

By Senator Dyer

14-541-99

1 A bill to be entitled
2 An act relating to title insurance reserve;
3 amending s. 625.111, F.S.; revising the
4 requirements for calculating the required
5 amount of unearned premium reserves and for
6 releasing such reserves, beginning at a
7 specified date; redefining the terms "net
8 retained liability" and "single risk";
9 providing an effective date.

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

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

15 625.111 Title insurance reserve.--In addition to an
16 adequate reserve as to outstanding losses, as required under
17 s. 625.041, a title insurer shall establish, segregate, and
18 maintain a guaranty fund or unearned premium reserve as
19 hereinafter provided. The sums hereinafter required to be
20 reserved for unearned premiums on title guarantees and
21 policies at all times and for all purposes shall be considered
22 and constitute unearned portions of the original premiums and
23 shall be charged as a reserve liability of such insurer in
24 determining its financial condition. While such sums are so
25 reserved, they shall be withdrawn from the use of the insurer
26 for its general purposes, impressed with a trust in favor of
27 the holders of title guarantees and policies, and held
28 available for reinsurance of the title guarantees and policies
29 in the event of the insolvency of the insurer. Nothing herein
30 contained shall preclude such insurer from investing such
31 reserve in investments authorized by law for such an insurer,

1 and the income from such invested reserve shall be included in
2 the general income of the insurer to be used by such insurer
3 for any lawful purpose.

4 (1) For any financial statement prepared with an
5 evaluation date on or after January 1, 2000, this unearned
6 premium reserve must equal not less than the sum of the
7 following components:

8 (a) A reserve as respects unearned premiums for title
9 guarantees or policies written or title liability assumed in
10 reinsurance before January 1, 2000, equal to the reserve
11 established on December 31, 1999, for those unearned premiums,
12 with such reserve being subsequently released as provided in
13 subsection (2). For domestic title insurers subject to this
14 section, this amount must be calculated in accordance with the
15 Florida Statutes in effect at the time the associated premiums
16 were written or assumed, as modified by any subsequent
17 statutory provisions enacted before January 1, 2000.

18 (b) A sum equal to 30 cents for each \$1,000 of net
19 retained liability for title guarantees or policies written or
20 title liability assumed in reinsurance after December 31,
21 1999, with such reserve being subsequently released as
22 provided in subsection (2). For the purposes of calculating
23 this reserve, the total of the net retained liability for all
24 simultaneously issued policies covering a single risk must be
25 set at an amount equal to the liability for the policy with
26 the highest limit covering that single risk, net of any
27 liability ceded in reinsurance.

28 (c) An actuarial provision, if necessary, which will
29 be subsequently released as provided in subsection (2). Using
30 financial results evaluated as of December 31 of each year,
31 each domestic title insurer 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. The
6 actuarial opinion must conform to the annual statement
7 instructions for title insurers adopted by the National
8 Association of Insurance Commissioners and must 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 reserve
11 stated in the opinion and displayed in Schedule P of the
12 annual statement for that evaluation date is greater than the
13 sum of the known claim reserve and unearned premium reserve as
14 calculated under this section, as of the same evaluation date,
15 including any previous actuarial provisions added at earlier
16 dates, the insurer shall add to its unearned premium reserve
17 an actuarial provision equal to the difference of the reserve
18 shown in the actuarial opinion, minus the known claim reserve,
19 minus the unearned premium reserve, all evaluated as of the
20 current evaluation date and calculated in accordance with this
21 section, but not calculated as of a date preceding December
22 31, 2000. An insurer that obtains from the Department of
23 Insurance a waiver of the requirement to obtain an actuarial
24 analysis is not required to calculate an actuarial provision
25 under this paragraph.

26 (2)(a) As regards 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
29 years, in accordance with the following formula:
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1 1. Thirty percent of the initial aggregate sum in
2 2000, with one-quarter of that amount being released every 3
3 months, on March 31, June 30, September 30, and December 31;

4 2. Fifteen percent of the initial aggregate sum in
5 2001;

6 3. Ten percent of the initial aggregate sum each year
7 in 2002 and 2003;

8 4. Five percent of the initial aggregate sum each year
9 in 2004 and 2005;

10 5. Three percent of the initial aggregate sum each
11 year in 2006 and 2007;

12 6. Two percent of the initial aggregate sum each year
13 during 2008 through 2014; and

14 7. One percent of the initial aggregate sum each year
15 during 2015 through 2019,

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17 with each year's release taking place quarterly as specified
18 in subparagraph 1.

19 (b) As regards reserves established in accordance with
20 paragraph (1)(b), the unearned premium for title guarantees or
21 policies written or title liability assumed during a given
22 calendar year must be earned and released from reserve over a
23 period of 20 subsequent years, in accordance with the
24 following formula:

25 1. Thirty percent of the initial sum during the year
26 next succeeding the year in which the premium was written or
27 assumed, with one-quarter of that amount being released every
28 3 months, on March 31, June 30, September 30, and December 31;

29 2. Fifteen percent of the initial sum during the next
30 succeeding year;

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1 3. Ten percent of the initial sum during each of the
2 next succeeding 2 years;

3 4. Five percent of the initial sum during each of the
4 next succeeding 2 years;

5 5. Three percent of the initial sum during each of the
6 next succeeding 2 years;

7 6. Two percent of the initial sum during each of the
8 next succeeding 7 years; and

9 7. One percent of the initial sum during each of the
10 next succeeding 5 years,

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12 with each year's release taking place quarterly as specified
13 in subparagraph 1.

14 (c) As regards reserves established in accordance with
15 paragraph (1)(c), the actuarial provision established in any
16 calendar year shall be released in the years subsequent to its
17 establishment in accordance with paragraph (b), with the
18 timing and percentages of releases being in all respects
19 identical to those of unearned premium reserves that are
20 calculated under paragraph (1)(b) and established with regard
21 to premiums written or liability assumed in reinsurance in the
22 same year as the year in which the actuarial provision was
23 originally established.

24 (3) At any evaluation date, the amount of the required
25 releases of existing unearned premium reserves under
26 subsection (2) shall be calculated, and those releases
27 deducted from the total unearned premium reserve, before the
28 actuarial provision is established for the current calendar
29 year in accordance with paragraph (1)(c).

30 ~~(1) This unearned premium reserve shall consist of not~~
31 ~~less than an amount computed as follows:~~

1 ~~(a) The amount of the unearned premium reserve on June~~
2 ~~30, 1992; and~~

3 ~~(b) A sum equal to 30 cents for each \$1,000 of net~~
4 ~~retained liability under each title insurance policy on a~~
5 ~~single risk written on or after July 1, 1992.~~

6 ~~(2)(a) The adequacy of the unearned premium reserve~~
7 ~~existing on December 31, 1992, shall be determined in~~
8 ~~accordance with the unearned premium reserve requirements~~
9 ~~existing on July 1, 1992, and said unearned premium reserve~~
10 ~~shall be released in 12 equal annual installments, beginning~~
11 ~~with calendar year 1993.~~

12 ~~(b) With respect to amounts reserved under this~~
13 ~~section on or after January 1, 1993, the insurer shall release~~
14 ~~amounts reserved during a particular calendar year in 12 equal~~
15 ~~annual installments, beginning in the subsequent calendar~~
16 ~~year.~~

17 ~~(4)(3)~~ As used in this section, the term:

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 that ceded liability, if any,
21 which has been ceded or assumed in reinsurance.

22 (b) "Single risk" means the insured amount of any
23 title insurance policy, except that where two or more title
24 insurance policies are issued simultaneously covering
25 different estates in the same real property, the term "single
26 risk" means the largest sum of the insured amount of any
27 ~~amounts of all such title insurance policy policies.~~ Any title
28 insurance policy insuring a mortgage interest a claim payment
29 under which reduces the insured amount of a fee or leasehold
30 title insurance policy shall be excluded in computing the
31 amount of a single risk to the extent that the insured amount

1 of the mortgage title insurance policy does not exceed the
2 insured amount of the fee or leasehold title insurance policy.

3 Section 2. This act shall take effect January 1, 2000.

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SENATE SUMMARY

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Pertains to requirements for title insurance reserve.
Effective January 1, 2000, revises the requirements for
calculating the amount of unearned premium reserve that
each title insurer must maintain. Revises the
requirements for releasing such reserves. Redefines the
terms "net retained liability" and "single risk."