

CHAPTER 2015-154

Committee Substitute for House Bill No. 927

An act relating to title insurance; amending s. 631.401, F.S.; revising procedures and requirements relating to the recovery of assessments from title insurers through surcharges assessed on policies; revising provisions relating to surcharges collected in excess of the assessments paid by title insurers; revising requirements for the payment of excess surcharges to the Insurance Regulatory Trust Fund; authorizing the Financial Services Commission and the Department of Financial Services to adopt rules for certain purposes; providing an effective date.

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

Section 1. Section 631.401, Florida Statutes, is amended to read:

631.401 Recovery of assessments and assumed policy obligations.—

(1) Upon the making of any assessment allowed by s. 631.400, the office shall order a surcharge or, if a surcharge is currently in effect, an additional surcharge amount on each title insurance policy thereafter issued insuring an interest in real property in this state. The office shall set the per transaction surcharge at an amount estimated to generate sufficient funds to recover the amount assessed over a period of not more than 7 years. The amount of the surcharge ordered under this section may not exceed \$25 per transaction for each impaired title insurer. ~~If additional surcharges are occasioned by additional title insurers becoming impaired, the office shall order an increase in the amount of the surcharge to reflect the aggregate surcharge.~~

(2) The party responsible for ~~the~~ payment of title insurance premium, unless otherwise agreed between the parties, shall be responsible for the payment of the surcharge. No surcharge will be due or owing as to any policy of title insurance subject to ~~issued at the simultaneous issue~~ premium rate. ~~For all other purposes,~~ The surcharge will be considered a governmental assessment to be separately stated on any settlement statement as a surcharge. The surcharge is not premium and is not subject to premium tax or reserve requirements under chapter 625.

(3) Title insurers doing business in this state which are not subject to a given assessment writing no premiums in the prior calendar year shall collect the same per transaction surcharge as provided by this section. Such surcharge collected shall be paid to the receiver within 60 days after receipt to be maintained in an excess surcharge account and used only as provided in subsection (6) from the title agent or agency.

(4) Each title insurance agent, agency, or direct title operation shall collect the surcharge as to each title insurance policy written and remit those

surcharges along with the policies and premiums within 60 days to the title insurer on which ~~whom~~ the policy was written.

(5) A title insurer may not retain more in surcharges ~~for an ordered assessment~~ than the amount of aggregate assessments paid by the assessment that title insurer paid. Any surcharges collected in excess of the amount of the aggregate assessments paid by a title insurer shall be paid as provided in subsection (6). As used in this section, the term “aggregate assessments” means the total amount of assessments ordered by the office under s. 631.400.

(6) Each title insurer collecting surcharges shall promptly notify the office when it has collected surcharges equal to the amount of the aggregate assessments ~~assessment~~ paid pursuant to s. 631.400. The office shall notify all companies, including those collecting surcharges as required by subsection (3), to cease collecting surcharges when notified that all aggregate assessments have been recovered by the title insurers that wrote policies in the state during the previous calendar year. Any surcharges collected by a title insurer in excess of the total amount it was assessed for aggregate assessments shall be paid quarterly to the receiver to be maintained in the excess surcharge account by the receiver. Excess surcharges may be used by the receiver for the following purposes only:

(a) To reduce or eliminate the amount of a future assessment for a title insurer in receivership at the time of the assessment or that later enters receivership; or

(b) To reduce the amount of time that consumers in the state are subject to surcharges by transferring excess surcharges to title insurers that have not fully collected surcharges equal to the amount of the aggregate assessments paid by title insurers pursuant to s. 631.400.

(7) In conjunction with the filing of each quarterly financial statement, each title insurer shall provide the office with an accounting of assessments paid and surcharges collected during the period.

(8) If the receiver has no active title insurer receiverships for 12 consecutive months, or there have been no payable claims against any title insurer receivership for 60 consecutive months, all excess surcharges held by the receiver under this section Any surcharges collected in excess of the amount assessed shall be paid into ~~to~~ the Insurance Regulatory Trust Fund.

(9) The Financial Services Commission may adopt rules specifying procedures for the collection, use, and transfer of surcharges, including excess surcharges.

(10) The department may adopt rules specifying procedures for claiming, distributing, and using excess surcharge account funds held by the receiver under this section and for the purposes specified in subsection (6).

Section 2. This act shall take effect July 1, 2015.

Approved by the Governor June 11, 2015.

Filed in Office Secretary of State June 11, 2015.