiums and shall be charged as a
25 reserve liability of such insurer in determining its financial
26 condition. While such sums are so reserved, they shall be
27 withdrawn from the use of the insurer for its general
28 purposes, impressed with a trust in favor of the holders of
29 title guarantees and policies, and held available for
30 reinsurance of the title guarantees and policies in the event
31 of the insolvency of the insurer. Nothing contained in this

1 section shall preclude such insurer from investing such
2 reserve in investments authorized by law for such an insurer
3 and the income from such invested reserve shall be included in
4 the general income of the insurer to be used by such insurer
5 for any lawful purpose.

6 (1) For financial statements prepared with evaluation
7 dates on or after July 1, 1999, such unearned premium reserve
8 shall consist of not less than an amount equal to the sum of:

9 (a) A reserve with respect to unearned premiums for
10 policies written or title liability assumed in reinsurance
11 before July 1, 1999, equal to the reserve established on
12 December 31, 1999, for those unearned premiums with such
13 reserve being subsequently released as provided in subsection

14 (2). For domestic title insurers subject to this section,
15 such amounts shall be calculated in accordance with provisions
16 of law of this state in effect at the time the associated
17 premiums were written or assumed and as amended prior to July
18 1, 1999.

19 (b) A total amount equal to 30 cents for each \$1,000
20 of net retained liability for policies written or title
21 liability assumed in reinsurance on or after July 1, 1999,
22 with such reserve being subsequently released as provided in
23 subsection (2). For the purpose of calculating this reserve,
24 the total of the net retained liability for all simultaneous
25 issue policies covering a single risk shall be equal to the
26 liability for the policy with the highest limit covering that
27 single risk, net of any liability ceded in reinsurance.

28 (c) An actuarial provision if necessary, which shall
29 be subsequently released as provided in subsection (2). Using
30 financial results evaluated as of December 31 of each year,
31 all domestic title insurers shall obtain a Statement of

1 Actuarial Opinion from a Fellow in good standing of the
2 Casualty Actuarial Society regarding the insurer's loss and
3 loss adjustment expense reserves, including reserves for known
4 claims, adverse development on known claims, incurred but not
5 reported claims, and unallocated loss adjustment expenses.
6 The actuarial opinion shall conform to the annual statement
7 instructions for title insurers adopted by the National
8 Association of Insurance Commissioners and shall include the
9 actuary's professional opinion of the insurer's reserves as of
10 the date of the annual statement. If the amount of the
11 reserve stated in the opinion and displayed in Schedule P of
12 the annual statement for that evaluation date is greater than
13 the sum of the known claim reserve and unearned premium
14 reserve as calculated under this section, as of the same
15 evaluation date and including any previous actuarial
16 provisions added at earlier dates, the insurer shall add to
17 the insurer's unearned premium reserve an actuarial amount
18 equal to the reserve shown in the actuarial opinion, minus the
19 known claim reserve and the unearned premium reserve, all
20 evaluated as of the current evaluation date and calculated in
21 accordance with this section, but in no event calculated as of
22 any date prior to December 31, 1999. An insurer which
23 receives a waiver from the Department of Insurance of the
24 requirement to obtain an actuarial analysis is exempt from
25 calculating an actuarial provision pursuant to this paragraph.
26 (2)(a) With respect to the reserve established in
27 accordance with paragraph (1)(a), the domestic title insurer
28 shall release the reserve over a period of 20 subsequent years
29 as provided in this paragraph. The insurer shall release 30
30 percent of the initial aggregate sum during 1999, with one
31 quarter of that amount being released on March 31, June 30,

1 September 30, and December 31, 1999, with the March 31 and
2 June 30 releases to be retroactive and reflected on the
3 September 30 financial statements. Thereafter, the insurer
4 shall release, on the same quarterly basis as specified for
5 reserves released during 1999, a percentage of the initial
6 aggregate sum as follows: 15 percent during calendar year
7 2000, 10 percent during each of calendar years 2001 and 2002,
8 5 percent during each of calendar years 2003 and 2004, 3
9 percent during each of calendar years 2005 and 2006, 2 percent
10 during each of calendar years 2007-2013, and 1 percent during
11 each of calendar years 2014-2018.

12 (b) With respect to reserves established in accordance
13 with paragraph (1)(b), the unearned premium for policies
14 written or title liability assumed during a particular
15 calendar year shall be earned, and released from reserve, over
16 a period of 20 subsequent years as provided in this paragraph.
17 The insurer shall release 30 percent of the initial sum during
18 the year next succeeding the year the premium was written or
19 assumed, with one quarter of that amount being released on
20 March 31, June 30, September 30, and December 31 of such year.
21 Thereafter, the insurer shall release, on the same quarterly
22 basis as specified for reserves released during the year first
23 succeeding the year the premium was written or assumed, a
24 percentage of the initial sum as follows: 15 percent during
25 the next succeeding 2 years, 5 percent during each of the next
26 succeeding 3 years, 3 percent during each of the next
27 succeeding 2 years, 2 percent during each of the next
28 succeeding 7 years, and 1 percent during each of the next
29 succeeding 5 years.

30 (c) With respect to reserves established in accordance
31 with paragraph (1)(c), the actuarial provision established in

1 any calendar year shall be released in the years subsequent to
2 its establishment as provided in paragraph (b), with the
3 timing and percentage of releases being in all respects
4 identical to those of unearned premium reserves that are
5 calculated as provided in paragraph (b) and established with
6 regard to premiums written or liability assumed in reinsurance
7 in the same year as the year in which the actuarial provision
8 was originally established.

9 (3) At any evaluation date, the amount of the required
10 releases or existing unearned premium reserves under
11 subsection (2) shall be calculated and deducted from the total
12 unearned premium reserve before the actuarial provision is
13 established for the current calendar year in accordance with
14 the provisions of paragraph (1)(c).

15 (4) As used in this section:

16 (a) "Net retained liability" means the total liability
17 retained by a title insurer for a single risk, after taking
18 into account the deduction for ceded liability, if any.

19 (b) "Single risk" means the insured amount of any
20 title insurance policy, except that where two or more title
21 insurance policies are issued simultaneously covering
22 different estates in the same real property, "single risk"
23 means the sum of the insured amounts of all such title
24 insurance policies. Any title insurance policy insuring a
25 mortgage interest a claim payment under which reduces the
26 insured amount of a fee or leasehold title insurance policy
27 shall be excluded in computing the amount of a single risk to
28 the extent that the insured amount of the mortgage title
29 insurance policy does not exceed the insured amount of the fee
30 or leasehold title insurance policy.

31 Section 2. This act shall take effect July 1, 1999.

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SENATE SUMMARY

Substantially revises the law requiring a title insurer to establish, segregate, and maintain a guaranty fund or unearned premium reserve for unearned premiums on title guarantees and policies. Specifies the components of unearned premium reserve for certain financial statements. Provides a formula for releasing unearned premium reserve.