

Amendment No.

CHAMBER ACTION

Senate

House

.

Representative Moraitis offered the following:

Amendment (with title amendment)

Between lines 28 and 29, insert:

Section 1. Section 625.041, Florida Statutes, is amended to read:

625.041 Liabilities, in general.—In any determination of the financial condition of an insurer, liabilities to be charged against its assets ~~shall~~ include:

(1) The amount, estimated in accordance ~~consistent~~ with ~~the provisions of~~ this code, necessary to pay all of its unpaid losses and claims incurred on or before ~~prior to~~ the date of statement, whether reported or unreported, together with the expenses of adjustment or settlement thereof.

701501

Approved For Filing: 3/25/2014 4:30:02 PM

Amendment No.

15 (2) With respect to title insurance, the amount, estimated
16 in accordance with this code, necessary to pay all of its known
17 unpaid losses and claims incurred on or before the date of
18 statement, together with the expenses of adjustment or
19 settlement thereof. This requirement is in addition to the
20 reserves required under s. 625.111.

21 ~~(3)-(2)~~ With respect ~~reference~~ to life and health insurance
22 and annuity contracts:

23 (a) The amount of reserves on life insurance policies and
24 annuity contracts in force, valued according to the tables of
25 mortality, rates of interest, and methods adopted pursuant to
26 this code which are applicable thereto.

27 (b) Reserves for disability benefits, for both active and
28 disabled lives.

29 (c) Reserves for accidental death benefits.

30 (d) Any additional reserves that may be required by the
31 office in accordance ~~consistent~~ with practice formulated or
32 approved by the National Association of Insurance Commissioners
33 or its successor organization, on account of such insurance,
34 including contract and premium deficiency reserves.

35 ~~(4)-(3)~~ With respect ~~reference~~ to insurance other than that
36 specified in subsections ~~subsection~~ (2) and (3), ~~and other than~~
37 ~~title insurance~~, the amount of reserves equal to the unearned
38 portions of the gross premiums charged on policies in force,
39 computed in accordance with this part.

701501

Approved For Filing: 3/25/2014 4:30:02 PM

Amendment No.

40 ~~(5)(4)~~ Taxes, expenses, and other obligations due or
41 accrued at the date of the statement.

42 ~~(6)(5)~~ An ~~Any~~ insurer in this state that writes workers'
43 compensation insurance shall accrue a liability on its financial
44 statements for all Special Disability Trust Fund assessments
45 that are due within the current calendar year. ~~In addition,~~
46 Those insurers shall also disclose in the notes to the financial
47 statements required to be filed pursuant to s. 624.424 an
48 estimate of future Special Disability Trust Fund assessments, if
49 the assessments are likely to occur and can be estimated with
50 reasonable certainty.

51 Section 2. Section 625.111, Florida Statutes, is amended
52 to read:

53 625.111 Title insurance reserve.—In addition to an
54 adequate reserve as to outstanding losses relating to known
55 claims, as required under s. 625.041, a domestic title insurer
56 shall establish, segregate, and maintain a guaranty fund or
57 unearned premium reserve as provided in this section. The sums
58 ~~required under this section~~ to be reserved for unearned premiums
59 on title guarantees and policies ~~at all times and for all~~
60 ~~purposes~~ shall be considered and constitute unearned portions of
61 the original premiums and shall be charged as a reserve
62 liability of the ~~such~~ insurer in determining its financial
63 condition. ~~While Such sums are so reserved funds,~~ they shall be
64 withdrawn from the use of the insurer for its general purposes,
65 impressed with a trust in favor of the holders of title

701501

Approved For Filing: 3/25/2014 4:30:02 PM

Amendment No.

66 guarantees and policies, and held available for reinsurance of
67 the title guarantees and policies in the event of the insolvency
68 of the insurer. ~~Nothing contained in This section does not shall~~
69 preclude the such insurer from investing such reserve in
70 investments authorized by law, ~~for such an insurer~~ and the
71 income from such investments ~~invested reserve~~ shall be included
72 in the general income of the insurer and may ~~to~~ be used by such
73 insurer for any lawful purpose.

74 (1) For an unearned premium reserve ~~reserves~~ established
75 on or after July 1, 1999, such ~~unearned premium~~ reserve must be
76 in shall consist of not less than an amount at least equal to
77 the sum of paragraphs (a), (b), and (d) for title insurers
78 holding less than \$50 million in surplus as to policyholders as
79 of the previous year end and the sum of paragraphs (c) and (d)
80 for title insurers holding \$50 million or more in surplus as to
81 policyholders as of the previous year end:

82 (a) A reserve with respect to unearned premiums for
83 policies written or title liability assumed in reinsurance
84 before July 1, 1999, equal to the reserve established on June
85 30, 1999, for those unearned premiums with such reserve being
86 subsequently released as provided in subsection (2). For
87 domestic title insurers subject to this section, such amounts
88 shall be calculated in accordance with ~~provisions of law of this~~
89 state law in effect at the time the associated premiums were
90 written or assumed and as amended before ~~prior to~~ July 1, 1999.

91 (b) A total amount equal to 30 cents for each \$1,000 of

701501

Approved For Filing: 3/25/2014 4:30:02 PM

Amendment No.

92 net retained liability for policies written or title liability
93 assumed in reinsurance on or after July 1, 1999, with such
94 reserve being subsequently released as provided in subsection
95 (2). For the purpose of calculating this reserve, the total of
96 the net retained liability for all simultaneous issue policies
97 covering a single risk shall be equal to the liability for the
98 policy with the highest limit covering that single risk, net of
99 any liability ceded in reinsurance.

100 (c) On or after January 1, 2014, for title insurers
101 holding \$50 million or more in surplus as to policyholders as of
102 the previous year end, a minimum of 6.5 percent of the total of
103 the following:

104 1. Direct premiums written; and
105 2. Premiums for reinsurance assumed, plus other income,
106 less premiums for reinsurance ceded as displayed in Schedule P
107 of the title insurer's most recent annual statement filed with
108 the office with such reserve being subsequently released as
109 provided in subsection (2). Title insurers with less than \$50
110 million in surplus as to policyholders must continue to record
111 unearned premium reserve in accordance with paragraph (b).

112 (d) ~~(e)~~ An additional amount, if deemed necessary by a
113 qualified actuary, to which shall be subsequently released as
114 provided in subsection (2). Using financial results as of
115 December 31 of each year, all domestic title insurers shall
116 obtain a Statement of Actuarial Opinion from a qualified actuary
117 regarding the insurer's loss and loss adjustment expense

701501

Approved For Filing: 3/25/2014 4:30:02 PM

Amendment No.

118 reserves, including reserves for known claims, ~~adverse~~
119 ~~development on known claims~~, incurred but not reported claims,
120 and unallocated loss adjustment expenses. The actuarial opinion
121 must ~~shall~~ conform to the annual statement instructions for
122 title insurers adopted by the National Association of Insurance
123 Commissioners and ~~shall~~ include the actuary's professional
124 opinion of the insurer's reserves as of the date of the annual
125 statement. If the amount of the reserve stated in the opinion
126 and displayed in Schedule P of the annual statement for that
127 reporting date is greater than the sum of the known claim
128 reserve and unearned premium reserve as calculated under this
129 section, as of the same reporting date and including any
130 previous actuarial provisions added at earlier dates, the
131 insurer shall add to the insurer's unearned premium reserve an
132 actuarial amount equal to the reserve shown in the actuarial
133 opinion, minus the known claim reserve and the unearned premium
134 reserve, as of the current reporting date and calculated in
135 accordance with this section, but not ~~in no event~~ calculated as
136 of any date before ~~prior to~~ December 31, 1999. The comparison
137 shall be made using that line on Schedule P displaying the Total
138 Net Loss and Loss Adjustment Expense which is comprised of the
139 Known Claim Reserve, and any associated Adverse Development
140 Reserve, the reserve for Incurred But Not Reported Losses, and
141 Unallocated Loss Adjustment Expenses.

142 (2) ~~(a)~~ With respect to reserves ~~the reserve~~ established in
143 accordance with:

701501

Approved For Filing: 3/25/2014 4:30:02 PM

Amendment No.

144 (a) Paragraph (1)(a), the domestic title insurer shall
145 release the reserve over the subsequent ~~a period of 20~~
146 ~~subsequent~~ years as provided in this paragraph. The insurer
147 shall release 30 percent of the initial aggregate sum during
148 1999, with one quarter of that amount being released on March
149 31, June 30, September 30, and December 31, 1999, with the March
150 31 and June 30 releases to be retroactive and reflected on the
151 September 30 financial statements. Thereafter, the insurer shall
152 release, on the same quarterly basis as specified for reserves
153 released during 1999, a percentage of the initial aggregate sum
154 as follows: 15 percent during calendar year 2000, 10 percent
155 during each of calendar years 2001 and 2002, 5 percent during
156 each of calendar years 2003 and 2004, 3 percent during each of
157 calendar years 2005 and 2006, 2 percent during each of calendar
158 years 2007-2013, and 1 percent during each of calendar years
159 2014-2018.

160 ~~(b) With respect to reserves established in accordance~~
161 ~~with~~ Paragraph (1)(b), the unearned premium for policies written
162 or title liability assumed during a particular calendar year
163 shall be earned, and released from reserve, over the subsequent
164 ~~a period of 20 subsequent~~ years as provided in this paragraph.
165 The insurer shall release 30 percent of the initial sum during
166 the year following ~~next succeeding~~ the year the premium was
167 written or assumed, with one quarter of that amount being
168 released on March 31, June 30, September 30, and December 31 of
169 such year. Thereafter, the insurer shall release, on the same

701501

Approved For Filing: 3/25/2014 4:30:02 PM

Amendment No.

170 quarterly basis as specified for reserves released during the
171 year following ~~first succeeding~~ the year the premium was written
172 or assumed, a percentage of the initial sum as follows: 15
173 percent during the next succeeding year, 10 percent during each
174 of the next succeeding 2 years, 5 percent during each of the
175 next succeeding 2 years, 3 percent during each of the next
176 succeeding 2 years, 2 percent during each of the next succeeding
177 7 years, and 1 percent during each of the next succeeding 5
178 years.

179 (c) Paragraph (1)(c), the unearned premium for policies
180 written or title liability assumed during a particular calendar
181 year shall be earned, and released from reserve, over the
182 subsequent 20 years at an amortization rate not to exceed the
183 formula in this paragraph. The insurer shall release 35 percent
184 of the initial sum during the year following the year the
185 premium was written or assumed, with one-fourth of that amount
186 being released on March 31, June 30, September 30, and December
187 31 of such year. Thereafter, the insurer shall release, on the
188 same quarterly basis, as specified for reserve released during
189 the year following the year the premium was written or assumed,
190 a percentage of the initial sum as follows: 15 percent during
191 each year of the next succeeding 2 years, 10 percent during the
192 next succeeding year, 3 percent during each of the next
193 succeeding 3 years, 2 percent during each of the succeeding 3
194 years, and 1 percent during each of the next succeeding 10
195 years.

701501

Approved For Filing: 3/25/2014 4:30:02 PM

Amendment No.

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

206 (3) If a title insurer that is organized under the laws of
207 another state transfers its domicile to this state, the
208 statutory or unearned premium reserve shall be the amount
209 required by the laws of the state of the title insurer's former
210 state of domicile as of the date of transfer of domicile and
211 shall be released from reserve according to the requirements of
212 law in effect in the former state at the time of domicile. On or
213 after January 1, 2014, for new business written after the
214 effective date of the transfer of domicile to this state, the
215 domestic title insurer shall add to and set aside in the
216 statutory or unearned premium reserve such amount as provided in
217 subsection (1).

218 ~~(4)(3)~~ At any reporting date, the amount of the required
219 releases of existing unearned premium reserves under subsection
220 (2) shall be calculated and deducted from the total unearned
221 premium reserve before any additional amount is established for

701501

Approved For Filing: 3/25/2014 4:30:02 PM

Amendment No.

222 the current calendar year in accordance with ~~the provisions of~~
223 paragraph (1) (d) ~~(1) (e)~~.

224 (5) A domestic title insurer is not required to record a
225 separate bulk reserve. However, if a separate bulk reserve is
226 recorded, the statutory premium reserve must be reduced by the
227 amount recorded for such bulk reserve. A domestic title insurer
228 must obtain approval from the office before using or recording a
229 bulk reserve.

230 (6) (4) As used in this section, the term:

231 (a) "Bulk reserve" means provision for subsequent
232 development on known claims.

233 (b) (a) "Net retained liability" means the total liability
234 retained by a title insurer for a single risk, after taking into
235 account the deduction for ceded liability, if any.

236 (c) (b) "Qualified actuary" means a person who is, as
237 detailed in the National Association of Insurance Commissioners'
238 Annual Statement Instructions:

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

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

245 3. A person who otherwise has competency in loss reserve
246 evaluation as demonstrated to the satisfaction of the insurance
247 regulatory official of the domiciliary state. In such case, at

701501

Approved For Filing: 3/25/2014 4:30:02 PM

Amendment No.

248 least 90 days before ~~prior to the filing of~~ its annual
249 statement, the insurer must request ~~approval~~ that the person be
250 deemed qualified and that request must be approved or denied.
251 The request must include the National Association of Insurance
252 Commissioners' Biographical Form and a list of all loss reserve
253 opinions issued in the last 3 years by this person.

254 ~~(d)-(e)~~ "Single risk" means the insured amount of a ~~any~~
255 title insurance policy, except that where two or more title
256 insurance policies are issued simultaneously covering different
257 estates in the same real property, "single risk" means the sum
258 of the insured amounts of all such ~~title insurance~~ policies. A
259 ~~Any~~ title insurance policy insuring a mortgage interest, a claim
260 payment under which reduces the insured amount of a fee or
261 leasehold title insurance policy, shall be excluded in computing
262 the amount of a single risk to the extent that the insured
263 amount of the mortgage title insurance policy does not exceed
264 the insured amount of the fee or leasehold title insurance
265 policy.

266 Section 3. Subsection (5) of section 624.407, Florida
267 Statutes, is amended to read:

268 624.407 Surplus required; new insurers.—

269 (5) For the purposes of this section, liabilities do not
270 include liabilities required under s. 625.041(5) ~~625.041(4)~~. For
271 purposes of computing minimum surplus as to policyholders
272 pursuant to s. 625.305(1), liabilities include liabilities
273 required under s. 625.041(5) ~~625.041(4)~~.

701501

Approved For Filing: 3/25/2014 4:30:02 PM

Amendment No.

274 Section 4. Subsection (2) of section 624.408, Florida
275 Statutes, is amended to read:

276 624.408 Surplus required; current insurers.—

277 (2) For purposes of this section, liabilities do not
278 include liabilities required under s. 625.041(5) ~~625.041(4)~~. For
279 purposes of computing minimum surplus as to policyholders
280 pursuant to s. 625.305(1), liabilities include liabilities
281 required under s. 625.041(5) ~~625.041(4)~~.

282

283

284

T I T L E A M E N D M E N T

285

Between lines 2 and 3, insert:

286

625.041, F.S.; revising criteria with respect to

287

liabilities charged against assets in determinations

288

of financial condition; amending s. 625.111, F.S.;

289

specifying the reserves that certain title insurers

290

must set aside after a certain date; specifying the

291

manner in which reserves must be released; specifying

292

which state law governs the amount of the reserve for

293

a title insurer who transfers domicile to this state;

294

providing that a domestic title insurer is not

295

required to record separate bulk reserves; revising

296

and providing definitions; amending ss. 624.407 and

297

624.408, F.S.; conforming cross-references; amending

298

s.

701501

Approved For Filing: 3/25/2014 4:30:02 PM