

A bill to be entitled

An act relating to title insurer reserves; amending s. 625.041, F.S.; revising criteria with respect to liabilities charged against assets in determinations of financial condition; amending s. 625.111, F.S.; specifying the reserves certain title insurers must set aside after a certain date; specifying the manner in which reserves must be released; specifying which state law governs the amount of the reserve for a title insurer who transfers domicile to this state; providing that a domestic title insurer is not required to record separate bulk reserves; revising and providing definitions; amending ss. 624.407 and 624.408, F.S.; conforming cross-references; providing an effective date.

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

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 losses and claims incurred on or before ~~prior to~~ the date of

27 | statement, whether reported or unreported, together with the
 28 | expenses of adjustment or settlement thereof.

29 | (2) With respect to title insurance, the amount, estimated
 30 | in accordance with this code, necessary to pay all of its known
 31 | unpaid losses and claims incurred on or before the date of
 32 | statement, together with the expenses of adjustment or
 33 | settlement thereof. This requirement is in addition to the
 34 | reserves required under s. 625.111.

35 | (3)-(2) With respect ~~reference~~ to life and health insurance
 36 | and annuity contracts:

37 | (a) The amount of reserves on life insurance policies and
 38 | annuity contracts in force, valued according to the tables of
 39 | mortality, rates of interest, and methods adopted pursuant to
 40 | this code which are applicable thereto.

41 | (b) Reserves for disability benefits, for both active and
 42 | disabled lives.

43 | (c) Reserves for accidental death benefits.

44 | (d) Any additional reserves that may be required by the
 45 | office in accordance ~~consistent~~ with practice formulated or
 46 | approved by the National Association of Insurance Commissioners
 47 | or its successor organization, on account of such insurance,
 48 | including contract and premium deficiency reserves.

49 | (4)-(3) With respect ~~reference~~ to insurance other than that
 50 | specified in subsections ~~subsection~~ (2) and (3), ~~and other than~~
 51 | ~~title insurance~~, the amount of reserves equal to the unearned
 52 | portions of the gross premiums charged on policies in force,

53 computed in accordance with this part.

54 ~~(5)(4)~~ Taxes, expenses, and other obligations due or
 55 accrued at the date of the statement.

56 ~~(6)(5)~~ An ~~Any~~ insurer in this state that writes workers'
 57 compensation insurance shall accrue a liability on its financial
 58 statements for all Special Disability Trust Fund assessments
 59 that are due within the current calendar year. ~~In addition,~~
 60 Those insurers shall also disclose in the notes to the financial
 61 statements required to be filed pursuant to s. 624.424 an
 62 estimate of future Special Disability Trust Fund assessments, if
 63 the assessments are likely to occur and can be estimated with
 64 reasonable certainty.

65 Section 2. Section 625.111, Florida Statutes, is amended
 66 to read:

67 625.111 Title insurance reserve.—In addition to an
 68 adequate reserve as to outstanding losses relating to known
 69 claims, as required under s. 625.041, a domestic title insurer
 70 shall establish, segregate, and maintain a guaranty fund or
 71 unearned premium reserve as provided in this section. The sums
 72 ~~required under this section~~ to be reserved for unearned premiums
 73 on title guarantees and policies ~~at all times and for all~~
 74 ~~purposes~~ shall be considered and constitute unearned portions of
 75 the original premiums and shall be charged as a reserve
 76 liability of the ~~such~~ insurer in determining its financial
 77 condition. ~~While~~ Such ~~sums are so~~ reserved funds, ~~they~~ shall be
 78 withdrawn from the use of the insurer for its general purposes,

79 impressed with a trust in favor of the holders of title
 80 guarantees and policies, and held available for reinsurance of
 81 the title guarantees and policies in the event of the insolvency
 82 of the insurer. ~~Nothing contained in~~ This section does not shall
 83 preclude the ~~such~~ insurer from investing such reserve in
 84 investments authorized by law, ~~for such an insurer~~ and the
 85 income from such investments ~~invested reserve~~ shall be included
 86 in the general income of the insurer and may ~~to~~ be used by such
 87 insurer for any lawful purpose.

88 (1) For an unearned premium reserve ~~reserves~~ established
 89 on or after July 1, 1999, such ~~unearned premium~~ reserve must be
 90 in shall consist of not less than an amount at least equal to
 91 the sum of paragraphs (a), (b), and (d) for title insurers
 92 holding less than \$50 million in surplus as to policyholders as
 93 of the previous year end and the sum of paragraphs (c) and (d)
 94 for title insurers holding \$50 million or more in surplus as to
 95 policyholders as of the previous year end:

96 (a) A reserve with respect to unearned premiums for
 97 policies written or title liability assumed in reinsurance
 98 before July 1, 1999, equal to the reserve established on June
 99 30, 1999, for those unearned premiums with such reserve being
 100 subsequently released as provided in subsection (2). For
 101 domestic title insurers subject to this section, such amounts
 102 shall be calculated in accordance with ~~provisions of law of this~~
 103 state law in effect at the time the associated premiums were
 104 written or assumed and as amended before ~~prior to~~ July 1, 1999.

105 (b) A total amount equal to 30 cents for each \$1,000 of
 106 net retained liability for policies written or title liability
 107 assumed in reinsurance on or after July 1, 1999, with such
 108 reserve being subsequently released as provided in subsection
 109 (2). For the purpose of calculating this reserve, the total of
 110 the net retained liability for all simultaneous issue policies
 111 covering a single risk shall be equal to the liability for the
 112 policy with the highest limit covering that single risk, net of
 113 any liability ceded in reinsurance.

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

- 118 1. Direct premiums written; and
- 119 2. Premiums for reinsurance assumed, plus other income,
 120 less premiums for reinsurance ceded as displayed in Schedule P
 121 of the title insurer's most recent annual statement filed with
 122 the office with such reserve being subsequently released as
 123 provided in subsection (2). Title insurers with less than \$50
 124 million in surplus as to policyholders must continue to record
 125 unearned premium reserve in accordance with paragraph (b).

126 (d)-(e) An additional amount, if deemed necessary by a
 127 qualified actuary, to ~~which shall~~ be subsequently released as
 128 provided in subsection (2). Using financial results as of
 129 December 31 of each year, all domestic title insurers shall
 130 obtain a Statement of Actuarial Opinion from a qualified actuary

131 regarding the insurer's loss and loss adjustment expense
132 reserves, including reserves for known claims, ~~adverse~~
133 ~~development on known claims~~, incurred but not reported claims,
134 and unallocated loss adjustment expenses. The actuarial opinion
135 must ~~shall~~ conform to the annual statement instructions for
136 title insurers adopted by the National Association of Insurance
137 Commissioners and ~~shall~~ include the actuary's professional
138 opinion of the insurer's reserves as of the date of the annual
139 statement. If the amount of the reserve stated in the opinion
140 and displayed in Schedule P of the annual statement for that
141 reporting date is greater than the sum of the known claim
142 reserve and unearned premium reserve as calculated under this
143 section, as of the same reporting date and including any
144 previous actuarial provisions added at earlier dates, the
145 insurer shall add to the insurer's unearned premium reserve an
146 actuarial amount equal to the reserve shown in the actuarial
147 opinion, minus the known claim reserve and the unearned premium
148 reserve, as of the current reporting date and calculated in
149 accordance with this section, but not ~~in no event~~ calculated as
150 of any date before ~~prior to~~ December 31, 1999. The comparison
151 shall be made using that line on Schedule P displaying the Total
152 Net Loss and Loss Adjustment Expense which is comprised of the
153 Known Claim Reserve, and any associated Adverse Development
154 Reserve, the reserve for Incurred But Not Reported Losses, and
155 Unallocated Loss Adjustment Expenses.

156 (2)(a) With respect to reserves ~~the reserve~~ established in

157 | accordance with:

158 | (a) Paragraph (1) (a), the domestic title insurer shall
159 | release the reserve over the subsequent ~~a period of 20~~
160 | ~~subsequent~~ years as provided in this paragraph. The insurer
161 | shall release 30 percent of the initial aggregate sum during
162 | 1999, with one quarter of that amount being released on March
163 | 31, June 30, September 30, and December 31, 1999, with the March
164 | 31 and June 30 releases to be retroactive and reflected on the
165 | September 30 financial statements. Thereafter, the insurer shall
166 | release, on the same quarterly basis as specified for reserves
167 | released during 1999, a percentage of the initial aggregate sum
168 | as follows: 15 percent during calendar year 2000, 10 percent
169 | during each of calendar years 2001 and 2002, 5 percent during
170 | each of calendar years 2003 and 2004, 3 percent during each of
171 | calendar years 2005 and 2006, 2 percent during each of calendar
172 | years 2007-2013, and 1 percent during each of calendar years
173 | 2014-2018.

174 | ~~(b) With respect to reserves established in accordance~~
175 | ~~with~~ Paragraph (1) (b), the unearned premium for policies written
176 | or title liability assumed during a particular calendar year
177 | shall be earned, and released from reserve, over the subsequent
178 | ~~a period of 20 subsequent~~ years as provided in this paragraph.
179 | The insurer shall release 30 percent of the initial sum during
180 | the year following ~~next succeeding~~ the year the premium was
181 | written or assumed, with one quarter of that amount being
182 | released on March 31, June 30, September 30, and December 31 of

183 such year. Thereafter, the insurer shall release, on the same
184 quarterly basis as specified for reserves released during the
185 year following ~~first succeeding~~ the year the premium was written
186 or assumed, a percentage of the initial sum as follows: 15
187 percent during the next succeeding year, 10 percent during each
188 of the next succeeding 2 years, 5 percent during each of the
189 next succeeding 2 years, 3 percent during each of the next
190 succeeding 2 years, 2 percent during each of the next succeeding
191 7 years, and 1 percent during each of the next succeeding 5
192 years.

193 (c) Paragraph (1)(c), the unearned premium for policies
194 written or title liability assumed during a particular calendar
195 year shall be earned, and released from reserve, over the
196 subsequent 20 years at an amortization rate not to exceed the
197 formula in this paragraph. The insurer shall release 35 percent
198 of the initial sum during the year following the year the
199 premium was written or assumed, with one quarter of that amount
200 being released on March 31, June 30, September 30, and December
201 31 of such year. Thereafter, the insurer shall release, on the
202 same quarterly basis, as specified for reserve released during
203 the year following the year the premium was written or assumed,
204 a percentage of the initial sum as follows: 15 percent during
205 each year of the next succeeding 2 years, 10 percent during the
206 next succeeding year, 3 percent during each of the next
207 succeeding 3 years, 2 percent during each of the succeeding 3
208 years, and 1 percent during each of the next succeeding 10

209 years.

210 ~~(d)(e) With respect to reserves established in accordance~~
211 ~~with~~ Paragraph (1)(d) ~~(1)(e)~~, any additional amount established
212 in any calendar year shall be released in the years subsequent
213 to its establishment as provided in paragraph (c) ~~(b)~~, with the
214 timing and percentage of releases being in all respects
215 identical to those of unearned premium reserves that are
216 calculated as provided in paragraph (c) ~~(b)~~ and established with
217 regard to premiums written or liability assumed in reinsurance
218 in the same year as the year in which any additional amount was
219 originally established.

220 (3) If a title insurer that is organized under the laws of
221 another state transfers its domicile to this state, the
222 statutory or unearned premium reserve shall be the amount
223 required by the laws of the state of the title insurer's former
224 state of domicile as of the date of transfer of domicile and
225 shall be released from reserve according to the requirements of
226 law in effect in the former state at the time of domicile. On or
227 after January 1, 2014, for new business written after the
228 effective date of the transfer of domicile to this state, the
229 domestic title insurer shall add to and set aside in the
230 statutory or unearned premium reserve such amount as provided in
231 paragraph (1)(c).

232 ~~(4)(3)~~ At any reporting date, the amount of the required
233 releases of existing unearned premium reserves under subsection
234 (2) shall be calculated and deducted from the total unearned

235 premium reserve before any additional amount is established for
 236 the current calendar year in accordance with ~~the provisions of~~
 237 paragraph (1) (d) ~~(1) (e)~~.

238 (5) A domestic title insurer is not required to record a
 239 separate bulk reserve. However, if a separate bulk reserve is
 240 recorded, the statutory premium reserve must be reduced by the
 241 amount recorded for such bulk reserve.

242 (6) (4) As used in this section, the term:

243 (a) "Bulk reserve" means provision for subsequent
 244 development on known claims.

245 (b) (a) "Net retained liability" means the total liability
 246 retained by a title insurer for a single risk, after taking into
 247 account the deduction for ceded liability, if any.

248 (c) (b) "Qualified actuary" means a person who is, as
 249 detailed in the National Association of Insurance Commissioners'
 250 Annual Statement Instructions:

251 1. A member in good standing of the Casualty Actuarial
 252 Society;

253 2. A member in good standing of the American Academy of
 254 Actuaries who has been approved as qualified for signing
 255 casualty loss reserve opinions by the Casualty Practice Council
 256 of the American Academy of Actuaries; or

257 3. A person who otherwise has competency in loss reserve
 258 evaluation as demonstrated to the satisfaction of the insurance
 259 regulatory official of the domiciliary state. In such case, at
 260 least 90 days before ~~prior to the filing of~~ its annual

261 statement, the insurer must request ~~approval~~ that the person be
262 deemed qualified and that request must be approved or denied.
263 The request must include the National Association of Insurance
264 Commissioners' Biographical Form and a list of all loss reserve
265 opinions issued in the last 3 years by this person.

266 (d)~~(e)~~ "Single risk" means the insured amount of a ~~any~~
267 title insurance policy, except that where two or more title
268 insurance policies are issued simultaneously covering different
269 estates in the same real property, "single risk" means the sum
270 of the insured amounts of all such ~~title insurance~~ policies. A
271 ~~Any~~ title insurance policy insuring a mortgage interest, a claim
272 payment under which reduces the insured amount of a fee or
273 leasehold title insurance policy, shall be excluded in computing
274 the amount of a single risk to the extent that the insured
275 amount of the mortgage title insurance policy does not exceed
276 the insured amount of the fee or leasehold title insurance
277 policy.

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

280 624.407 Surplus required; new insurers.—

281 (5) For the purposes of this section, liabilities do not
282 include liabilities required under s. 625.041(5) ~~625.041(4)~~. For
283 purposes of computing minimum surplus as to policyholders
284 pursuant to s. 625.305(1), liabilities include liabilities
285 required under s. 625.041(5) ~~625.041(4)~~.

286 Section 4. Subsection (2) of section 624.408, Florida

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287 Statutes, is amended to read:

288 624.408 Surplus required; current insurers.—

289 (2) For purposes of this section, liabilities do not
290 include liabilities required under s. 625.041(5) ~~625.041(4)~~. For
291 purposes of computing minimum surplus as to policyholders
292 pursuant to s. 625.305(1), liabilities include liabilities
293 required under s. 625.041(5) ~~625.041(4)~~.

294 Section 5. This act shall take effect upon becoming a law.