



624016

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/12/2014	.	
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	.	
	.	

The Committee on Judiciary (Lee) recommended the following:

Senate Amendment (with title amendment)

Before line 29

insert:

Section 1. Section 625.041, Florida Statutes, is amended to read:

625.041 Liabilities, in general.—In any determination of the financial condition of an insurer, liabilities to be charged against its assets ~~shall~~ include:

(1) The amount, estimated in accordance ~~consistent~~ with the ~~provisions of~~ this code, necessary to pay all of its unpaid



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12 losses and claims incurred on or before ~~prior to~~ the date of
13 statement, whether reported or unreported, together with the
14 expenses of adjustment or settlement thereof.

15 (2) With respect to title insurance, the amount, estimated
16 in accordance with this code, necessary to pay all of its known
17 unpaid losses and claims incurred on or before the date of
18 statement, together with the expenses of adjustment or
19 settlement thereof. This requirement is in addition to the
20 reserves required under s. 625.111.

21 (3)~~(2)~~ With respect ~~reference~~ to life and health insurance
22 and annuity contracts:

23 (a) The amount of reserves on life insurance policies and
24 annuity contracts in force, valued according to the tables of
25 mortality, rates of interest, and methods adopted pursuant to
26 this code which are applicable thereto.

27 (b) Reserves for disability benefits, for both active and
28 disabled lives.

29 (c) Reserves for accidental death benefits.

30 (d) Any additional reserves that may be required by the
31 office in accordance ~~consistent~~ with practice formulated or
32 approved by the National Association of Insurance Commissioners
33 or its successor organization, on account of such insurance,
34 including contract and premium deficiency reserves.

35 (4)~~(3)~~ With respect ~~reference~~ to insurance other than that
36 specified in subsections (2) and (3) ~~subsection (2), and other~~
37 ~~than title insurance~~, the amount of reserves equal to the
38 unearned portions of the gross premiums charged on policies in
39 force, computed in accordance with this part.

40 (5)~~(4)~~ Taxes, expenses, and other obligations due or



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41 accrued at the date of the statement.

42 ~~(6)~~ ~~(5)~~ An ~~Any~~ insurer in this state which ~~that~~ writes
43 workers' compensation insurance shall accrue a liability on its
44 financial statements for all Special Disability Trust Fund
45 assessments that are due within the current calendar year. ~~In~~
46 ~~addition,~~ Those insurers shall also disclose in the notes to the
47 financial statements required to be filed pursuant to s. 624.424
48 an estimate of future Special Disability Trust Fund assessments,
49 if the assessments are likely to occur and can be estimated with
50 reasonable certainty.

51 Section 2. Section 625.111, Florida Statutes, is amended to
52 read:

53 625.111 Title insurance reserve.—In addition to an adequate
54 reserve as to outstanding losses relating to known claims, as
55 required under s. 625.041, a domestic title insurer shall
56 establish, segregate, and maintain a guaranty fund or unearned
57 premium reserve as provided in this section. The sums ~~required~~
58 ~~under this section~~ to be reserved for unearned premiums on title
59 guarantees and policies ~~at all times and for all purposes~~ shall
60 be considered and constitute unearned portions of the original
61 premiums and shall be charged as a reserve liability of the ~~such~~
62 insurer in determining its financial condition. ~~While~~ Such ~~sums~~
63 ~~are so~~ reserved funds, ~~they~~ shall be withdrawn from the use of
64 the insurer for its general purposes, impressed with a trust in
65 favor of the holders of title guarantees and policies, and held
66 available for reinsurance of the title guarantees and policies
67 in the event of the insolvency of the insurer. ~~Nothing contained~~
68 ~~in~~ This section does not ~~shall~~ preclude the ~~such~~ insurer from
69 investing such reserve in investments authorized by law, ~~for~~



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70 ~~such an insurer~~ and the income from such investments ~~invested~~
71 ~~reserve~~ shall be included in the general income of the insurer
72 and may ~~to~~ be used by such insurer for any lawful purpose.

73 (1) For an unearned premium ~~reserves~~ established on
74 or after July 1, 1999, such ~~unearned premium~~ reserve must be in
75 ~~shall consist of not less than~~ an amount at least equal to the
76 sum of the amounts specified in paragraphs (a), (b), and (d) for
77 title insurers holding less than \$50 million in surplus as to
78 policyholders as of the previous year end, and the sum of the
79 amounts specified in paragraphs (c) and (d) for title insurers
80 holding \$50 million or more in surplus as to policyholders as of
81 the previous year end:

82 (a) A reserve with respect to unearned premiums for
83 policies written or title liability assumed in reinsurance
84 before July 1, 1999, equal to the reserve established on June
85 30, 1999, for those unearned premiums with such reserve being
86 subsequently released as provided in subsection (2). For
87 domestic title insurers subject to this section, such amounts
88 shall be calculated in accordance with ~~provisions of law of this~~
89 state law in effect at the time the associated premiums were
90 written or assumed and as amended before ~~prior to~~ July 1, 1999.

91 (b) A total amount equal to 30 cents for each \$1,000 of net
92 retained liability for policies written or title liability
93 assumed in reinsurance on or after July 1, 1999, with such
94 reserve being subsequently released as provided in subsection
95 (2). For the purpose of calculating this reserve, the total of
96 the net retained liability for all simultaneous issue policies
97 covering a single risk shall be equal to the liability for the
98 policy with the highest limit covering that single risk, net of



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99 any liability ceded in reinsurance.

100 (c) On or after January 1, 2014, for title insurers holding
101 \$50 million or more in surplus as to policyholders as of the
102 previous year end, a minimum of 6.5 percent of the total of the
103 following:

104 1. Direct premiums written; and

105 2. Premiums for reinsurance assumed, plus other income,
106 less premiums for reinsurance ceded as displayed in Schedule P
107 of the title insurer's most recent annual statement filed with
108 the office with such reserve being subsequently released as
109 provided in subsection (2). Title insurers with less than \$50
110 million in surplus as to policyholders must continue to record
111 unearned premium reserve in accordance with paragraph (b).

112 (d) ~~(e)~~ An additional amount, if deemed necessary by a
113 qualified actuary, ~~to which shall~~ be subsequently released as
114 provided in subsection (2). Using financial results as of
115 December 31 of each year, all domestic title insurers shall
116 obtain a Statement of Actuarial Opinion from a qualified actuary
117 regarding the insurer's loss and loss adjustment expense
118 reserves, including reserves for known claims, ~~adverse~~
119 ~~development on known claims,~~ incurred but not reported claims,
120 and unallocated loss adjustment expenses. The actuarial opinion
121 ~~must shall~~ conform to the annual statement instructions for
122 title insurers adopted by the National Association of Insurance
123 Commissioners and ~~shall~~ include the actuary's professional
124 opinion of the insurer's reserves as of the date of the annual
125 statement. If the amount of the reserve stated in the opinion
126 and displayed in Schedule P of the annual statement for that
127 reporting date is greater than the sum of the known claim



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128 reserve and unearned premium reserve as calculated under this
129 section, as of the same reporting date and including any
130 previous actuarial provisions added at earlier dates, the
131 insurer shall add to the insurer's unearned premium reserve an
132 actuarial amount equal to the reserve shown in the actuarial
133 opinion, minus the known claim reserve and the unearned premium
134 reserve, as of the current reporting date and calculated in
135 accordance with this section, but not ~~in no event~~ calculated as
136 of any date before ~~prior to~~ December 31, 1999. The comparison
137 shall be made using that line on Schedule P displaying the Total
138 Net Loss and Loss Adjustment Expense which is comprised of the
139 Known Claim Reserve, and any associated Adverse Development
140 Reserve, the reserve for Incurred But Not Reported Losses, and
141 Unallocated Loss Adjustment Expenses.

142 (2) ~~(a)~~ With respect to reserves ~~the reserve~~ established in
143 accordance with:

144 (a) Paragraph (1) (a), the domestic title insurer shall
145 release the reserve over the subsequent ~~a period of 20~~
146 ~~subsequent~~ years as provided in this paragraph. The insurer
147 shall release 30 percent of the initial aggregate sum during
148 1999, with one quarter of that amount being released on March
149 31, June 30, September 30, and December 31, 1999, with the March
150 31 and June 30 releases to be retroactive and reflected on the
151 September 30 financial statements. Thereafter, the insurer shall
152 release, on the same quarterly basis as specified for reserves
153 released during 1999, a percentage of the initial aggregate sum
154 as follows: 15 percent during calendar year 2000, 10 percent
155 during each of calendar years 2001 and 2002, 5 percent during
156 each of calendar years 2003 and 2004, 3 percent during each of



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157 calendar years 2005 and 2006, 2 percent during each of calendar
158 years 2007-2013, and 1 percent during each of calendar years
159 2014-2018.

160 ~~(b) With respect to reserves established in accordance with~~
161 Paragraph (1)(b), the unearned premium for policies written or
162 title liability assumed during a particular calendar year shall
163 be earned, and released from reserve, over the subsequent a
164 ~~period of 20 subsequent~~ years as provided in this paragraph. The
165 insurer shall release 30 percent of the initial sum during the
166 year following ~~next succeeding~~ the year the premium was written
167 or assumed, with one quarter of that amount being released on
168 March 31, June 30, September 30, and December 31 of such year.
169 Thereafter, the insurer shall release, on the same quarterly
170 basis as specified for reserves released during the year
171 following ~~first succeeding~~ the year the premium was written or
172 assumed, a percentage of the initial sum as follows: 15 percent
173 during the next succeeding year, 10 percent during each of the
174 next succeeding 2 years, 5 percent during each of the next
175 succeeding 2 years, 3 percent during each of the next succeeding
176 2 years, 2 percent during each of the next succeeding 7 years,
177 and 1 percent during each of the next succeeding 5 years.

178 ~~(c) With respect to reserves established in accordance with~~
179 Paragraph (1)(c), the unearned premium for policies written or
180 title liability assumed during a particular calendar year shall
181 be earned, and released from reserve, over the subsequent 20
182 years at an amortization rate not to exceed the formula in this
183 paragraph. The insurer shall release 35 percent of the initial
184 sum during the year following the year the premium was written
185 or assumed, with one quarter of that amount being released on



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186 March 31, June 30, September 30, and December 31 of such year.
187 Thereafter, the insurer shall release, on the same quarterly
188 basis as specified for reserve released during the year
189 following the year the premium was written or assumed, a
190 percentage of the initial sum as follows: 15 percent during each
191 year of the next succeeding 2 years, 10 percent during the next
192 succeeding year, 3 percent during each of the next succeeding 3
193 years, 2 percent during each of the next succeeding 3 years, and
194 1 percent during each of the next succeeding 10 years.

195 (d) Paragraph (1)(d), any additional amount established in
196 any calendar year shall be released in the years subsequent to
197 its establishment as provided in paragraph (c) ~~(b)~~, with the
198 timing and percentage of releases being in all respects
199 identical to those of unearned premium reserves that are
200 calculated as provided in paragraph (c) ~~(b)~~ and established with
201 regard to premiums written or liability assumed in reinsurance
202 in the same year as the year in which any additional amount was
203 originally established.

204 (3) If a title insurer that is organized under the laws of
205 another state transfers its domicile to this state, the
206 statutory or unearned premium reserve shall be the amount
207 required by the laws of the title insurer's former state of
208 domicile as of the date of transfer of domicile and shall be
209 released from reserve according to the requirements of law in
210 effect in the former state at the time of domicile. On or after
211 January 1, 2014, for new business written after the effective
212 date of the transfer of domicile to this state, the domestic
213 title insurer shall add to and set aside in the statutory or
214 unearned premium reserve such amount as provided in paragraph



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215 (1) (c) .

216 (4) ~~(3)~~ At any reporting date, the amount of the required
217 releases of existing unearned premium reserves under subsection
218 (2) shall be calculated and deducted from the total unearned
219 premium reserve before any additional amount is established for
220 the current calendar year in accordance with ~~the provisions of~~
221 paragraph (1) (d) ~~(1) (e)~~.

222 (5) A domestic title insurer is not required to record a
223 separate bulk reserve. However, if a separate bulk reserve is
224 recorded, the statutory premium reserve must be reduced by the
225 amount recorded for such bulk reserve.

226 (6) ~~(4)~~ As used in this section, the term:

227 (a) "Bulk reserve" means provision for subsequent
228 development on known claims.

229 (b) ~~(a)~~ "Net retained liability" means the total liability
230 retained by a title insurer for a single risk, after taking into
231 account the deduction for ceded liability, if any.

232 (c) ~~(b)~~ "Qualified actuary" means a person who is, as
233 detailed in the National Association of Insurance Commissioners'
234 Annual Statement Instructions:

235 1. A member in good standing of the Casualty Actuarial
236 Society;

237 2. A member in good standing of the American Academy of
238 Actuaries who has been approved as qualified for signing
239 casualty loss reserve opinions by the Casualty Practice Council
240 of the American Academy of Actuaries; or

241 3. A person who otherwise has competency in loss reserve
242 evaluation as demonstrated to the satisfaction of the insurance
243 regulatory official of the domiciliary state. In such case, at



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244 least 90 days before ~~prior to the~~ filing of its annual
245 statement, the insurer must request ~~approval~~ that the person be
246 deemed qualified and that request must be approved or denied.
247 The request must include the National Association of Insurance
248 Commissioners' Biographical Form and a list of all loss reserve
249 opinions issued in the last 3 years by this person.

250 (d) ~~(e)~~ "Single risk" means the insured amount of a any
251 title insurance policy, except that where two or more title
252 insurance policies are issued simultaneously covering different
253 estates in the same real property, "single risk" means the sum
254 of the insured amounts of all such ~~title insurance~~ policies. A
255 ~~Any~~ title insurance policy insuring a mortgage interest, a claim
256 payment under which reduces the insured amount of a fee or
257 leasehold title insurance policy, shall be excluded in computing
258 the amount of a single risk to the extent that the insured
259 amount of the mortgage title insurance policy does not exceed
260 the insured amount of the fee or leasehold title insurance
261 policy.

262 Section 3. Subsection (5) of section 624.407, Florida
263 Statutes, is amended to read:

264 624.407 Surplus required; new insurers.—

265 (5) For the purposes of this section, liabilities do not
266 include liabilities required under s. 625.041(5) ~~s. 625.041(4)~~.
267 For purposes of computing minimum surplus as to policyholders
268 pursuant to s. 625.305(1), liabilities include liabilities
269 required under s. 625.041(5) ~~s. 625.041(4)~~.

270 Section 4. Subsection (2) of section 624.408, Florida
271 Statutes, is amended to read:

272 624.408 Surplus required; current insurers.—



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273 (2) For purposes of this section, liabilities do not
274 include liabilities required under s. 625.041(5) ~~s. 625.041(4)~~.
275 For purposes of computing minimum surplus as to policyholders
276 pursuant to s. 625.305(1), liabilities include liabilities
277 required under s. 625.041(5) ~~s. 625.041(4)~~.

278

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

280 And the title is amended as follows:

281 Delete line 2

282 and insert:

283 An act relating to title insurance; amending s.
284 625.041, F.S.; specifying that a title insurer is
285 liable for all of its unpaid losses and claims;
286 amending s. 625.111, F.S.; revising and specifying the
287 reserves certain title insurers must set aside;
288 specifying how such reserves will be released;
289 specifying which state law governs the amount of the
290 reserve when a title insurer transfers its domicile to
291 this state; defining "bulk reserve"; amending ss.
292 624.407 and 624.408, F.S.; conforming cross-
293 references; amending s.