

By Senator Hukill

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1 A bill to be entitled
2 An act relating to title insurance; amending s.
3 631.401, F.S.; revising procedures and requirements
4 relating to the recovery of assessments from title
5 insurers through surcharges assessed on policies;
6 revising provisions relating to surcharges collected
7 in excess of the assessments paid by title insurers;
8 revising requirements for the payment of excess
9 surcharges to the Insurance Regulatory Trust Fund;
10 authorizing the Office of Insurance Regulation to
11 adopt rules for certain purposes; providing an
12 effective date.

13
14 Be It Enacted by the Legislature of the State of Florida:

15
16 Section 1. Section 631.401, Florida Statutes, is amended to
17 read:

18 631.401 Recovery of assessments and assumed policy
19 obligations.—

20 (1) Upon the making of any assessment allowed by s.
21 631.400, the office shall order a surcharge or, if a surcharge
22 is currently in effect, an additional surcharge amount on each
23 title insurance policy thereafter issued insuring an interest in
24 real property in this state. The office shall set the per
25 transaction surcharge at an amount estimated to generate
26 sufficient funds to recover the amount assessed over a period of
27 not more than 7 years. The amount of the surcharge ordered under
28 this section may not exceed \$25 per transaction for each
29 impaired title insurer. ~~If additional surcharges are occasioned~~

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30 ~~by additional title insurers becoming impaired, the office shall~~
31 ~~order an increase in the amount of the surcharge to reflect the~~
32 ~~aggregate surcharge.~~

33 (2) The party responsible for the payment of title
34 insurance premium, unless otherwise agreed between the parties,
35 shall be responsible for the payment of the surcharge. No
36 surcharge will be due or owing as to any policy of title
37 insurance subject to ~~issued at~~ the simultaneous issue premium
38 ~~rate. For all other purposes,~~ The surcharge will be considered a
39 governmental assessment to be separately stated on any
40 settlement statement as a surcharge. The surcharge is not
41 premium and is not subject to premium tax or reserve
42 requirements under chapter 625.

43 (3) Title insurers doing business in this state which are
44 not subject to a given assessment ~~writing no premiums in the~~
45 ~~prior calendar year~~ shall collect the same per transaction
46 surcharge as provided by this section. Such surcharge collected
47 shall be paid to the receiver within 60 days after receipt to be
48 maintained in an excess surcharge account and used only as
49 provided in subsection (6) ~~from the title agent or agency.~~

50 (4) Each title insurance agent, agency, or direct title
51 operation shall collect the surcharge as to each title insurance
52 policy written and remit those surcharges ~~along with the~~
53 ~~policies and premiums~~ within 60 days to the title insurer on
54 which ~~whom~~ the policy was written.

55 (5) A title insurer may not retain more in surcharges ~~for~~
56 ~~an ordered assessment~~ than the amount of aggregate assessments
57 paid by the assessment that title insurer ~~paid~~. Any surcharges
58 collected in excess of the amount of the aggregate assessments

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59 paid by a title insurer shall be paid as provided in subsection
60 (6). As used in this section, the term "aggregate assessments"
61 means the total amount of assessments ordered by the office
62 under s. 631.400.

63 (6) Each title insurer collecting surcharges shall promptly
64 notify the office when it has collected surcharges equal to the
65 amount of the aggregate assessments ~~assessment~~ paid pursuant to
66 s. 631.400. The office shall notify all companies, including
67 those collecting surcharges as required by subsection (3), to
68 cease collecting surcharges when notified that all aggregate
69 assessments have been recovered. Any surcharges collected by a
70 title insurer in excess of the total amount it was assessed for
71 aggregate assessments shall be paid quarterly to the receiver to
72 be maintained in the excess surcharge account by the receiver.
73 Excess surcharges may be used by the receiver for the following
74 purposes only:

75 (a) To reduce or eliminate the amount of a future
76 assessment for a title insurer in receivership;

77 (b) To reduce the amount of time that consumers in the
78 state are subject to surcharges by transferring excess
79 surcharges to title insurers that have not fully collected
80 surcharges equal to the amount of the aggregate assessments they
81 paid pursuant to s. 631.400; or

82 (c) To reduce or eliminate the need for future assessments
83 for title insurers not yet in receivership.

84 (7) In conjunction with the filing of each quarterly
85 financial statement, each title insurer shall provide the office
86 with an accounting of assessments paid and surcharges collected
87 during the period. Any surcharges collected in excess of the

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88 amount assessed which are not used under subsection (6) within 1
89 year after the termination of all title insurer receiverships
90 shall be paid to the Insurance Regulatory Trust Fund. The office
91 may adopt rules specifying procedures for the collection, use,
92 and transfer of surcharges, including excess surcharges.

93 Section 2. This act shall take effect July 1, 2015.