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CS/HB 927, Engrossed 1

2015 Legislature

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 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
 17 to 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



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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~~
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~~



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2015 Legislature

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
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
64 promptly notify the office when it has collected surcharges
65 equal to the amount of the aggregate assessments ~~assessment~~ paid
66 pursuant to s. 631.400. The office shall notify all companies,
67 including those collecting surcharges as required by subsection
68 (3), to cease collecting surcharges when notified that all
69 aggregate assessments have been recovered by the title insurers
70 that wrote policies in the state during the previous calendar
71 year. Any surcharges collected by a title insurer in excess of
72 the total amount it was assessed for aggregate assessments shall
73 be paid 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 in receivership at the time of
78 the assessment or that later enters receivership; or



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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.

88 (8) If the receiver has no active title insurer
89 receiverships for 12 consecutive months, or 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.