

1 A bill to be entitled
 2 An act relating to title insurer reserves; amending s.
 3 625.041, F.S.; specifying that a title insurer is
 4 liable for all of its unpaid losses and claims;
 5 amending s. 625.111, F.S.; specifying the reserves
 6 certain title insurers must set aside after a certain
 7 date; specifying how such reserves will be released;
 8 specifying which state law governs the amount of the
 9 reserve when a title insurer transfers its domicile to
 10 this state; defining "bulk reserve"; amending ss.
 11 624.407 and 624.408, F.S.; conforming cross-
 12 references; providing an effective date.

13
 14 Be It Enacted by the Legislature of the State of Florida:

15
 16 Section 1. Section 625.041, Florida Statutes, is amended
 17 to read:

18 625.041 Liabilities, in general.—In any determination of
 19 the financial condition of an insurer, liabilities to be charged
 20 against its assets ~~shall~~ include:

21 (1) The amount, estimated in accordance ~~consistent~~ with
 22 ~~the provisions of this code~~, necessary to pay all of its unpaid
 23 losses and claims incurred on or prior to the date of statement,
 24 whether reported or unreported, together with the expenses of
 25 adjustment or settlement thereof.

26 (2) With respect to title insurance, the amount, estimated

27 in accordance with this code, necessary to pay all of its known
 28 unpaid losses and claims incurred on or before the date of
 29 statement, together with the expenses of adjustment or
 30 settlement thereof. This requirement is in addition to the
 31 reserves required under s. 625.111.

32 (3)-(2) With respect ~~reference~~ to life and health insurance
 33 and annuity contracts:

34 (a) The amount of reserves on life insurance policies and
 35 annuity contracts in force, valued according to the tables of
 36 mortality, rates of interest, and methods adopted pursuant to
 37 this code which are applicable thereto.

38 (b) Reserves for disability benefits, for both active and
 39 disabled lives.

40 (c) Reserves for accidental death benefits.

41 (d) Any additional reserves that may be required by the
 42 office in accordance ~~consistent~~ with practice formulated or
 43 approved by the National Association of Insurance Commissioners
 44 or its successor organization, on account of such insurance,
 45 including contract and premium deficiency reserves.

46 (4)-(3) With respect ~~reference~~ to insurance other than that
 47 specified in subsections (2) and subsection (3) (2), and other
 48 than title insurance, the amount of reserves equal to the
 49 unearned portions of the gross premiums charged on policies in
 50 force, computed in accordance with this part.

51 (5)-(4) Taxes, expenses, and other obligations due or
 52 accrued at the date of the statement.

53 (6)~~(5)~~ An ~~Any~~ insurer in this state that writes workers'
 54 compensation insurance shall accrue a liability on its financial
 55 statements for all Special Disability Trust Fund assessments
 56 that are due within the current calendar year. ~~In addition,~~
 57 Those insurers shall also disclose in the notes to the financial
 58 statements required to be filed pursuant to s. 624.424 an
 59 estimate of future Special Disability Trust Fund assessments, if
 60 the assessments are likely to occur and can be estimated with
 61 reasonable certainty.

62 Section 2. Section 625.111, Florida Statutes, is amended
 63 to read:

64 625.111 Title insurance reserve.—In addition to an
 65 adequate reserve as to outstanding losses relating to known
 66 claims, as required under s. 625.041, a domestic title insurer
 67 shall establish, segregate, and maintain a guaranty fund or
 68 unearned premium reserve as provided in this section. The sums
 69 ~~required under this section~~ to be reserved for unearned premiums
 70 on title guarantees and policies ~~at all times and for all~~
 71 ~~purposes~~ shall be considered and constitute unearned portions of
 72 the original premiums and shall be charged as a reserve
 73 liability of the ~~such~~ insurer in determining its financial
 74 condition. ~~While~~ Such ~~sums are so~~ reserved funds, ~~they~~ shall be
 75 withdrawn from the use of the insurer for its general purposes,
 76 impressed with a trust in favor of the holders of title
 77 guarantees and policies, and held available for reinsurance of
 78 the title guarantees and policies in the event of the insolvency

79 of the insurer. ~~Nothing contained in This section does not shall~~
 80 preclude the ~~such~~ insurer from investing such reserve in
 81 investments authorized by law, ~~for such an insurer~~ and the
 82 income from such investments ~~invested reserve~~ shall be included
 83 in the general income of the insurer and may ~~to~~ be used by such
 84 insurer for any lawful purpose.

85 (1) For an unearned premium reserve ~~reserves~~ established
 86 on or after July 1, 1999, such ~~unearned premium~~ reserve must be
 87 in ~~shall consist of not less than~~ an amount at least equal to
 88 the sum of subsections (a), (b), and (d) for title insurers
 89 holding less than \$50 million in surplus as to policyholders as
 90 of the previous year-end and the sum of subsections (c) and (d)
 91 for title insurers holding \$50 million or more in surplus as to
 92 policyholders as of the previous year-end:

93 (a) A reserve with respect to unearned premiums for
 94 policies written or title liability assumed in reinsurance
 95 before July 1, 1999, equal to the reserve established on June
 96 30, 1999, for those unearned premiums with such reserve being
 97 subsequently released as provided in subsection (2). For
 98 domestic title insurers subject to this section, such amounts
 99 shall be calculated in accordance with ~~provisions of law of this~~
 100 state law in effect at the time the associated premiums were
 101 written or assumed and as amended before ~~prior to~~ July 1, 1999.

102 (b) A total amount equal to 30 cents for each \$1,000 of
 103 net retained liability for policies written or title liability
 104 assumed in reinsurance on or after July 1, 1999, with such

105 reserve being subsequently released as provided in subsection
 106 (2). For the purpose of calculating this reserve, the total of
 107 the net retained liability for all simultaneous issue policies
 108 covering a single risk shall be equal to the liability for the
 109 policy with the highest limit covering that single risk, net of
 110 any liability ceded in reinsurance.

111 (c) On or after January 1, 2014, for title insurers
 112 holding \$50 million or more in surplus as to policyholders as of
 113 the previous year-end, a minimum of 6.5 percent of the total of
 114 the following:

- 115 1. Direct premiums written; and
- 116 2. Premiums for reinsurance assumed, plus other income,
 117 less premiums for reinsurance ceded as displayed in Schedule P
 118 of the title insurer's most recent annual statement filed with
 119 the office with such reserve being subsequently released as
 120 provided in subsection (2). Title insurers with less than \$50
 121 million in surplus as to policyholders must continue to record
 122 unearned premium reserve in accordance with paragraph (b).

123 (d) ~~(e)~~ An additional amount, if deemed necessary by a
 124 qualified actuary, to ~~which shall~~ be subsequently released as
 125 provided in subsection (2). Using financial results as of
 126 December 31 of each year, all domestic title insurers shall
 127 obtain a Statement of Actuarial Opinion from a qualified actuary
 128 regarding the insurer's loss and loss adjustment expense
 129 reserves, including reserves for known claims, ~~adverse~~
 130 ~~development on known claims,~~ incurred but not reported claims,

131 and unallocated loss adjustment expenses. The actuarial opinion
 132 must ~~shall~~ conform to the annual statement instructions for
 133 title insurers adopted by the National Association of Insurance
 134 Commissioners and ~~shall~~ include the actuary's professional
 135 opinion of the insurer's reserves as of the date of the annual
 136 statement. If the amount of the reserve stated in the opinion
 137 and displayed in Schedule P of the annual statement for that
 138 reporting date is greater than the sum of the known claim
 139 reserve and unearned premium reserve as calculated under this
 140 section, as of the same reporting date and including any
 141 previous actuarial provisions added at earlier dates, the
 142 insurer shall add to the insurer's unearned premium reserve an
 143 actuarial amount equal to the reserve shown in the actuarial
 144 opinion, minus the known claim reserve and the unearned premium
 145 reserve, as of the current reporting date and calculated in
 146 accordance with this section, but not ~~in no event~~ calculated as
 147 of any date before ~~prior to~~ December 31, 1999. The comparison
 148 shall be made using that line on Schedule P displaying the Total
 149 Net Loss and Loss Adjustment Expense which is comprised of the
 150 Known Claim Reserve, and any associated Adverse Development
 151 Reserve, the reserve for Incurred But Not Reported Losses, and
 152 Unallocated Loss Adjustment Expenses.

153 (2) ~~(a)~~ With respect to reserves ~~the reserve~~ established in
 154 accordance with:

155 (a) Paragraph (1) (a), the domestic title insurer shall
 156 release the reserve over the subsequent ~~a period of~~ 20

157 ~~subsequent~~ years as provided in this paragraph. The insurer
 158 shall release 30 percent of the initial aggregate sum during
 159 1999, with one quarter of that amount being released on March
 160 31, June 30, September 30, and December 31, 1999, with the March
 161 31 and June 30 releases to be retroactive and reflected on the
 162 September 30 financial statements. Thereafter, the insurer shall
 163 release, on the same quarterly basis as specified for reserves
 164 released during 1999, a percentage of the initial aggregate sum
 165 as follows: 15 percent during calendar year 2000, 10 percent
 166 during each of calendar years 2001 and 2002, 5 percent during
 167 each of calendar years 2003 and 2004, 3 percent during each of
 168 calendar years 2005 and 2006, 2 percent during each of calendar
 169 years 2007-2013, and 1 percent during each of calendar years
 170 2014-2018.

171 (b) ~~With respect to reserves established in accordance~~
 172 ~~with~~ Paragraph (1)(b), the unearned premium for policies written
 173 or title liability assumed during a particular calendar year
 174 shall be earned, and released from reserve, over the subsequent
 175 ~~a period of 20 subsequent~~ years as provided in this paragraph.
 176 The insurer shall release 30 percent of the initial sum during
 177 the year following ~~next succeeding~~ the year the premium was
 178 written or assumed, with one quarter of that amount being
 179 released on March 31, June 30, September 30, and December 31 of
 180 such year. Thereafter, the insurer shall release, on the same
 181 quarterly basis as specified for reserves released during the
 182 year following ~~first succeeding~~ the year the premium was written

183 or assumed, a percentage of the initial sum as follows: 15
 184 percent during the next succeeding year, 10 percent during each
 185 of the next succeeding 2 years, 5 percent during each of the
 186 next succeeding 2 years, 3 percent during each of the next
 187 succeeding 2 years, 2 percent during each of the next succeeding
 188 7 years, and 1 percent during each of the next succeeding 5
 189 years.

190 (c) ~~With respect to reserves established in accordance~~
 191 ~~with Paragraph~~ paragraph (1) (c), the unearned premium for
 192 policies written or title liability assumed during a particular
 193 calendar year shall be earned, and released from reserve, over
 194 the subsequent 20 years at an amortization rate not to exceed
 195 the formula in this paragraph. The insurer shall release 35
 196 percent of the initial sum during the year following the year
 197 the premium was written or assumed, with one quarter of that
 198 amount being released on March 31, June 30, September 30, and
 199 December 31 of such year. Thereafter, the insurer shall release,
 200 on the same quarterly basis as specified for reserve released
 201 during the year following the year the premium was written or
 202 assumed a percentage of the initial sum as follows: 15 percent
 203 during each year of the next succeeding 2 years, 10 percent
 204 during the next succeeding year, 3 percent during each of the
 205 succeeding 3 years, 2 percent during each of the succeeding 3
 206 years, and 1 percent during each of the next succeeding 10
 207 years.

208 (d) Paragraph (1) (d), any additional amount established in

209 any calendar year shall be released in the years subsequent to
 210 its establishment as provided in paragraph (c) ~~(b)~~, with the
 211 timing and percentage of releases being in all respects
 212 identical to those of unearned premium reserves that are
 213 calculated as provided in paragraph (c) ~~(b)~~ and established with
 214 regard to premiums written or liability assumed in reinsurance
 215 in the same year as the year in which any additional amount was
 216 originally established.

217 (3) If a title insurer that is organized under the laws of
 218 another state transfers its domicile to this state, the
 219 statutory or unearned premium reserve shall be the amount
 220 required by the laws of the state of the title insurer's former
 221 state of domicile as of the date of transfer of domicile and
 222 shall be released from reserve according to the requirements of
 223 law in effect in the former state at the time of domicile. On
 224 or after January 1, 2014, for new business written after the
 225 effective date of the transfer of domicile to this state, the
 226 domestic title insurer shall add to and set aside in the
 227 statutory or unearned premium reserve such amount as provided in
 228 paragraph (1) (c).

229 (4) ~~(3)~~ At any reporting date, the amount of the required
 230 releases of existing unearned premium reserves under subsection
 231 (2) shall be calculated and deducted from the total unearned
 232 premium reserve before any additional amount is established for
 233 the current calendar year in accordance with ~~the provisions of~~
 234 paragraph (1) (d) ~~(1) (e)~~.

235 (5) A domestic title insurer is not required to record a
 236 separate bulk reserve. However, if a separate bulk reserve is
 237 recorded, the statutory premium reserve must be reduced by the
 238 amount recorded for such bulk reserve.

239 (6)-(4) As used in this section, the term:

240 (a) "Bulk Reserve" means provision for subsequent
 241 development on known claims.

242 (b)-(a) "Net retained liability" means the total
 243 liability retained by a title insurer for a single risk, after
 244 taking into account the deduction for ceded liability, if any.

245 (c)-(b) "Qualified actuary" means a person who is, as
 246 detailed in the National Association of Insurance Commissioners'
 247 Annual Statement Instructions:

248 1. A member in good standing of the Casualty Actuarial
 249 Society;

250 2. A member in good standing of the American Academy of
 251 Actuaries who has been approved as qualified for signing
 252 casualty loss reserve opinions by the Casualty Practice Council
 253 of the American Academy of Actuaries; or

254 3. A person who otherwise has competency in loss reserve
 255 evaluation as demonstrated to the satisfaction of the insurance
 256 regulatory official of the domiciliary state. In such case, at
 257 least 90 days before ~~prior to the filing of~~ its annual
 258 statement, the insurer must request ~~approval~~ that the person be
 259 deemed qualified and that request must be approved or denied.

260 The request must include the National Association of Insurance

261 Commissioners' Biographical Form and a list of all loss reserve
 262 opinions issued in the last 3 years by this person.

263 (d)~~(e)~~ "Single risk" means the insured amount of a ~~any~~
 264 title insurance policy, except that where two or more title
 265 insurance policies are issued simultaneously covering different
 266 estates in the same real property, "single risk" means the sum
 267 of the insured amounts of all such ~~title insurance~~ policies. A
 268 ~~Any~~ title insurance policy insuring a mortgage interest, a claim
 269 payment under which reduces the insured amount of a fee or
 270 leasehold title insurance policy, shall be excluded in computing
 271 the amount of a single risk to the extent that the insured
 272 amount of the mortgage title insurance policy does not exceed
 273 the insured amount of the fee or leasehold title insurance
 274 policy.

275 Section 3. Subsection (5) of section 624.407, Florida
 276 Statutes, is amended to read:

277 624.407 Surplus required; new insurers.—

278 (5) For the purposes of this section, liabilities do not
 279 include liabilities required under s. 625.041(5) ~~625.041(4)~~. For
 280 purposes of computing minimum surplus as to policyholders
 281 pursuant to s. 625.305(1), liabilities include liabilities
 282 required under s. 625.041(5) ~~s. 625.041(4)~~.

283 Section 4. Subsection (2) of section 624.408, Florida
 284 Statutes, is amended to read:

285 624.408 Surplus required; current insurers.—

286 (2) For purposes of this section, liabilities do not

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287 include liabilities required under s. 625.041(5) ~~625.041(4)~~. For
288 purposes of computing minimum surplus as to policyholders
289 pursuant to s. 625.305(1), liabilities include liabilities
290 required under s. 625.041(5) ~~s. 625.041(4)~~.

291 Section 5. This act shall take effect upon becoming a law.
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