

By the Committee on Banking and Insurance; and Senator Hukill

597-02402-15

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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 Financial Services Commission and the  
11      Department of Financial Services to adopt rules for  
12      certain purposes; providing an 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 by the title insurers that wrote  
70 policies in the state during the previous calendar year. Any  
71 surcharges collected by a title insurer in excess of the total  
72 amount it was assessed for aggregate assessments shall be paid  
73 quarterly to the receiver to be maintained in the excess  
74 surcharge account by the receiver. Excess surcharges may be used  
75 by the receiver for the following purposes only:

76 (a) To reduce or eliminate the amount of a future  
77 assessment for a title insurer that is in receivership at the  
78 time of the assessment or that later enters receivership; or

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

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.

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88       (8) If the receiver has no active title insurer  
89 receiverships for 12 consecutive months or if there have been no  
90 payable claims against any title insurer receivership for 60  
91 consecutive months, all excess surcharges held by the receiver  
92 under this section ~~Any surcharges collected in excess of the~~  
93 ~~amount assessed~~ shall be paid into ~~to~~ the Insurance Regulatory  
94 Trust Fund.

95       (9) The Financial Services Commission may adopt rules  
96 specifying procedures for the collection, use, and transfer of  
97 surcharges, including excess surcharges.

98       (10) The department may adopt rules specifying procedures  
99 for claiming, distributing, and using excess surcharge account  
100 funds held by the receiver under this section and for the  
101 purposes specified in subsection (6).

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