

By the Committee on Banking and Insurance; and Senators Dyer, Mitchell and Grant

311-1865-99

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

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

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

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

625.111 Title insurance reserve.--In addition to an adequate reserve as to outstanding losses relating to known claims, as required under s. 625.041, a title insurer shall establish, segregate, and maintain a guaranty fund or unearned premium reserve as provided in this section. The sums required under this section to be reserved for unearned premiums on title guarantees and policies at all times and for all purposes shall be considered and constitute unearned portions of the original premiums and shall be charged as a reserve liability of such insurer in determining its financial condition. While such sums are so reserved, they shall be withdrawn from the use of the insurer for its general purposes, impressed with a trust in favor of the holders of title guarantees and policies, and held available for reinsurance of the title guarantees and policies in the event 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 unearned premium reserves established on or  
7 after July 1, 1999, such unearned premium reserve shall  
8 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 June  
12 30, 1999, for those unearned premiums with such reserve being  
13 subsequently released as provided in subsection (2). For  
14 domestic title insurers subject to this section, such amounts  
15 shall be calculated in accordance with provisions of law of  
16 this state in effect at the time the associated premiums were  
17 written or assumed and as amended prior to July 1, 1999.

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

27 (c) An additional amount, if deemed necessary by a  
28 qualified actuary, which shall be subsequently released as  
29 provided in subsection (2). Using financial results as of  
30 December 31 of each year, all domestic title insurers shall  
31 obtain a Statement of Actuarial Opinion from a qualified

1 actuary regarding the insurer's loss and loss adjustment  
2 expense reserves, including reserves for known claims, adverse  
3 development on known claims, incurred but not reported claims,  
4 and unallocated loss adjustment expenses. The actuarial  
5 opinion shall conform to the annual statement instructions for  
6 title insurers adopted by the National Association of  
7 Insurance Commissioners and shall include the actuary's  
8 professional opinion of the insurer's reserves as of the date  
9 of the annual statement. If the amount of the reserve stated  
10 in the opinion and displayed in Schedule P of the annual  
11 statement for that reporting date is greater than the sum of  
12 the known claim reserve and unearned premium reserve as  
13 calculated under this section, as of the same reporting date  
14 and including any previous actuarial provisions added at  
15 earlier dates, the insurer shall add to the insurer's unearned  
16 premium reserve an actuarial amount equal to the reserve shown  
17 in the actuarial opinion, minus the known claim reserve and  
18 the unearned premium reserve, as of the current reporting date  
19 and calculated in accordance with this section, but in no  
20 event calculated as of any date prior to December 31, 1999.  
21 The comparison shall be made using that line on Schedule P  
22 displaying the Total Net Loss and Loss Adjustment Expense  
23 which is comprised of the Known Claim Reserve, and any  
24 associated Adverse Development Reserve, the reserve for  
25 Incurred But Not Reported Losses, and Unallocated Loss  
26 Adjustment Expenses.

27 (2)(a) With respect to the reserve established in  
28 accordance with paragraph (1)(a), the domestic title insurer  
29 shall release the reserve over a period of 20 subsequent years  
30 as provided in this paragraph. The insurer shall release 30  
31 percent of the initial aggregate sum during 1999, with one

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

13 (b) With respect to reserves established in accordance  
14 with paragraph (1)(b), the unearned premium for policies  
15 written or title liability assumed during a particular  
16 calendar year shall be earned, and released from reserve, over  
17 a period of 20 subsequent years as provided in this paragraph.  
18 The insurer shall release 30 percent of the initial sum during  
19 the year next succeeding the year the premium was written or  
20 assumed, with one quarter of that amount being released on  
21 March 31, June 30, September 30, and December 31 of such year.  
22 Thereafter, the insurer shall release, on the same quarterly  
23 basis as specified for reserves released during the year first  
24 succeeding the year the premium was written or assumed, a  
25 percentage of the initial sum as follows: 15 percent during  
26 the next succeeding year, 10 percent during each of the next  
27 succeeding 2 years, 5 percent during each of the next  
28 succeeding 2 years, 3 percent during each of the next  
29 succeeding 2 years, 2 percent during each of the next  
30 succeeding 7 years, and 1 percent during each of the next  
31 succeeding 5 years.

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

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

17           (4) As used in this section:

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

21           (b) "Qualified actuary" means a person who is, as  
22 detailed in the the National Association of Insurance  
23 Commissioners' Annual Statement Instructions:

24           1. A member in good standing of the Casualty Actuarial  
25 Society;

26           2. A member in good standing of the American Academy  
27 of Actuaries who has been approved as qualified for signing  
28 casualty loss reserve opinions by the Casualty Practice  
29 Counsel of the American Academy of Actuaries; or

30           3. A person who otherwise has competency in loss  
31 reserve evaluation as demonstrated to the satisfaction of the

1 insurance regulatory official of the domiciliary state. In  
2 such case, at least 90 days prior to the filing of its annual  
3 statement, the insurer must request approval that the person  
4 be deemed qualified and that request must be approved or  
5 denied. The request must include the National Association of  
6 Insurance Commissioners' Biographical Form and a list of all  
7 loss reserve opinions issued in the last 3 years by this  
8 person.

9 (c) "Single risk" means the insured amount of any  
10 title insurance policy, except that where two or more title  
11 insurance policies are issued simultaneously covering  
12 different estates in the same real property, "single risk"  
13 means the sum of the insured amounts of all such title  
14 insurance policies. Any title insurance policy insuring a  
15 mortgage interest a claim payment under which reduces the  
16 insured amount of a fee or leasehold title insurance policy  
17 shall be excluded in computing the amount of a single risk to  
18 the extent that the insured amount of the mortgage title  
19 insurance policy does not exceed the insured amount of the fee  
20 or leasehold title insurance policy.

21 Section 2. This act shall take effect July 1, 1999.  
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STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN  
COMMITTEE SUBSTITUTE FOR  
Senate Bill 1982

Revises the schedule for release of unearned premium reserves by title insurers. As in the original bill, the committee substitute allows for release of 30 percent of the reserve during the first year. The committee substitute revises the percentage amounts that may be released for the subsequent 5 years. The original bill provided for release of 15 percent of the reserve during each of the next 2 years and 5 percent during each of the next succeeding 3 years, while the committee substitute provides for release of 15 percent during the next succeeding year, 10 percent during each of the next succeeding 2 years, and 5 percent during each of the next succeeding 2 years.

Revises the criteria for the "qualified actuary" that a title insurer must use to prepare an actuarial opinion regarding the insurer's reserves and adding requirements for such actuarial opinion.

Clarifies that the application of the reserve release schedule is based on the date of establishing the unearned premium reserve.