

By the Committees on Commerce and Tourism; and 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 premium reserve requirements and  
7 calculations for a title insurer who transfers  
8 domicile to this state; providing an effective date.

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

11  
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23 reserved funds shall be withdrawn from the use of the insurer  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.

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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 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.

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

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90 adopted by the National Association of Insurance Commissioners  
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 insurer  
111 shall calculate an adjusted statutory or unearned premium  
112 reserve as of the effective date of redomestication to this  
113 state. The adjusted statutory or unearned premium reserve shall  
114 be calculated as if subsections (1) and (2) had been in effect  
115 as to the insurer's foreign statutory premium reserve for all  
116 years beginning 20 years before the effective date of  
117 redomestication. For purposes of calculating the adjusted  
118 statutory or unearned premium reserve, the balance of the

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119 insurer's foreign statutory premium reserve as of the date 20  
120 years before the redomestication shall be \$0. If the adjusted  
121 statutory or unearned premium reserve exceeds the aggregate  
122 amount set aside for statutory or unearned premiums in the  
123 insurer's annual statement on file with the office on the date  
124 of redomestication, the insurer shall, out of total charges for  
125 policies of title insurance, increase its statutory or unearned  
126 premium reserve by an amount equal to one-sixth of that excess  
127 in each of the succeeding 6 years, commencing with the calendar  
128 year that includes the redomestication, until the entire excess  
129 has been added. If the adjusted statutory or unearned premium  
130 reserve is less than the aggregate amount set aside for  
131 statutory or unearned premiums in the insurer's annual statement  
132 on file with the office on the date of redomestication, the  
133 insurer may release the excess into surplus statutory or  
134 ~~unearned premium reserve shall be the amount required by the~~  
135 ~~laws of the state of the title insurer's former state of~~  
136 ~~domicile as of the date of transfer of domicile and shall be~~  
137 ~~released from reserve according to the requirements of law in~~  
138 ~~effect in the former state at the time of domicile. On or after~~  
139 ~~January 1, 2014, for new business written after the effective~~  
140 ~~date of the transfer of domicile to this state, the domestic~~  
141 ~~title insurer shall add to and set aside in the statutory or~~  
142 ~~unearned premium reserve such amount as provided in subsection~~  
143 ~~(1).~~

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