

1 A bill to be entitled

2 An act relating to title insurer reserves; amending s.  
3 625.041, F.S.; revising criteria with respect to  
4 liabilities charged against assets in determinations  
5 of financial condition; amending s. 625.111, F.S.;  
6 specifying the reserves certain title insurers must  
7 set aside after a certain date; specifying the manner  
8 in which reserves must be released; specifying which  
9 state law governs the amount of the reserve for a  
10 title insurer who transfers domicile to this state;  
11 providing that a domestic title insurer is not  
12 required to record separate bulk reserves; requiring a  
13 domestic title insurer to obtain approval from the  
14 Office of Insurance Regulation before using or  
15 recording a bulk reserve; revising and providing  
16 definitions; amending ss. 624.407 and 624.408, F.S.;  
17 conforming cross-references; providing an effective  
18 date.

19  
20 Be It Enacted by the Legislature of the State of Florida:

21  
22 Section 1. Section 625.041, Florida Statutes, is amended  
23 to read:

24 625.041 Liabilities, in general.—In any determination of  
25 the financial condition of an insurer, liabilities to be charged  
26 against its assets ~~shall~~ include:

27 (1) The amount, estimated in accordance ~~consistent~~ with  
 28 ~~the provisions of~~ this code, necessary to pay all of its unpaid  
 29 losses and claims incurred on or before ~~prior to~~ the date of  
 30 statement, whether reported or unreported, together with the  
 31 expenses of adjustment or settlement thereof.

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

38 (3)-(2) With respect ~~reference~~ to life and health insurance  
 39 and annuity contracts:

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

44 (b) Reserves for disability benefits, for both active and  
 45 disabled lives.

46 (c) Reserves for accidental death benefits.

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

52 (4)-(3) With respect ~~reference~~ to insurance other than that

53 specified in subsections ~~subsection~~ (2) and (3), ~~and other than~~  
 54 ~~title insurance~~, the amount of reserves equal to the unearned  
 55 portions of the gross premiums charged on policies in force,  
 56 computed in accordance with this part.

57 ~~(5)-(4)~~ Taxes, expenses, and other obligations due or  
 58 accrued at the date of the statement.

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

68 Section 2. Section 625.111, Florida Statutes, is amended  
 69 to read:

70 625.111 Title insurance reserve.—In addition to an  
 71 adequate reserve as to outstanding losses relating to known  
 72 claims, ~~as required under s. 625.041,~~ a domestic title insurer  
 73 shall establish, segregate, and maintain a guaranty fund or  
 74 unearned premium reserve as provided in this section. The sums  
 75 ~~required under this section~~ to be reserved for unearned premiums  
 76 on title guarantees and policies ~~at all times and for all~~  
 77 ~~purposes~~ shall be considered and constitute unearned portions of  
 78 the original premiums and shall be charged as a reserve

79 liability of the ~~such~~ insurer in determining its financial  
 80 condition. ~~While Such sums are so reserved funds, they~~ shall be  
 81 withdrawn from the use of the insurer for its general purposes,  
 82 impressed with a trust in favor of the holders of title  
 83 guarantees and policies, and held available for reinsurance of  
 84 the title guarantees and policies in the event of the insolvency  
 85 of the insurer. ~~Nothing contained in~~ This section does not ~~shall~~  
 86 preclude the ~~such~~ insurer from investing such reserve in  
 87 investments authorized by law, ~~for such an insurer~~ and the  
 88 income from such investments ~~invested reserve~~ shall be included  
 89 in the general income of the insurer and may ~~to~~ be used by such  
 90 insurer for any lawful purpose.

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

99 (a) A reserve with respect to unearned premiums for  
 100 policies written or title liability assumed in reinsurance  
 101 before July 1, 1999, equal to the reserve established on June  
 102 30, 1999, for those unearned premiums with such reserve being  
 103 subsequently released as provided in subsection (2). For  
 104 domestic title insurers subject to this section, such amounts

105 shall be calculated in accordance with ~~provisions of law of this~~  
 106 state law in effect at the time the associated premiums were  
 107 written or assumed and as amended before ~~prior to~~ July 1, 1999.

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

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

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

129 (d)-(e) An additional amount, if deemed necessary by a  
 130 qualified actuary, to ~~which shall~~ be subsequently released as

131 provided in subsection (2). Using financial results as of  
132 December 31 of each year, all domestic title insurers shall  
133 obtain a Statement of Actuarial Opinion from a qualified actuary  
134 regarding the insurer's loss and loss adjustment expense  
135 reserves, including reserves for known claims, ~~adverse~~  
136 ~~development on known claims,~~ incurred but not reported claims,  
137 and unallocated loss adjustment expenses. The actuarial opinion  
138 must ~~shall~~ conform to the annual statement instructions for  
139 title insurers adopted by the National Association of Insurance  
140 Commissioners and ~~shall~~ include the actuary's professional  
141 opinion of the insurer's reserves as of the date of the annual  
142 statement. If the amount of the reserve stated in the opinion  
143 and displayed in Schedule P of the annual statement for that  
144 reporting date is greater than the sum of the known claim  
145 reserve and unearned premium reserve as calculated under this  
146 section, as of the same reporting date and including any  
147 previous actuarial provisions added at earlier dates, the  
148 insurer shall add to the insurer's unearned premium reserve an  
149 actuarial amount equal to the reserve shown in the actuarial  
150 opinion, minus the known claim reserve and the unearned premium  
151 reserve, as of the current reporting date and calculated in  
152 accordance with this section, but not ~~in no event~~ calculated as  
153 of any date before ~~prior to~~ December 31, 1999. The comparison  
154 shall be made using that line on Schedule P displaying the Total  
155 Net Loss and Loss Adjustment Expense which is comprised of the  
156 Known Claim Reserve, and any associated Adverse Development

157 Reserve, the reserve for Incurred But Not Reported Losses, and  
158 Unallocated Loss Adjustment Expenses.

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

161 (a) Paragraph (1) (a), the domestic title insurer shall  
162 release the reserve over the subsequent ~~a period of 20~~  
163 ~~subsequent~~ years as provided in this paragraph. The insurer  
164 shall release 30 percent of the initial aggregate sum during  
165 1999, with one quarter of that amount being released on March  
166 31, June 30, September 30, and December 31, 1999, with the March  
167 31 and June 30 releases to be retroactive and reflected on the  
168 September 30 financial statements. Thereafter, the insurer shall  
169 release, on the same quarterly basis as specified for reserves  
170 released during 1999, a percentage of the initial aggregate sum  
171 as follows: 15 percent during calendar year 2000, 10 percent  
172 during each of calendar years 2001 and 2002, 5 percent during  
173 each of calendar years 2003 and 2004, 3 percent during each of  
174 calendar years 2005 and 2006, 2 percent during each of calendar  
175 years 2007-2013, and 1 percent during each of calendar years  
176 2014-2018.

177 (b) ~~With respect to reserves established in accordance~~  
178 ~~with~~ Paragraph (1) (b), the unearned premium for policies written  
179 or title liability assumed during a particular calendar year  
180 shall be earned, and released from reserve, over the subsequent  
181 ~~a period of 20 subsequent~~ years as provided in this paragraph.  
182 The insurer shall release 30 percent of the initial sum during

183 the year following ~~next succeeding~~ the year the premium was  
184 written or assumed, with one quarter of that amount being  
185 released on March 31, June 30, September 30, and December 31 of  
186 such year. Thereafter, the insurer shall release, on the same  
187 quarterly basis as specified for reserves released during the  
188 year following ~~first succeeding~~ the year the premium was written  
189 or assumed, a percentage of the initial sum as follows: 15  
190 percent during the next succeeding year, 10 percent during each  
191 of the next succeeding 2 years, 5 percent during each of the  
192 next succeeding 2 years, 3 percent during each of the next  
193 succeeding 2 years, 2 percent during each of the next succeeding  
194 7 years, and 1 percent during each of the next succeeding 5  
195 years.

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



209 next succeeding year, 3 percent during each of the next  
210 succeeding 3 years, 2 percent during each of the succeeding 3  
211 years, and 1 percent during each of the next succeeding 10  
212 years.

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

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

235 (4)~~(3)~~ At any reporting date, the amount of the required  
 236 releases of existing unearned premium reserves under subsection  
 237 (2) shall be calculated and deducted from the total unearned  
 238 premium reserve before any additional amount is established for  
 239 the current calendar year in accordance with ~~the provisions of~~  
 240 paragraph (1) (d) ~~(1) (e)~~.

241 (5) A domestic title insurer is not required to record a  
 242 separate bulk reserve. However, if a separate bulk reserve is  
 243 recorded, the statutory premium reserve must be reduced by the  
 244 amount recorded for such bulk reserve. A domestic title insurer  
 245 must obtain approval from the office before using or recording a  
 246 bulk reserve.

247 (6)~~(4)~~ As used in this section, the term:

248 (a) "Bulk reserve" means provision for subsequent  
 249 development on known claims.

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

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

256 1. A member in good standing of the Casualty Actuarial  
 257 Society;

258 2. A member in good standing of the American Academy of  
 259 Actuaries who has been approved as qualified for signing  
 260 casualty loss reserve opinions by the Casualty Practice Council

261 of the American Academy of Actuaries; or

262 3. A person who otherwise has competency in loss reserve  
 263 evaluation as demonstrated to the satisfaction of the insurance  
 264 regulatory official of the domiciliary state. In such case, at  
 265 least 90 days before ~~prior to the~~ filing ~~of~~ its annual  
 266 statement, the insurer must request ~~approval~~ that the person be  
 267 deemed qualified and that request must be approved or denied.  
 268 The request must include the National Association of Insurance  
 269 Commissioners' Biographical Form and a list of all loss reserve  
 270 opinions issued in the last 3 years by this person.

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

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

285 624.407 Surplus required; new insurers.—

286 (5) For the purposes of this section, liabilities do not

287 include liabilities required under s. 625.041(5) ~~625.041(4)~~. For  
288 purposes of computing minimum surplus as to policyholders  
289 pursuant to s. 625.305(1), liabilities include liabilities  
290 required under s. 625.041(5) ~~625.041(4)~~.

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

293 624.408 Surplus required; current insurers.—

294 (2) For purposes of this section, liabilities do not  
295 include liabilities required under s. 625.041(5) ~~625.041(4)~~. For  
296 purposes of computing minimum surplus as to policyholders  
297 pursuant to s. 625.305(1), liabilities include liabilities  
298 required under s. 625.041(5) ~~625.041(4)~~.

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