

By the Committee on Banking and Insurance; and 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.

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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23 reserved funds shall be withdrawn from the use of the insurer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
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

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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 that has \$1
40 billion or more in surplus as to policyholders and a superior,
41 excellent, exceptional, or an equivalent financial strength
42 rating by a rating agency acceptable to the office:

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

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

61 (c) On or after January 1, 2014, for title insurers that

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62 are members of an insurance holding company system that has \$1
63 billion or more in surplus as to policyholders and a superior,
64 excellent, exceptional, or an equivalent financial strength
65 rating by a rating agency acceptable to the office, or title
66 insurers holding \$50 million or more in surplus as to
67 policyholders as of the previous year end, a minimum of 6.5
68 percent of the total of the following:

69 1. Direct premiums written; and
70 2. Premiums for reinsurance assumed, plus other income,
71 less premiums for reinsurance ceded as displayed in Schedule P
72 of the title insurer's most recent annual statement filed with
73 the office with such reserve being subsequently released as
74 provided in subsection (2). Title insurers with less than \$50
75 million in surplus as to policyholders that are not members of
76 an insurance holding company system that has \$1 billion or more
77 in surplus as to policyholders and a superior, excellent,
78 exceptional, or an equivalent financial strength rating by a
79 rating agency acceptable to the office must continue to record
80 unearned premium reserve in accordance with paragraph (b).

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

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

109 (3) If a title insurer that is organized under the laws of
110 another state transfers its domicile to this state, the
111 statutory or unearned premium reserve shall be the amount
112 required by the laws of the state of the title insurer's former
113 state of domicile as of the date of transfer of domicile and
114 shall be released from reserve over the subsequent 20 years at
115 an amortization rate not to exceed the formula in paragraph
116 (2) (c) according to the requirements of law in effect in the
117 former state at the time of domicile. On or after January 1,
118 2014, for new business written after the effective date of the
119 transfer of domicile to this state, the domestic title insurer

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

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