

By the Committees on Judiciary, Insurance, Real Property & Probate and Representative Starks

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 definitions;
8 providing an effective 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 required
21 under this section to be reserved for unearned premiums on
22 title guarantees and policies at all times and for all
23 purposes shall be considered and constitute unearned portions
24 of the original premiums and shall be charged as a reserve
25 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27 withdrawn from the use of the insurer for its general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 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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