

Bill No. CS for SB 746

Amendment No.     

	<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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11	Senator Grant moved the following amendment:		
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13	<b>Senate Amendment (with title amendment)</b>		
14	Delete everything after the enacting clause		
15			
16	and insert:		
17	Section 1. Subsection (1) of section 624.509, Florida		
18	Statutes, 1998 Supplement, is amended to read:		
19	624.509 Premium tax; rate and computation.--		
20	(1) In addition to the license taxes provided for in		
21	this chapter, each insurer shall also annually, and on or		
22	before March 1 in each year, except as to wet marine and		
23	transportation insurance taxed under s. 624.510, pay to the		
24	Department of Revenue a tax on insurance premiums, <del>risk</del>		
25	premiums for title insurance, or assessments, including		
26	membership fees and policy fees and gross deposits received		
27	from subscribers to reciprocal or interinsurance agreements,		
28	and on annuity premiums or considerations, received during the		
29	preceding calendar year, the amounts thereof to be determined		
30	as set forth in this section, to wit:		
31	(a) An amount equal to 1.75 percent of the gross		

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1 amount of such receipts on account of life and health  
 2 insurance policies covering persons resident in this state and  
 3 on account of all other types of policies and contracts  
 4 (except annuity policies or contracts taxable under paragraph  
 5 (b)) covering property, subjects, or risks located, resident,  
 6 or to be performed in this state, omitting premiums on  
 7 reinsurance accepted, and less return premiums or assessments,  
 8 but without deductions:

- 9 1. For reinsurance ceded to other insurers;
- 10 2. For moneys paid upon surrender of policies or  
 11 certificates for cash surrender value;
- 12 3. For discounts or refunds for direct or prompt  
 13 payment of premiums or assessments; and
- 14 4. On account of dividends of any nature or amount  
 15 paid and credited or allowed to holders of insurance policies;  
 16 certificates; or surety, indemnity, reciprocal, or  
 17 interinsurance contracts or agreements; and

18 (b) An amount equal to 1 percent of the gross receipts  
 19 on annuity policies or contracts paid by holders thereof in  
 20 this state.

21 Section 2. Section 625.111, Florida Statutes, is  
 22 amended to read:

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

25 625.111 Title insurance reserve.--In addition to an  
 26 adequate reserve as to outstanding losses relating to known  
 27 claims, as required under s. 625.041, a title insurer shall  
 28 establish, segregate, and maintain a guaranty fund or unearned  
 29 premium reserve as provided in this section. The sums required  
 30 under this section to be reserved for unearned premiums on  
 31 title guarantees and policies at all times and for all

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1 purposes shall be considered and constitute unearned portions  
2 of the original premiums and shall be charged as a reserve  
3 liability of such insurer in determining its financial  
4 condition. While such sums are so reserved, they shall be  
5 withdrawn from the use of the insurer for its general  
6 purposes, impressed with a trust in favor of the holders of  
7 title guarantees and policies, and held available for  
8 reinsurance of the title guarantees and policies in the event  
9 of the insolvency of the insurer. Nothing contained in this  
10 section shall preclude such insurer from investing such  
11 reserve in investments authorized by law for such an insurer  
12 and the income from such invested reserve shall be included in  
13 the general income of the insurer to be used by such insurer  
14 for any lawful purpose.

15 (1) For unearned premium reserves established on or  
16 after July 1, 1999, such unearned premium reserve shall  
17 consist of not less than an amount equal to the sum of:

18 (a) A reserve with respect to unearned premiums for  
19 policies written or title liability assumed in reinsurance  
20 before July 1, 1999, equal to the reserve established on June  
21 30, 1999, for those unearned premiums with such reserve being  
22 subsequently released as provided in subsection (2). For  
23 domestic title insurers subject to this section, such amounts  
24 shall be calculated in accordance with provisions of law of  
25 this state in effect at the time the associated premiums were  
26 written or assumed and as amended prior to July 1, 1999.

27 (b) A total amount equal to 30 cents for each \$1,000  
28 of net retained liability for policies written or title  
29 liability assumed in reinsurance on or after July 1, 1999,  
30 with such reserve being subsequently released as provided in  
31 subsection (2). For the purpose of calculating this reserve,

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1 the total of the net retained liability for all simultaneous  
2 issue policies covering a single risk shall be equal to the  
3 liability for the policy with the highest limit covering that  
4 single risk, net of any liability ceded in reinsurance.

5 (c) An additional amount, if deemed necessary by a  
6 qualified actuary, which shall be subsequently released as  
7 provided in subsection (2). Using financial results as of  
8 December 31 of each year, all domestic title insurers shall  
9 obtain a Statement of Actuarial Opinion from a qualified  
10 actuary regarding the insurer's loss and loss adjustment  
11 expense reserves, including reserves for known claims, adverse  
12 development on known claims, incurred but not reported claims,  
13 and unallocated loss adjustment expenses. The actuarial  
14 opinion shall conform to the annual statement instructions for  
15 title insurers adopted by the National Association of  
16 Insurance Commissioners and shall include the actuary's  
17 professional opinion of the insurer's reserves as of the date  
18 of the annual statement. If the amount of the reserve stated  
19 in the opinion and displayed in Schedule P of the annual  
20 statement for that reporting date is greater than the sum of  
21 the known claim reserve and unearned premium reserve as  
22 calculated under this section, as of the same reporting date  
23 and including any previous actuarial provisions added at  
24 earlier dates, the insurer shall add to the insurer's unearned  
25 premium reserve an actuarial amount equal to the reserve shown  
26 in the actuarial opinion, minus the known claim reserve and  
27 the unearned premium reserve, as of the current reporting date  
28 and calculated in accordance with this section, but in no  
29 event calculated as of any date prior to December 31, 1999.  
30 The comparison shall be made using that line on Schedule P  
31 displaying the Total Net Loss and Loss Adjustment Expense

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1 which is comprised of the Known Claim Reserve, and any  
2 associated Adverse Development Reserve, the reserve for  
3 Incurred But Not Reported Losses, and Unallocated Loss  
4 Adjustment Expenses.

5 (2)(a) With respect to the reserve established in  
6 accordance with paragraph (1)(a), the domestic title insurer  
7 shall release the reserve over a period of 20 subsequent years  
8 as provided in this paragraph. The insurer shall release 30  
9 percent of the initial aggregate sum during 1999, with one  
10 quarter of that amount being released on March 31, June 30,  
11 September 30, and December 31, 1999, with the March 31 and  
12 June 30 releases to be retroactive and reflected on the  
13 September 30 financial statements. Thereafter, the insurer  
14 shall release, on the same quarterly basis as specified for  
15 reserves released during 1999, a percentage of the initial  
16 aggregate sum as follows: 15 percent during calendar year  
17 2000, 10 percent during each of calendar years 2001 and 2002,  
18 5 percent during each of calendar years 2003 and 2004, 3  
19 percent during each of calendar years 2005 and 2006, 2 percent  
20 during each of calendar years 2007-2013, and 1 percent during  
21 each of calendar years 2014-2018.

22 (b) With respect to reserves established in accordance  
23 with paragraph (1)(b), the unearned premium for policies  
24 written or title liability assumed during a particular  
25 calendar year shall be earned, and released from reserve, over  
26 a period of 20 subsequent years as provided in this paragraph.  
27 The insurer shall release 30 percent of the initial sum during  
28 the year next succeeding the year the premium was written or  
29 assumed, with one quarter of that amount being released on  
30 March 31, June 30, September 30, and December 31 of such year.  
31 Thereafter, the insurer shall release, on the same quarterly

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1 basis as specified for reserves released during the year first  
2 succeeding the year the premium was written or assumed, a  
3 percentage of the initial sum as follows: 15 percent during  
4 the next succeeding year, 10 percent during each of the next  
5 succeeding 2 years, 5 percent during each of the next  
6 succeeding 2 years, 3 percent during each of the next  
7 succeeding 2 years, 2 percent during each of the next  
8 succeeding 7 years, and 1 percent during each of the next  
9 succeeding 5 years.

10 (c) With respect to reserves established in accordance  
11 with paragraph (1)(c), any additional amount established in  
12 any calendar year shall be released in the years subsequent to  
13 its establishment as provided in paragraph (b), with the  
14 timing and percentage of releases being in all respects  
15 identical to those of unearned premium reserves that are  
16 calculated as provided in paragraph (b) and established with  
17 regard to premiums written or liability assumed in reinsurance  
18 in the same year as the year in which any additional amount  
19 was originally established.

20 (3) At any reporting date, the amount of the required  
21 releases of existing unearned premium reserves under  
22 subsection (2) shall be calculated and deducted from the total  
23 unearned premium reserve before any additional amount is  
24 established for the current calendar year in accordance with  
25 the provisions of paragraph (1)(c).

26 (4) As used in this section:

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

30 (b) "Qualified actuary" means a person who is, as  
31 detailed in the the National Association of Insurance

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1 Commissioners' Annual Statement Instructions:

2 1. A member in good standing of the Casualty Actuarial  
3 Society;

4 2. A member in good standing of the American Academy  
5 of Actuaries who has been approved as qualified for signing  
6 casualty loss reserve opinions by the Casualty Practice  
7 Council of the American Academy of Actuaries; or

8 3. A person who otherwise has competency in loss  
9 reserve evaluation as demonstrated to the satisfaction of the  
10 insurance regulatory official of the domiciliary state. In  
11 such case, at least 90 days prior to the filing of its annual  
12 statement, the insurer must request approval that the person  
13 be deemed qualified and that request must be approved or  
14 denied. The request must include the National Association of  
15 Insurance Commissioners' Biographical Form and a list of all  
16 loss reserve opinions issued in the last 3 years by this  
17 person.

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

30 Section 3. Section 626.841, Florida Statutes, is  
31 amended to read:

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1           626.841 Definitions.--The term:

2           (1) "Title insurance agent" means a person appointed  
3 in writing by a title insurer to issue and countersign  
4 ~~commitments or binders, commitments,~~ policies of title  
5 insurance, ~~or guarantees of title~~ in its behalf.

6           (2) "Title insurance agency" means an insurance agency  
7 under which title insurance agents and other employees  
8 determine insurability in accordance with underwriting rules  
9 and standards prescribed by the title insurer represented by  
10 the agency, and issue and countersign commitments ~~binders,~~  
11 ~~commitments of title insurance,~~ endorsements, or policies  
12 ~~guarantees~~ of title insurance, on behalf of the appointing  
13 title insurer. The term does not include a title insurer.

14           Section 4. Paragraph (c) of subsection (2) of section  
15 626.8411, Florida Statutes, 1998 Supplement, is amended to  
16 read:

17           626.8411 Application of Florida Insurance Code  
18 provisions to title insurance agents or agencies.--

19           (2) The following provisions of part I do not apply to  
20 title insurance agents or title insurance agencies:

21           (c) Section 626.572 ~~626.752~~, relating to rebating,  
22 when allowed ~~exchange of business~~.

23           Section 5. Paragraph (h) of subsection (1) of section  
24 626.9541, Florida Statutes, is amended to read:

25           626.9541 Unfair methods of competition and unfair or  
26 deceptive acts or practices defined.--

27           (1) UNFAIR METHODS OF COMPETITION AND UNFAIR OR  
28 DECEPTIVE ACTS.--The following are defined as unfair methods  
29 of competition and unfair or deceptive acts or practices:

30           (h) Unlawful Rebates.--

31           1. Except as otherwise expressly provided by law, or



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1 in an applicable filing with the department, knowingly:

2 a. Permitting, or offering to make, or making, any  
3 contract or agreement as to such contract other than as  
4 plainly expressed in the insurance contract issued thereon;

5 b. Paying, allowing, or giving, or offering to pay,  
6 allow, or give, directly or indirectly, as inducement to such  
7 insurance contract, any unlawful rebate of premiums payable on  
8 the contract, any special favor or advantage in the dividends  
9 or other benefits thereon, or any valuable consideration or  
10 inducement whatever not specified in the contract;

11 c. Giving, selling, or purchasing, or offering to  
12 give, sell, or purchase, as inducement to such insurance  
13 contract or in connection therewith, any stocks, bonds, or  
14 other securities of any insurance company or other  
15 corporation, association, or partnership, or any dividends or  
16 profits accrued thereon, or anything of value whatsoever not  
17 specified in the insurance contract.

18 2. Nothing in paragraph (g) or subparagraph 1. of this  
19 paragraph shall be construed as including within the  
20 definition of discrimination or unlawful rebates:

21 a. In the case of any contract of life insurance or  
22 life annuity, paying bonuses to all policyholders or otherwise  
23 abating their premiums in whole or in part out of surplus  
24 accumulated from nonparticipating insurance; provided that any  
25 such bonuses or abatement of premiums is fair and equitable to  
26 all policyholders and for the best interests of the company  
27 and its policyholders.

28 b. In the case of life insurance policies issued on  
29 the industrial debit plan, making allowance to policyholders  
30 who have continuously for a specified period made premium  
31 payments directly to an office of the insurer in an amount

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1 which fairly represents the saving in collection expenses.

2 c. Readjustment of the rate of premium for a group  
3 insurance policy based on the loss or expense thereunder, at  
4 the end of the first or any subsequent policy year of  
5 insurance thereunder, which may be made retroactive only for  
6 such policy year.

7 d. Issuance of life insurance policies or annuity  
8 contracts at rates less than the usual rates of premiums for  
9 such policies or contracts, as group insurance or employee  
10 insurance as defined in this code.

11 e. Issuing life or disability insurance policies on a  
12 salary savings, bank draft, preauthorized check, payroll  
13 deduction, or other similar plan at a reduced rate reasonably  
14 related to the savings made by the use of such plan.

15 3.a. No title insurer, or any member, employee,  
16 attorney, agent, agency, or solicitor thereof, shall pay,  
17 allow, or give, or offer to pay, allow, or give, directly or  
18 indirectly, as inducement to title insurance, or after such  
19 insurance has been effected, any ~~unlawful~~ rebate or abatement  
20 of the agent's, agency's, or title insurer's share of the  
21 premium or any charge for related title services below the  
22 cost for providing such services, or provide charge made  
23 ~~incident to the issuance of such insurance, any special favor~~  
24 ~~or advantage, or any monetary consideration or inducement~~  
25 ~~whatever. The words "charge made incident to the issuance of~~  
26 ~~such insurance" shall be construed to encompass underwriting~~  
27 ~~premium, agent's commission, abstracting charges, title~~  
28 ~~examination fee, and closing charges; however, Nothing herein~~  
29 ~~contained shall preclude an abatement in an attorney's fee~~  
30 ~~charged for legal services rendered incident to the issuance~~  
31 ~~of such insurance.~~

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1           b. Nothing in this subparagraph shall be construed as  
2 prohibiting the payment of fees to attorneys at law duly  
3 licensed to practice law in the courts of this state, for  
4 professional services ~~in the actual examination of title to~~  
5 ~~real property as a condition to the issuance of title~~  
6 ~~insurance~~, or as prohibiting the payment of earned portions of  
7 the premium commissions to duly appointed agents or agencies  
8 who actually perform services for the title insurer ~~issue the~~  
9 ~~policy of title insurance for the underwriting company.~~

10           c. No insured named in a policy, or any other person  
11 directly or indirectly connected with the transaction  
12 involving the issuance of such policy, including, but not  
13 limited to, any mortgage broker, real estate broker, builder,  
14 or attorney, any employee, agent, agency, representative, or  
15 solicitor thereof, or any other person whatsoever, shall  
16 knowingly receive or accept, directly or indirectly, any  
17 ~~unlawful~~ rebate or abatement of said charge, or any monetary  
18 consideration or inducement, other than as set forth in  
19 sub-subparagraph b.

20           Section 6. Subsections (1) and (2) of section  
21 627.7711, Florida Statutes, are amended to read:

22           627.7711 Definitions.--As used in this part, the term:

23           (1)(a) "Related title services" means services  
24 performed by a title insurer or title insurance agent or  
25 agency, in the agent's or agency's capacity as such,  
26 including, but not limited to, preparing or obtaining a title  
27 search, examining title information, preparing documents  
28 necessary to close the transaction, conducting the closing, or  
29 handling the disbursing of funds related to the closing in a  
30 real estate closing transaction in which a title insurance  
31 ~~binder, commitment, or policy~~ is to be issued. The ~~risk~~

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1 premium, together with the charge for related title services,  
2 constitutes the regular title insurance premium.

3 (b) "Primary title services" means determining  
4 insurability in accordance with sound underwriting practices  
5 based upon evaluation of a reasonable search and examination  
6 of the title, determination and clearance of underwriting  
7 objections and requirements to eliminate risk, preparation and  
8 issuance of a title insurance commitment setting forth the  
9 requirements to insure, and preparation and issuance of the  
10 policy.

11 (2) "~~Risk~~ Premium" means the charge, as specified by  
12 rule of the department, that is made by a title insurer for a  
13 title insurance policy, including the charge for performance  
14 of primary title services by a title insurer or title  
15 insurance agent or agency, and incurring the risks incident to  
16 such policy ~~the assumption of the risk,~~ under the several  
17 classifications of title insurance contracts and forms, and  
18 upon which charge a premium tax is paid under s. 624.509. As  
19 used in this part or in any other law, with respect to title  
20 insurance, the word ~~words~~ "premium" does ~~or "risk premium"~~  
21 mean only the risk premium as defined in this section and do  
22 not include a commission ~~any other charge incidental to title~~  
23 insurance.

24 Section 7. Section 627.777, Florida Statutes, is  
25 amended to read:

26 627.777 Approval of forms.--A title insurer may not  
27 issue or agree to issue any form of ~~title insurance binder,~~  
28 title insurance commitment, ~~preliminary report,~~ title  
29 insurance policy, other contract of title insurance, or  
30 related form until it is filed with and approved by the  
31 department. The department may not disapprove a title

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1 guarantee or policy form on the ground that it has on it a  
2 blank form for an attorney's opinion on the title.

3 Section 8. Section 627.7773, Florida Statutes, is  
4 amended to read:

5 627.7773 Accounting and auditing of forms by title  
6 insurers.--

7 (1) Each title insurer authorized to do business in  
8 this state shall, at least once during each calendar year,  
9 require of each of its title insurance agents or agencies  
10 accountings of all outstanding forms in the agent's or  
11 agency's possession of the types that are specified in s.  
12 627.777.

13 (2) If the department has reason to believe that an  
14 audit of outstanding forms should be required of any title  
15 insurer as to a title insurance agent or agency, the  
16 department may require the title insurer to make a special  
17 audit of the forms. The title insurer shall complete the  
18 audit not later than 60 days after the request is received  
19 from the department, and shall report the results of the  
20 special audit to the department no later than 90 days after  
21 the request is received.

22 Section 9. Section 627.7776, Florida Statutes, is  
23 amended to read:

24 627.7776 Furnishing of supplies; civil liability.--

25 (1) A title insurer may not furnish to any person any  
26 blank forms, applications, stationery, or other supplies to be  
27 used in soliciting, negotiating, or effecting contracts of  
28 title insurance on its behalf until that person has received  
29 from the insurer a contract to act as a title insurance agent  
30 or agency and has been licensed by the department, if required  
31 by s. 626.8417.

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1           (2) A title insurer or title insurance agent or agency  
2 that furnishes any supplies to a person not authorized by the  
3 title insurer as provided in subsection (1) is subject to  
4 civil liability to any insured of the title insurer to the  
5 same extent and in the same manner as if the person had been  
6 appointed or authorized by the title insurer to act in its  
7 behalf.

8           Section 10. Section 627.780, Florida Statutes, is  
9 amended to read:

10           627.780 Illegal dealings in risk premium.--

11           (1) A person may not knowingly quote, charge, accept,  
12 collect, or receive a ~~risk~~ premium for title insurance other  
13 than the ~~risk~~ premium adopted by the department.

14           (2) A title insurer may not knowingly accept, collect,  
15 or receive any sum as ~~risk~~ premium for title insurance, if the  
16 title insurance is not then provided or is not to be provided,  
17 subject to acceptance of the risk, in due course, unless the  
18 title insurer promptly enters the sum on its books of account  
19 as premium collected in advance.

20           Section 11. Section 627.782, Florida Statutes, is  
21 amended to read:

22           627.782 Adoption of rates.--

23           (1) Subject to the rating provisions of this code, the  
24 department must adopt a rule specifying the ~~risk~~ premium to be  
25 charged in this state by title insurers for the respective  
26 types of title insurance contracts and, for policies issued  
27 through agents or agencies, the percentage of such premium  
28 required to be retained by the title insurer which shall ~~and~~  
29 ~~services incident thereto. The department may, by rule,~~  
30 ~~establish limitations on such reasonable charges made in~~  
31 ~~addition to the risk premium based upon the expenses~~

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1 ~~associated with the services rendered and other relevant~~  
2 ~~factors. The department must also adopt rules incident to the~~  
3 ~~applicability of the risk premium, including the percentage or~~  
4 ~~amount of the risk premium required to be maintained by the~~  
5 ~~title insurer, and related rules to ensure that the amounts~~  
6 ~~required to be maintained by the insurer are not be less than~~  
7 ~~30 percent of the risk premium for policies sold by agents.~~  
8 However, in a transaction subject to the Real Estate  
9 Settlement Procedures Act of 1974, 12 U.S.C. 2601 et seq., as  
10 amended, no portion of the premium attributable to providing a  
11 primary title service shall be paid to or retained by any  
12 person who does not actually perform or is not liable for the  
13 performance of such service. The department may, by rule,  
14 establish limitations on related title services charges made  
15 in addition to the premium based upon the expenses associated  
16 with the services rendered and other relevant factors.

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

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

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

30 (c) Past expenses and prospective expenses for  
31 administration and handling of risks.

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- 1           (d) Liability for defalcation.
- 2           (e) Other relevant factors.
- 3           (3) Rates may be grouped by classification or schedule
- 4 and may differ as to class of risk assumed.
- 5           (4) Rates may not be excessive, inadequate, or
- 6 unfairly discriminatory.
- 7           (5) The ~~risk~~ premium applies to each \$100 of insurance
- 8 issued to an insured.
- 9           (6) The ~~risk~~ premium rates apply throughout this
- 10 state.
- 11           (7) The department shall, in accordance with the
- 12 standards provided in subsection (2), review the ~~risk~~ premium
- 13 ~~and the related title services rate~~ as needed, but not less
- 14 frequently than once every 3 years, and shall, based upon the
- 15 review required by this subsection, revise the ~~risk~~ premium
- 16 ~~and the related title services rate~~ if the results of the
- 17 review so warrant.
- 18           (8) The department may, by rule, require licensees
- 19 under this part to annually submit statistical information,
- 20 including loss and expense data, as the department determines
- 21 to be necessary to analyze ~~risk~~ premium ~~and related title~~
- 22 ~~services~~ rates, retention rates, and the condition of the
- 23 title insurance industry.
- 24           Section 12. Section 627.7825, Florida Statutes, is
- 25 created to read:
- 26           627.7825 Alternative rate adoption.--Notwithstanding
- 27 s. 627.782(1) and (7), the premium rates to be charged by
- 28 title insurers in this state from July 1, 1999, through June
- 29 30, 2002, for title insurance contracts shall be as set forth
- 30 in this section. The rules related to premium rates for title
- 31 insurance, including endorsements, adopted by the department



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1 and in effect on April 1, 1999, that do not conflict with the  
 2 provisions of this section shall remain in effect until June  
 3 30, 2002. The department shall not grant a rate deviation  
 4 pursuant to s. 627.783 for the premium rates established in  
 5 this section and in department rules in effect on April 1,  
 6 1999, that do not conflict with this section.

7 (1) ORIGINAL TITLE INSURANCE RATES.--

8 (a) For owner and leasehold title insurance:

9 1. The premium for the original owner's or for  
 10 leasehold insurance shall be:

	<u>Per</u>	<u>Minimum</u>
	<u>Thousand</u>	<u>Insurer</u>
		<u>Retention</u>
15 <u>From \$0 to \$100,000 of liability written</u>	<u>\$5.75</u>	<u>30%</u>
16 <u>From \$100,000 to \$1 million, add</u>	<u>\$5.00</u>	<u>30%</u>
17 <u>Over \$1 million and up to \$5 million, add</u>	<u>\$2.50</u>	<u>35%</u>
18 <u>Over \$5 million and up to \$10 million, add</u>	<u>\$2.25</u>	<u>40%</u>
19 <u>Over \$10 million, add</u>	<u>\$2.00</u>	<u>40%</u>

21 The minimum premium for all conveyances except multiple  
 22 conveyances shall be \$100. The minimum premium for multiple  
 23 conveyances on the same property shall be \$60.

24 2. In all cases, the owner's policy shall be issued  
 25 for the full insurable value of the premises.

26 (b) For mortgage title insurance:

27 1. The premium for the original mortgage title  
 28 insurance shall be:

29  
 30  
 31

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	<u>Per</u>	<u>Minimum</u>
	<u>Thousand</u>	<u>Insurer</u>
		<u>Retention</u>
4 <u>From \$0 to \$100,000 of liability written</u>	<u>\$5.75</u>	<u>30%</u>
5 <u>From \$100,000 to \$1 million, add</u>	<u>\$5.00</u>	<u>30%</u>
6 <u>Over \$1 million and up to \$5 million, add</u>	<u>\$2.50</u>	<u>35%</u>
7 <u>Over \$5 million and up to \$10 million, add</u>	<u>\$2.25</u>	<u>40%</u>
8 <u>Over \$10 million, add</u>	<u>\$2.00</u>	<u>40%</u>
9		
10 <u>The minimum premium for all conveyances except multiple</u>		
11 <u>conveyances shall be \$100. The minimum premium for multiple</u>		
12 <u>conveyances on the same property shall be \$60.</u>		
13 <u>2. A mortgage title insurance policy shall not be</u>		
14 <u>issued for an amount less than the full principal debt. A</u>		
15 <u>policy may, however, be issued for an amount up to 25 percent</u>		
16 <u>in excess of the principal debt to cover interest and</u>		
17 <u>foreclosure costs.</u>		
18 <u>(2) REISSUE RATES.--</u>		
19 <u>(a) The reissue premium charge for owner's, mortgage,</u>		
20 <u>and leasehold title insurance policies shall be:</u>		
21		
22	<u>Per Thousand</u>	
23 <u>Up to \$100,000 of liability written</u>	<u>\$3.30</u>	
24 <u>Over \$100,000 and up to \$1 million, add</u>	<u>\$3.00</u>	
25 <u>Over \$1 million and up to \$10 million, add</u>	<u>\$2.00</u>	
26 <u>Over \$10 million, add</u>	<u>\$1.50</u>	
27		
28 <u>The minimum premium shall be \$100.</u>		
29 <u>(b) Provided a previous owner's policy was issued</u>		
30 <u>insuring the seller or the mortgagor in the current</u>		
31 <u>transaction and that both the reissuing agent and the</u>		

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1 reissuing underwriter retain for their respective files copies  
2 of the prior owner's policy or policies, the reissue premium  
3 rates in paragraph (a) shall apply to:

4 1. Policies on real property which is unimproved  
5 except for roads, bridges, drainage facilities, and utilities  
6 if the current owner's title has been insured prior to the  
7 application for a new policy;

8 2. Policies issued with an effective date of less than  
9 3 years after the effective date of the policy insuring the  
10 seller or mortgagor in the current transaction; or

11 3. Mortgage policies issued on refinancing of property  
12 insured by an original owner's policy which insured the title  
13 of the current mortgagor.

14 (c) Any amount of new insurance, in the aggregate, in  
15 excess of the amount under the previous policy shall be  
16 computed at the original owner's or leasehold rates, as  
17 provided in subsection (1).

18 (3) NEW HOME PURCHASE DISCOUNT.--Provided the seller  
19 has not leased or occupied the premises, the original premium  
20 for a policy on the first sale of residential property with a  
21 one to four family improvement that is granted a certificate  
22 of occupancy shall be discounted by the amount of premium paid  
23 for any prior loan policies insuring the lien of a mortgage  
24 executed by the seller on the premises. In the case of prior  
25 loan policies insuring the lien of a mortgage on multiple  
26 units or parcels, the discount shall be prorated by dividing  
27 the amount of the premium paid for the prior loan policies by  
28 the total number of units or parcels without regard to varying  
29 unit or parcel value. The minimum new home purchase premium  
30 shall be \$200. The new home purchase discount may not be  
31 combined with any other reduction from original premium rates

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1 provided for in this section. The insurer shall reserve for  
2 unearned premiums only on the excess amount of the policy over  
3 the amount of the actual or prorated amount of the prior loan  
4 policy.

5 (4) SUBSTITUTION LOANS RATES.--

6 (a) When the same borrower and the same lender make a  
7 substitution loan on the same property, the title to which was  
8 insured by an insurer in connection with the previous loan,  
9 the following premium rates for substitution loans shall  
10 apply:

<u>Age of Previous Loan</u>	<u>Premium Rates</u>
<u>3 years or under</u>	<u>30 percent of the original rates</u>
<u>From 3 to 4 years</u>	<u>40 percent of the original rates</u>
<u>From 4 to 5 years</u>	<u>50 percent of the original rates</u>
<u>From 5 to 10 years</u>	<u>60 percent of the original rates</u>
<u>Over 10 years</u>	<u>100 percent of original rates</u>

18  
19 The minimum premium for substitution loan rates shall be \$100.

20 (b) At the time a substitution loan is made, the  
21 unpaid principal balance of the previous loan will be  
22 considered the amount of insurance in force on which the  
23 foregoing premium rates shall be calculated. To these rates  
24 shall be added the original rates in the applicable schedules  
25 for any new insurance, including any difference between the  
26 unpaid principal balance of the previous loan and the amount  
27 of the new loan.

28 (c) In the case of a substitution loan of \$250,000 or  
29 more, when the same borrower and any lender make a  
30 substitution loan on the same property, the title to which was  
31 insured by an insurer in connection with the previous loan,

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1 the premium for such substitution loans shall be the rates as  
2 set forth in paragraphs (a) and (b).

3 Section 13. Section 627.783, Florida Statutes, is  
4 amended to read:

5 627.783 Rate deviation.--

6 (1) A title insurer may petition the department for an  
7 order authorizing a specific deviation from the adopted ~~risk~~  
8 premium, and a title insurer or title insurance agent may  
9 petition the department for an order authorizing and  
10 permitting a specific deviation above the reasonable charge  
11 for related title ~~other~~ services rendered specified in s.  
12 627.782(1). The petition shall be in writing and sworn to and  
13 shall set forth allegations of fact upon which the petitioner  
14 will rely, including the petitioner's reasons for requesting  
15 the deviation. Any authorized title insurer, ~~or~~ agent, or  
16 agency may join in the petition for like authority to deviate  
17 or may file a separate petition praying for like authority or  
18 opposing the deviation. The department shall rule on all such  
19 petitions simultaneously.

20 (2) If, in the judgment of the department, the  
21 requested deviation is not justified, the department may enter  
22 an order denying the petition. An order granting a petition  
23 constitutes an amendment to the adopted ~~risk~~ premium as to the  
24 petitioners named in the order, and is subject to s. 627.782.

25 Section 14. Section 627.7831, Florida Statutes, is  
26 amended to read:

27 627.7831 ~~Title binders and~~ Commitments; charges;  
28 collection.--

29 (1) When a title insurance ~~binder or a~~ commitment to  
30 insure a title or risk is issued at the request of the insured  
31 or the insured's representative, ~~or~~ agent, or agency, a

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1 portion of the ~~risk~~ premium must be charged for the ~~binder or~~  
2 commitment when issued. The portion of the ~~risk~~ premium  
3 charged for the ~~binder or~~ commitment must be credited to the  
4 ~~risk~~ premium due upon issuance of the title insurance policy.

5 (2) The amount charged under subsection (1) must be  
6 collected no later than the date of the closing or 12 months  
7 after the date of the commitment ~~or binder~~, whichever occurs  
8 earlier, or another date agreed to in writing at the time of  
9 issuance of the ~~binder or~~ commitment.

10 (3) This section does not apply to a transaction  
11 involving a residential property.

12 Section 15. Section 627.784, Florida Statutes, is  
13 amended to read:

14 627.784 Casualty title insurance prohibited.--A title  
15 insurance policy or guarantee of title may not be issued  
16 without regard ~~with disregard~~ to the possible existence of  
17 adverse matters or defects of title.

18 Section 16. Section 627.7841, Florida Statutes, is  
19 amended to read:

20 627.7841 Insurance against adverse matters or defects  
21 in the title.--If a title insurer issuing a ~~binder~~, commitment  
22 or policy of title insurance, ~~or guarantee of title~~ upon an  
23 estate, lien, or interest in property located in this state  
24 through its officers, employees, ~~or agents~~, or agencies  
25 disburses settlement or closing funds, the title insurer shall  
26 insure against the possible existence of adverse matters or  
27 defects in the title which are recorded during the period of  
28 time between the effective date of the ~~binder or~~ commitment  
29 and the date of recording of the document creating the estate  
30 or interest to be insured, except as to matters of which the  
31 insured has knowledge.

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1           Section 17. Subsection (2) of section 627.7842,  
2 Florida Statutes, is amended to read:

3           627.7842 Policy exceptions.--

4           (2) The title insurer, ~~or agent,~~ or agency issuing the  
5 title policy may except from coverage the items specified in  
6 subsection (1) if the title insurer, ~~or agent,~~ or agency has  
7 knowledge of facts requiring the exceptions, notwithstanding  
8 the survey or affidavits, if the insurer, ~~or agent,~~ or agency  
9 discloses such facts to the proposed insured.

10           Section 18. Section 627.7845, Florida Statutes, is  
11 amended to read:

12           627.7845 Determination of insurability required;  
13 preservation of evidence of title search and examination.--

14           (1) A title insurer may not issue a title insurance  
15 ~~binder, commitment, endorsement, or title insurance policy, or~~  
16 ~~guarantee of title~~ until the title insurer has caused to be  
17 conducted a reasonable search and examination of the title and  
18 of such other information as may be necessary, and has caused  
19 to be made a determination of insurability of title, including  
20 endorsement coverages, in accordance with sound underwriting  
21 practices.

22           (2) The title insurer shall cause the evidence of the  
23 reasonable search and examination of the title to be preserved  
24 and retained in its files or in the files of its title  
25 insurance agent or agency for a period of not less than 7  
26 years after the title insurance ~~binder, commitment,~~ title  
27 insurance policy, or guarantee of title was issued. The title  
28 insurer or agent or agency must produce the evidence required  
29 to be maintained by this subsection at its offices upon the  
30 demand of the department. Instead of retaining the original  
31 evidence, the title insurer or the title insurance agent or

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1 agency may, in the regular course of business, establish a  
2 system under which all or part of the evidence is recorded,  
3 copied, or reproduced by any photographic, photostatic,  
4 microfilm, microcard, miniature photographic, or other process  
5 which accurately reproduces or forms a durable medium for  
6 reproducing the original.

7 (3) The title insurer or its agent or agency must  
8 maintain a record of the actual risk premium and related title  
9 service charges made for issuance of the policy and any  
10 endorsements in its files for a period of not less than 7  
11 years. The title insurer, or agent, or agency must produce  
12 the record at its office upon demand of the department.

13 (4) This section does not apply to an insurer assuming  
14 no primary liability in a contract of reinsurance or to an  
15 insurer acting as a coinsurer if any other coinsuring insurer  
16 has complied with this section.

17 Section 19. Subsection (3) of section 627.786, Florida  
18 Statutes, is amended to read:

19 627.786 Transaction of title insurance and any other  
20 kind of insurance prohibited.--

21 (3) Subsection (1) does not preclude a title insurer  
22 from providing instruments to any prospective insured, in the  
23 form and content approved by the department, under which the  
24 title insurer assumes liability for loss due to the fraud of,  
25 dishonesty of, misappropriation of funds by, or failure to  
26 comply with written closing instructions by, its contract  
27 agents, agencies, or approved attorneys in connection with a  
28 real property transaction for which the title insurer is to  
29 issue a title insurance policy ~~or guarantee of title~~.

30 Section 20. Section 627.791, Florida Statutes, is  
31 amended to read:



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1           627.791 Penalties against title insurers for  
2 violations by persons or entities not licensed.--A title  
3 insurer is subject to the penalties in ss. 624.418(2) and  
4 624.4211 for any violation of a lawful order or rule of the  
5 department, or for any violation of this code, committed by:

6           (1) A person, firm, association, corporation,  
7 cooperative, joint-stock company, or other legal entity not  
8 licensed under this part when issuing and countersigning  
9 ~~binders, commitments or~~ policies of title insurance, ~~or~~  
10 ~~guarantees of title~~ on behalf of the title insurer.

11           (2) An attorney when issuing and countersigning  
12 ~~binders, commitments or~~ policies of title insurance, ~~or~~  
13 ~~guarantees of title~~ on behalf of the title insurer.

14           Section 21. Section 627.792, Florida Statutes, is  
15 amended to read:

16           627.792 Liability of title insurers for defalcation by  
17 title insurance agents or agencies.--A title insurer is liable  
18 for the defalcation, conversion, or misappropriation by a  
19 licensed title insurance agent or agency of funds held in  
20 trust by the agent or agency pursuant to s. 626.8473. If the  
21 agent or agency is an agent or agency for licensed by two or  
22 more title insurers, any liability shall be borne by the title  
23 insurer upon which a title insurance ~~binder, commitment or~~  
24 ~~policy, or title guarantee~~ was issued prior to the illegal  
25 act. If no ~~binder, commitment or~~ policy, ~~or guarantee~~ was  
26 issued, each title insurer represented by the agent or agency  
27 at the time of the illegal act shares in the liability in the  
28 same proportion that the premium remitted to it by the agent  
29 or agency during the 1-year period before the illegal act  
30 bears to the total premium remitted to all title insurers by  
31 the agent or agency during the same time period.

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1           Section 22. Section 627.793, Florida Statutes, is  
2 created to read:

3           627.793 Rulemaking authority.--The department is  
4 authorized to adopt rules implementing the provisions of this  
5 part.

6           Section 23. This act shall take effect July 1, 1999.

7  
8

9 ===== T I T L E   A M E N D M E N T =====

10 And the title is amended as follows:

11           Delete everything before the enacting clause

12

13 and insert:

14

                  A bill to be entitled

15

          An act relating to title insurance; amending

16

          ss. 624.509, 626.841, 626.8411, 626.9541,

17

          627.7711, 627.777, 627.7773, 627.7776, 627.780,

18

          627.783, 627.7831, 627.784, 627.7841, 627.7842,

19

          627.7845, 627.786, 627.791, and 627.792, F.S.;

20

          revising and clarifying application of

21

          provisions relating to title insurance agents,

22

          policies, premiums, rates, contracts, charges,

23

          and practices; amending s. 625.111, F.S.;

24

          specifying the components of unearned premium

25

          reserve for certain financial statements;

26

          providing a formula for releasing unearned

27

          premium reserve over a period of years;

28

          providing definitions; amending s. 627.7711,

29

          F.S.; revising definitions; amending s.

30

          627.782, F.S.; providing a limitation on

31

          payment of portions of premiums for primary

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1 title services; creating s. 627.7825, F.S.;  
2 specifying certain alternative premium rates to  
3 be charged by title insurers for certain title  
4 insurance contracts for a certain period;  
5 providing requirements; providing limitations;  
6 providing for a new home purchase discount;  
7 excepting such rates from certain deviation  
8 provisions under certain circumstances;  
9 creating s. 627.793, F.S.; authorizing the  
10 Department of Insurance to adopt rules;  
11 providing an effective date.

12

13 WHEREAS, the Legislature finds that regulation of  
14 insurance is in the public interest; that it promotes the  
15 public health, safety and welfare by assuring the solvency and  
16 soundness of insurers; that determination of insurability of  
17 title to real property prior to insuring such property is  
18 essential to the maintenance of the solvency and soundness of  
19 title insurers; and that because title insurance agents or  
20 agencies determine insurability on behalf of title insurers,  
21 there is a direct relationship between the determination of  
22 insurability performed by title agents or agencies and the  
23 public interest, NOW, THEREFORE,

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