

By Senator Bradley

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1                   A bill to be entitled  
2           An act relating to title insurance; amending s.  
3           625.111, F.S.; revising the reserves that certain  
4           title insurers must set aside after a certain date;  
5           revising the manner in which reserves must be  
6           released; revising reserve requirements for a title  
7           insurer who transfers domicile to this state;  
8           providing an effective date.

9  
10   Be It Enacted by the Legislature of the State of Florida:

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12           Section 1. Subsections (1) and (3) of section 625.111,  
13   Florida Statutes, are amended to read:

14           625.111 Title insurance reserve.—In addition to an adequate  
15   reserve as to outstanding losses relating to known claims as  
16   required under s. 625.041, a domestic title insurer shall  
17   establish, segregate, and maintain a guaranty fund or unearned  
18   premium reserve as provided in this section. The sums to be  
19   reserved for unearned premiums on title guarantees and policies  
20   shall be considered and constitute unearned portions of the  
21   original premiums and shall be charged as a reserve liability of  
22   the insurer in determining its financial condition. Such  
23   reserved funds shall be withdrawn from the use of the insurer  
24   for its general purposes, impressed with a trust in favor of the  
25   holders of title guarantees and policies, and held available for  
26   reinsurance of the title guarantees and policies in the event of  
27   the insolvency of the insurer. This section does not preclude  
28   the insurer from investing such reserve in investments  
29   authorized by law, and the income from such investments shall be

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30 included in the general income of the insurer and may be used by  
31 such insurer for any lawful purpose.

32 (1) For an unearned premium reserve established on or after  
33 July 1, 1999, such reserve must be in an amount at least equal  
34 to the sum of paragraphs (a), (b), and (d) for title insurers  
35 holding less than \$50 million in surplus as to policyholders as  
36 of the previous year end and the sum of paragraphs (c) and (d)  
37 for title insurers holding \$50 million or more in surplus as to  
38 policyholders as of the previous year end or title insurers that  
39 are members of an insurance holding company system having \$1  
40 billion or more in surplus as to policyholders and rated "A-" or  
41 higher by A.M. Best Company:

42 (a) A reserve with respect to unearned premiums for  
43 policies written or title liability assumed in reinsurance  
44 before July 1, 1999, equal to the reserve established on June  
45 30, 1999, for those unearned premiums with such reserve being  
46 subsequently released as provided in subsection (2). For  
47 domestic title insurers subject to this section, such amounts  
48 shall be calculated in accordance with state law in effect at  
49 the time the associated premiums were written or assumed and as  
50 amended before July 1, 1999.

51 (b) A total amount equal to 30 cents for each \$1,000 of net  
52 retained liability for policies written or title liability  
53 assumed in reinsurance on or after July 1, 1999, with such  
54 reserve being subsequently released as provided in subsection  
55 (2). For the purpose of calculating this reserve, the total of  
56 the net retained liability for all simultaneous issue policies  
57 covering a single risk shall be equal to the liability for the  
58 policy with the highest limit covering that single risk, net of

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59 any liability ceded in reinsurance.

60 (c) On or after January 1, 2014, for title insurers that  
61 are members of an insurance holding company system having \$1  
62 billion or more in surplus as to policyholders and rated "A-" or  
63 higher by A.M. Best Company or title insurers holding \$50  
64 million or more in surplus as to policyholders as of the  
65 previous year end, a minimum of 6.5 percent of the total of the  
66 following:

67 1. Direct premiums written; and  
68 2. Premiums for reinsurance assumed, plus other income,  
69 less premiums for reinsurance ceded as displayed in Schedule P  
70 of the title insurer's most recent annual statement filed with  
71 the office with such reserve being subsequently released as  
72 provided in subsection (2). Title insurers with less than \$50  
73 million in surplus as to policyholders that are not members of  
74 an insurance holding company system holding \$1 billion or more  
75 in surplus as to policyholders and rated "A-" or higher by A.M.  
76 Best Company must continue to record unearned premium reserve in  
77 accordance with paragraph (b).

78 (d) An additional amount, if deemed necessary by a  
79 qualified actuary, to be subsequently released as provided in  
80 subsection (2). Using financial results as of December 31 of  
81 each year, all domestic title insurers shall obtain a Statement  
82 of Actuarial Opinion from a qualified actuary regarding the  
83 insurer's loss and loss adjustment expense reserves, including  
84 reserves for known claims, incurred but not reported claims, and  
85 unallocated loss adjustment expenses. The actuarial opinion must  
86 conform to the annual statement instructions for title insurers  
87 adopted by the National Association of Insurance Commissioners

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88 and include the actuary's professional opinion of the insurer's  
89 reserves as of the date of the annual statement. If the amount  
90 of the reserve stated in the opinion and displayed in Schedule P  
91 of the annual statement for that reporting date is greater than  
92 the sum of the known claim reserve and unearned premium reserve  
93 as calculated under this section, as of the same reporting date  
94 and including any previous actuarial provisions added at earlier  
95 dates, the insurer shall add to the insurer's unearned premium  
96 reserve an actuarial amount equal to the reserve shown in the  
97 actuarial opinion, minus the known claim reserve and the  
98 unearned premium reserve, as of the current reporting date and  
99 calculated in accordance with this section, but not calculated  
100 as of any date before December 31, 1999. The comparison shall be  
101 made using that line on Schedule P displaying the Total Net Loss  
102 and Loss Adjustment Expense which is comprised of the Known  
103 Claim Reserve, and any associated Adverse Development Reserve,  
104 the reserve for Incurred But Not Reported Losses, and  
105 Unallocated Loss Adjustment Expenses.

106 (3) If a title insurer that is organized under the laws of  
107 another state transfers its domicile to this state, the  
108 statutory or unearned premium reserve shall be the amount  
109 required by the laws of the state of the title insurer's former  
110 state of domicile as of the date of transfer of domicile and  
111 shall be released from reserve over the subsequent 20 years at  
112 an amortization rate not to exceed the formula in paragraph  
113 (2) (c) according to the requirements of law in effect in the  
114 former state at the time of domicile. On or after January 1,  
115 2014, for new business written after the effective date of the  
116 transfer of domicile to this state, the domestic title insurer

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117 shall add to and set aside in the statutory or unearned premium  
118 reserve such amount as provided in subsection (1).

119 Section 2. This act shall take effect July 1, 2016.