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 to adopt rules for certain purposes; authorizing the Division 11 12 of Rehabilitation and Liquidation to adopt rules for certain purposes; providing an effective date. 13 14 15 Be It Enacted by the Legislature of the State of Florida: 16 17 Section 1. Section 631.401, Florida Statutes, is amended 18 to read: 19 631.401 Recovery of assessments and assumed policy 20 obligations.-21 (1)Upon the making of any assessment allowed by s. 2.2 631.400, the office shall order a surcharge or, if a surcharge 23 is currently in effect, an additional surcharge amount on each title insurance policy thereafter issued insuring an interest in 24 25 real property in this state. The office shall set the per 26 transaction surcharge at an amount estimated to generate Page 1 of 4

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27 sufficient funds to recover the amount assessed over a period of 28 not more than 7 years. The amount of the surcharge ordered under 29 this section may not exceed \$25 per transaction for each 30 impaired title insurer. If additional surcharges are occasioned 31 by additional title insurers becoming impaired, the office shall 32 order an increase in the amount of the surcharge to reflect the 33 aggregate surcharge.

34 The party responsible for the payment of title (2) 35 insurance premium, unless otherwise agreed between the parties, 36 shall be responsible for the payment of the surcharge. No 37 surcharge will be due or owing as to any policy of title 38 insurance subject to issued at the simultaneous issue premium 39 rate. For all other purposes, The surcharge will be considered a 40 governmental assessment to be separately stated on any settlement statement as a surcharge. The surcharge is not 41 42 premium and is not subject to premium tax or reserve 43 requirements under chapter 625.

44 Title insurers doing business in this state which are (3)45 not subject to a given assessment writing no premiums in the prior calendar year shall collect the same per transaction 46 47 surcharge as provided by this section. Such surcharge collected 48 shall be paid to the receiver within 60 days after receipt to be maintained in an excess surcharge account and used only as 49 50 provided in subsection (6) from the title agent or agency. 51 (4) Each title insurance agent, agency, or direct title 52 operation shall collect the surcharge as to each title insurance

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53	policy written and remit those surcharges along with the
54	policies and premiums within 60 days to the title insurer on
55	which whom the policy was written.
56	(5) A title insurer may not retain more in surcharges for
57	an ordered assessment than the amount of aggregate assessments
58	paid by the assessment that title insurer paid. Any surcharges
59	collected in excess of the amount of the aggregate assessments
60	paid by a title insurer shall be paid as provided in subsection
61	(6). As used in this section, the term "aggregate assessments"
62	means the total amount of assessments ordered by the office
63	<u>under s. 631.400.</u>
64	(6) Each title insurer collecting surcharges shall
65	promptly notify the office when it has collected surcharges
66	equal to the amount of the <u>aggregate assessments</u> assessment paid
67	pursuant to s. 631.400. The office shall notify all companies,
68	including those collecting surcharges as required by subsection
69	(3), to cease collecting surcharges when notified that all
70	aggregate assessments have been recovered by the title insurers
71	that wrote policies in the state during the previous calendar
72	year. Any surcharges collected by a title insurer in excess of
73	the total amount it was assessed for aggregate assessments shall
74	be paid quarterly to the receiver to be maintained in the excess
75	surcharge account by the receiver. Excess surcharges may be used
76	by the receiver for the following purposes only:
77	(a) To reduce or eliminate the amount of a future
78	assessment for a title insurer in receivership at the time of
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79 the assessment or that later enters receivership; or 80 To reduce the amount of time that consumers in the (b) 81 state are subject to surcharges by transferring excess 82 surcharges to title insurers that have not fully collected 83 surcharges equal to the amount of the aggregate assessments paid 84 by title insurers pursuant to s. 631.400. 85 In conjunction with the filing of each quarterly (7) 86 financial statement, each title insurer shall provide the office with an accounting of assessments paid and surcharges collected 87 88 during the period. 89 If the receiver has no active title insurer (8) receiverships for 12 consecutive months, or there have been no 90 91 payable claims against any title insurer receivership for 60 consecutive months, all excess surcharges held by the receiver 92 93 under this section Any surcharges collected in excess of the 94 amount assessed shall be paid into to the Insurance Regulatory 95 Trust Fund. (9) The Financial Services Commission may adopt rules 96 97 specifying procedures for the collection, use, and transfer of 98 surcharges, including excess surcharges. 99 (10) The Division of Rehabilitation and Liquidation may 100 adopt rules specifying procedures for claiming, distributing, 101 and using excess surcharge account funds held by the receiver 102 under this section and for the purposes specified in subsection 103 (6). 104 Section 2. This act shall take effect July 1, 2015. Page 4 of 4

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