

Committee Substitute for Committee Substitute for  
Committee Substitute for House Bill No. 93

An act relating to title insurance reserve; amending s. 625.111, F.S.; specifying the components of unearned premium reserve for certain financial statements; providing a formula for releasing unearned premium reserve over a period of years; providing definitions; providing an effective date.

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

Section 1. Section 625.111, Florida Statutes, is amended to read:

(Substantial rewording of section. See s. 625.111, F.S., for present text.)

625.111 Title insurance reserve.—In addition to an adequate reserve as to outstanding losses relating to known claims, as required under s. 625.041, a title insurer shall establish, segregate, and maintain a guaranty fund or unearned premium reserve as provided in this section. The sums required under this section to be reserved for unearned premiums on title guarantees and policies at all times and for all purposes shall be considered and constitute unearned portions of the original premiums and shall be charged as a reserve liability of such insurer in determining its financial condition. While such sums are so reserved, they shall be withdrawn from the use of the insurer for its general purposes, impressed with a trust in favor of the holders of title guarantees and policies, and held available for reinsurance of the title guarantees and policies in the event of the insolvency of the insurer. Nothing contained in this section shall preclude such insurer from investing such reserve in investments authorized by law for such an insurer and the income from such invested reserve shall be included in the general income of the insurer to be used by such insurer for any lawful purpose.

(1) For unearned premium reserves established on or after July 1, 1999, such unearned premium reserve shall consist of not less than an amount equal to the sum of:

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

(b) A total amount equal to 30 cents for each \$1,000 of net retained liability for policies written or title liability assumed in reinsurance on or after July 1, 1999, with such reserve being subsequently released as provided in subsection (2). For the purpose of calculating this reserve, the total

of the net retained liability for all simultaneous issue policies covering a single risk shall be equal to the liability for the policy with the highest limit covering that single risk, net of any liability ceded in reinsurance.

(c) An additional amount, if deemed necessary by a qualified actuary, which shall be subsequently released as provided in subsection (2). Using financial results as of December 31 of each year, all domestic title insurers shall obtain a Statement of Actuarial Opinion from a qualified actuary regarding the insurer's loss and loss adjustment expense reserves, including reserves for known claims, adverse development on known claims, incurred but not reported claims, and unallocated loss adjustment expenses. The actuarial opinion shall conform to the annual statement instructions for title insurers adopted by the National Association of Insurance Commissioners and shall include the actuary's professional opinion of the insurer's reserves as of the date of the annual statement. If the amount of the reserve stated in the opinion and displayed in Schedule P of the annual statement for that reporting date is greater than the sum of the known claim reserve and unearned premium reserve as calculated under this section, as of the same reporting date and including any previous actuarial provisions added at earlier dates, the insurer shall add to the insurer's unearned premium reserve an actuarial amount equal to the reserve shown in the actuarial opinion, minus the known claim reserve and the unearned premium reserve, as of the current reporting date and calculated in accordance with this section, but in no event calculated as of any date prior to December 31, 1999. The comparison shall be made using that line on Schedule P displaying the Total Net Loss and Loss Adjustment Expense which is comprised of the Known Claim Reserve, and any associated Adverse Development Reserve, the reserve for Incurred But Not Reported Losses, and Unallocated Loss Adjustment Expenses.

(2)(a) With respect to the reserve established in accordance with paragraph (1)(a), the domestic title insurer shall release the reserve over a period of 20 subsequent years as provided in this paragraph. The insurer shall release 30 percent of the initial aggregate sum during 1999, with one quarter of that amount being released on March 31, June 30, September 30, and December 31, 1999, with the March 31 and June 30 releases to be retroactive and reflected on the September 30 financial statements. Thereafter, the insurer shall release, on the same quarterly basis as specified for reserves released during 1999, a percentage of the initial aggregate sum as follows: 15 percent during calendar year 2000, 10 percent during each of calendar years 2001 and 2002, 5 percent during each of calendar years 2003 and 2004, 3 percent during each of calendar years 2005 and 2006, 2 percent during each of calendar years 2007-2013, and 1 percent during each of calendar years 2014-2018.

(b) With respect to reserves established in accordance with paragraph (1)(b), the unearned premium for policies written or title liability assumed during a particular calendar year shall be earned, and released from reserve, over a period of 20 subsequent years as provided in this paragraph. The insurer shall release 30 percent of the initial sum during the year next succeeding the year the premium was written or assumed, with one quarter of that amount being released on March 31, June 30, September 30, and

December 31 of such year. Thereafter, the insurer shall release, on the same quarterly basis as specified for reserves released during the year first succeeding the year the premium was written or assumed, a percentage of the initial sum as follows: 15 percent during the next succeeding year, 10 percent during each of the next succeeding 2 years, 5 percent during each of the next succeeding 2 years, 3 percent during each of the next succeeding 2 years, 2 percent during each of the next succeeding 7 years, and 1 percent during each of the next succeeding 5 years.

(c) With respect to reserves established in accordance with paragraph (1)(c), any additional amount established in any calendar year shall be released in the years subsequent to its establishment as provided in paragraph (b), with the timing and percentage of releases being in all respects identical to those of unearned premium reserves that are calculated as provided in paragraph (b) and established with regard to premiums written or liability assumed in reinsurance in the same year as the year in which any additional amount was originally established.

(3) At any reporting date, the amount of the required releases of existing unearned premium reserves under subsection (2) shall be calculated and deducted from the total unearned premium reserve before any additional amount is established for the current calendar year in accordance with the provisions of paragraph (1)(c).

(4) As used in this section:

(a) “Net retained liability” means the total liability retained by a title insurer for a single risk, after taking into account the deduction for ceded liability, if any.

(b) “Qualified actuary” means a person who is, as detailed in the the National Association of Insurance Commissioners’ Annual Statement Instructions:

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

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

3. A person who otherwise has competency in loss reserve evaluation as demonstrated to the satisfaction of the insurance regulatory official of the domiciliary state. In such case, at least 90 days prior to the filing of its annual statement, the insurer must request approval that the person be deemed qualified and that request must be approved or denied. The request must include the National Association of Insurance Commissioners’ Biographical Form and a list of all loss reserve opinions issued in the last 3 years by this person.

(c) “Single risk” means the insured amount of any title insurance policy, except that where two or more title insurance policies are issued simultaneously covering different estates in the same real property, “single risk” means the sum of the insured amounts of all such title insurance policies.

Any title insurance policy insuring a mortgage interest a claim payment under which reduces the insured amount of a fee or leasehold title insurance policy shall be excluded in computing the amount of a single risk to the extent that the insured amount of the mortgage title insurance policy does not exceed the insured amount of the fee or leasehold title insurance policy.

Section 2. This act shall take effect July 1, 1999.

Approved by the Governor June 11, 1999.

Filed in Office Secretary of State June 11, 1999.