Committee on Banking and Insurance

CS/HB 927 — Title Insurance

by Insurance and Banking Subcommittee and Rep. Hager (CS/SB 1136 by Banking and Insurance Committee and Senator Hukill)

The bill revises procedures for dealing with insolvent title insurers. There is no guaranty fund for title insurers in Florida. If funds are necessary to pay the claims against insolvent of title insurers, all title insurers doing business in Florida are liable for an assessment to pay those claims. The Department of Financial Services (DFS) acting as receiver, and the Office of Insurance Regulation (OIR) determine the amount of money necessary and order an assessment. The title insurers recover the assessment by collecting a surcharge on each title policy issued in Florida. To prevent an insurer from gaining a competitive advantage, each title insurer is required to continue to collect the surcharge until all title insurers have recovered their assessments. Current law provides that surcharges collected in excess of the assessment amount are paid to the state.

The bill creates a mechanism for using excess surcharges to reduce the time that surcharges are collected. It provides that when a company has collected surcharges in excess of the amount it was assessed, the company shall pay the excess to the receiver. The receiver must maintain the money in an excess surcharge account and may use the excess surcharges only:

- To reduce or eliminate the amount of a future assessment for a title insurer currently in receivership or that later enters receivership; or
- To reduce the amount of time that consumers in the state are subject to surcharges by transferring the excess to title insurers that have not fully collected surcharges equal to the amount of the aggregate assessments they paid pursuant to s. 631.400, F.S.

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 must be paid to the Insurance Regulatory Trust Fund within DFS.

The bill also allows the OIR to order an additional surcharge in situations where a surcharge is being collected.

If a surcharge is already in effect at the time of an assessment, the bill allows OIR to order an additional surcharge based on a new assessment.

The Insurance Regulatory Trust Fund will receive an indeterminate amount of additional funds based on the requirement that excess surcharges held by DFS be deposited into the trust fund.

If approved by the Governor, these provisions take effect July 1, 2015.
Vote: Senate 38-0; House 107-0