

By the Committee on Banking and Insurance; and Senator Bennett

597-02428-12

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1 A bill to be entitled
2 An act relating to title insurance claims; creating s.
3 627.7832, F.S.; providing that after a specified time,
4 a title insurer must pay the claim or pay an
5 additional percentage above the initial amount insured
6 to reimburse the policyholder for certain expenses
7 until the claim is cured; providing conditions for
8 certain payments; providing an exception for
9 additional policy limits; creating s. 627.7844, F.S.;
10 providing conditions and amounts for the simultaneous
11 issue of an owner's title insurance policy in
12 additional to the loan title insurance policy;
13 providing criteria for the supplemental coverage;
14 establishing the premium for such coverage and
15 providing for a waiver of coverage; amending s.
16 627.7845, F.S.; specifying that a title insurer's
17 determination of insurability must be based on the
18 evaluation of a reasonable title search beginning with
19 a root of title; providing an effective date.

20
21 Be It Enacted by the Legislature of the State of Florida:

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23 Section 1. Section 627.7832, Florida Statutes, is created
24 to read:

25 627.7832 Claims payment.-

26 (1) A title insurer has the right to cure each claim made.
27 However, after 90 days without a cure the insurer must tender
28 payment of full policy limits to the insured or pay up to an
29 additional 25 percent above the initial amount insured to

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30 reimburse the insured for the payment of any attorney fees,
31 moving expenses, property taxes, architect fees, engineering
32 fees, permitting fees, or mortgage interest until the cure is
33 finalized.

34 (2) The additional 25 percent applies only if the insurer's
35 failure to establish title directly impacts the payments listed
36 in subsection (1).

37 (3) If a complete loss of title occurs, full policy limits
38 must be paid regardless of market values.

39
40 This section does not apply to additional policy limits issued
41 pursuant to s. 627.7844.

42 Section 2. Section 627.7844, Florida Statutes, is created
43 to read:

44 627.7844 Supplemental coverage.-

45 (1) If the current owner of real property borrows money
46 secured by an interest in such real property and a loan title
47 insurance policy is issued at original title insurance rates
48 established pursuant to s. 627.782, less any agreed rebates in
49 connection therewith, the title agency, title insurer, or
50 attorney-agent providing the loan title insurance policy must
51 simultaneously issue an owner's title insurance policy in the
52 amount of the loan title insurance policy, or such greater
53 amount as may be requested by the property owner.

54 (2) (a) If the property owner provides a copy of one or more
55 owner's title insurance policies currently insuring the owner's
56 interest in the real property, the coverage of the new owner's
57 policy to be issued shall be supplemental to the existing owners
58 policy, and the policy limits of the new owner's policy must be

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59 fully available if the aggregate insured losses suffered by the
60 insured exceed the amount insured collectively by the prior
61 policy. Actual payment or recovery from the prior insurer is not
62 a condition precedent for recovery under the new owner's policy.

63 (b) This supplemental coverage may be accomplished through
64 an endorsement of the existing owner's policy or the issuance of
65 a new owner's policy containing language establishing coverage
66 as being supplemental to the prior policies.

67 (c) The new owner's and loan policies shall reflect policy
68 exceptions and limitations based on the current state of title
69 to the property, and may include exceptions that did not appear
70 in the prior owner's policy.

71 (3) The premium for the simultaneous issuance of the new
72 owner's policy must be the minimum simultaneous issue rate
73 established pursuant to s. 627.782.

74 (4) The owner of the real property shall waive in writing
75 the right to purchase any additional owner's coverage.

76 Section 3. Subsection (1) of section 627.7845, Florida
77 Statutes, is amended to read:

78 627.7845 Determination of insurability required;
79 preservation of evidence of title search and examination.-

80 (1) A title insurer may not issue a title insurance
81 commitment, endorsement, or title insurance policy until the
82 title insurer has caused to be made a determination of
83 insurability based upon the evaluation of a reasonable title
84 search beginning with a root of title, as defined in s.
85 712.01(2) or a search of the records of a Uniform Commercial
86 Code filing office, as applicable, has examined such other
87 information as may be necessary, and has caused to be made a

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88 ~~determination of insurability of title or the existence,~~
89 ~~attachments, perfection, and priority of a Uniform Commercial~~
90 ~~Code security interest, including endorsement coverages, in~~
91 ~~accordance with sound underwriting practices.~~

92 Section 4. This act shall take effect July 1, 2012.