

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based only on the provisions contained in the legislation as of the latest date listed below.)

BILL: CS/SB 1982

SPONSOR: Banking and Insurance Committee and Senator Dyer and others

SUBJECT: Title insurance reserve

DATE: March 23, 1999 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Deffenbaugh</u>	<u>Deffenbaugh</u>	<u>BI</u>	<u>Favorable/CS</u>
2.	_____	_____	_____	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____

I. Summary:

CS/SB 1982 revises the schedule that title insurers must follow for releasing the unearned premium reserve required to be established for each policy, which may then be applied by the insurer to profit and surplus.

Current law requires title insurers to establish an unearned premium reserve of not less than: (a) the amount of the unearned premium reserve in existence on June 30, 1992; and (b) a sum equal to 30 cents for each \$1,000 of net retained liability under each title insurance policy on a single risk written on or after July 1, 1992. The insurer may release amounts reserved during a particular calendar year in 12 equal annual installments, beginning in the subsequent calendar year.

The bill requires the unearned premium reserve to be released over a 20-year period, rather than over a 12-year period, but it is heavily "front-end loaded" to allow a greater release in the early years.

For policies issued prior to July 1, 1999, the insurer would be directed to release 30 percent of the reserve in 1999 during the first year, 15 percent in 2000, 10 percent during each of the years 2001 and 2002; 5 percent during each of the years 2003 and 2004 (same quarterly basis); 3 percent during each of the years 2005 and 2006; 2 percent during each of the years 2007 - 2013; and 1 percent during each of the years 2014 - 2018.

For policies written on or after July 1, 1999, the unearned premium reserve is to be released over a 20-year period, as follows: 30 percent during the first year after the premium was written; 15 percent during the next year; 10 percent during each of the next two years; 5 percent for each the next two years; 3 percent for each the next two years; 2 percent for each of the next 7 years; and 1 percent for each the next 5 years.

This bill substantially amends section 625.111 of the Florida Statutes.

II. Present Situation:

Title Insurance Reserve Requirements-- Under Florida Law, a title insurer [“insurer”] must maintain two types of reserves:

1. An insurer must retain adequate *loss reserves* sufficient to cover its unpaid losses, claims and expenses for which the insurer may be liable and for which the insurer has received notice by or on behalf of the insured. (ss. 625.101 and 625.111, F.S.)
2. In addition to the reserves required above, an insurer shall establish, segregate and maintain a guaranty fund or *unearned premium reserve* to be used for reinsurance in the event the insurer becomes insolvent. (s. 625.111, F.S.).

Section 625.111, F.S., states that the *unearned premium reserve* must consist of not less than an amount computed as follows:

- (a) The amount of the unearned premium reserve on June 30, 1992; and
- (b) A sum equal to 30 cents for each \$1,000 of net retained liability under each title insurance policy on a single risk written on or after July 1, 1992.

Accordingly, the amount in reserves for each insurer throughout the state is different depending upon the number of policies the company writes.

Releasing Unearned Premium Reserve -- The current Florida law provides that the adequacy of the unearned premium reserve existing on December 31, 1992, must be determined in accordance with the unearned premium reserve requirements existing on July 1, 1992, and the reserves must be released in 12 equal annual installments (or approximately 8.34 percent) beginning with the calendar year 1993. (s. 625.111(2)(a), F.S.) With regard to amounts reserved on or after January 1, 1993, the insurer must release amounts reserved during a particular calendar year in 12 equal annual installments, beginning in the subsequent calendar year.

Some title insurance companies assert that Florida’s method for the release of unearned premium reserve requires insurers to reserve more money than is actuarially necessary and disadvantages Florida insurers competing in other states. For instance, American Pioneer Title Insurance Company, which has an almost 8 percent share of Florida’s title insurance market, reportedly holds \$17 million in unearned premium reserves which, according to its own actuarial study, is three times the indicated reserve level of \$5.5 million.

Also, according to the Department of Insurance, Florida insurers are bound by Florida’s reserve requirements even when writing policies in other states. According to the National Association of Insurance Commissioner (NAIC), most states have this same requirement. Florida’s reserve rates are higher than some other states’ reserve rates. For example, Florida requires insurers to reserve \$0.30 per \$1,000 of liability while states such as Missouri (\$0.15 per \$1,000) and Texas (\$0.25 per \$1,000) require insurers to reserve less. Therefore, on a \$100,000 title insurance policy sold in Missouri, a Florida insurer would have to reserve \$30 while a Missouri insurer would only have to reserve \$15.

The NAIC's **Title Insurers Model Act** provides the following schedule with regard to the release of the unearned premium reserves to the net profit of the insurer: 35% of the aggregate sum on July 1 of the year next succeeding the year of addition; 15% of the aggregate sum on July 1 of each of the succeeding two years; 10% of the aggregate sum of July 1 of the next succeeding year; 3% of the aggregate sum on July 1 of each of the next three succeeding years; 2% of the aggregate sum on July 1 of each of the next three succeeding years; and 1% of the aggregate sum on July 1 of each of the next succeeding ten years. (NAIC Title Insurers Model Act, § 10 (B)(d), April 1996.)

III. Effect of Proposed Changes:

CS/SB 1982 changes the amount of the unearned premium reserves which are to be released to the insurer, providing for release over a 20-year period, rather than a 12-year period, but allow for a greater amount to be released in the earlier years.

For policies written before July 1, 1999, reserves are to be released over a 20-year period, as follows:

- 30 percent in 1999, in quarterly installments on March 31, June 30, September 30, and December 31;
- 15 percent in 2000, in the same quarterly installments as above;
- 10 percent during each of the years 2001 and 2002 (same quarterly basis);
- 5 percent during each of the years 2003 and 2004 (same quarterly basis);
- 3 percent during each of the years 2005 and 2006 (same quarterly basis);
- 2 percent during each of the years 2007 - 2013 (same quarterly basis); and
- 1 percent during each of the years 2014 - 2018 (same quarterly basis).

For policies written on or after July 1, 1999, the unearned premium reserve accumulated on or after July 1, 1999, are to be released on March 31, June 30, September 30, and December 31 during each succeeding year, over a 20-year period, according to the following schedule:

- 30 percent during the year next succeeding the year the premium was written;
- 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.

This release schedule is slightly less aggressive than the schedule provided in the current NAIC Title Insurers Model Act.

The bill also requires that all domestic title insurers obtain a Statement of Actuarial Opinion from a qualified actuary, as defined, 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. If the amount of the recommended reserve level stated in the actuarial opinion is greater than the sum of both the known claim reserve and the unearned premium reserve, then the insurer must add the difference to the unearned premium reserve. The additional actuarial reserves are to be released according to the schedule immediately above.

This bill reenacts the current definitions of "net retained liability" (total liability retained by a title insurer for a single risk, after taking into account the deduction for ceded liability, if any) and "single risk" (the insured amount of any title insurance policy and provides for an exception where two or more title insurance policies are issued simultaneously covering different estates in the same real property).

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Some title insurance companies assert that Florida's current method for the release of unearned premium reserve requires insurers to reserve more money than is actuarially

necessary and disadvantages Florida insurers competing in other states. For instance, American Pioneer Title Insurance Company, which has an almost 8 percent share of Florida's title insurance market, reportedly holds \$17 million in unearned premium reserves which, according to its own actuarial study, is three times the indicated reserve level of \$5.5 million. By allowing for a greater percentage release of the unearned premium reserve in the early years, title insurers will be able to apply a greater amount to profits and surplus and will also be enabled to write a greater number of title insurance policies.

C. Government Sector Impact:

None

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Amendments:

None.

This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.
