By Senator Hukill

8-00766-16 2016622__

A bill to be entitled

An act relating to a title insurance reserve; amending s. 625.111, F.S.; specifying requirements for a certain unearned premium reserve for a domestic title insurer under certain conditions; providing a formula for the maximum amortization rate that applies to the aggregate amounts earned and released from a certain unearned premium reserve; revising a calculation for a total unearned premium reserve; conforming provisions to changes made by the act; providing an effective date.

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

Section 1. Subsections (1), (3), and (4) of section 625.111, Florida Statutes, are amended to read:

625.111 Title insurance reserve.—In addition to an adequate reserve as to outstanding losses relating to known claims as required under s. 625.041, a domestic title insurer shall establish, segregate, and maintain a guaranty fund or unearned premium reserve as provided in this section. The sums to be reserved for unearned premiums on title guarantees and policies shall be considered and constitute unearned portions of the original premiums and shall be charged as a reserve liability of the insurer in determining its financial condition. Such reserved funds shall be withdrawn from the use of the insurer for its general purposes, impressed with a trust in favor of the holders of title guarantees and policies, and held available for reinsurance of the title guarantees and policies in the event of the insolvency of the insurer. This section does not preclude the insurer from investing such reserve in investments authorized by law, and the income from such investments shall be included in the general income of the insurer and may be used by such insurer for any lawful purpose.

(1) For a domestic title insurer holding less than $50 million in surplus as to policyholders as of the previous year end, its ~~For an~~ unearned premium reserve established on or after July 1, 1999, ~~such reserve~~ must be in an amount at least equal to the sum of paragraphs (a), (b), and (d). For a domestic title insurer holding $50 million or more in surplus as to policyholders as of the previous year end or on the 45th day following the last day of the calendar quarter in which the insurer transfers its domicile to this state, its unearned premium reserve established on or after July 1, 1999, must be in an amount at least equal to the sum of paragraphs (c) and (d), and the insurer must continue to calculate its unearned premium reserve in this amount, even if the surplus as to policyholders as of the previous year end subsequently falls below $50 million. ~~for title insurers holding less than $50 million in surplus as to policyholders as of the previous year end and the sum of paragraphs (c) and (d) for title insurers holding $50 million or more in surplus as to policyholders as of the previous year end:~~

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

(b) A total amount equal to 30 cents for each $1,000 of net retained liability for policies written or title liability assumed in reinsurance on or after July 1, 1999, with such reserve being subsequently released as provided in subsection (2). For the purpose of calculating this reserve, the total of the net retained liability for all simultaneous issue policies covering a single risk shall be equal to the liability for the policy with the highest limit covering that single risk, net of any liability ceded in reinsurance.

(c) On or after January 1, 2014, for title insurers holding $50 million or more in surplus as to policyholders as of the previous year end or on the 45th day following the last day of the calendar quarter in which the insurer transfers its domicile to this state, and for domestic title insurers that formerly held $50 million or more in surplus as to policyholders, a minimum of 6.5 percent of the total of the following:

1. Direct premiums written; and

2. Premiums for reinsurance assumed, plus other income, less premiums for reinsurance ceded as displayed in Schedule P of the title insurer's most recent annual statement filed with the office with such reserve being subsequently released as provided in subsection (2). Title insurers with less than $50 million in surplus as to policyholders, except domestic title insurers that formerly held $50 million or more in surplus as to policyholders, must continue to record unearned premium reserve

in accordance with paragraph (b).

(d) An additional amount, if deemed necessary by a qualified actuary, to be subsequently released as provided in subsection (2). Using financial results as of December 31 of each year, all domestic title insurers shall obtain a Statement of Actuarial Opinion from a qualified actuary regarding the insurer’s loss and loss adjustment expense reserves, including reserves for known claims, incurred but not reported claims, and unallocated loss adjustment expenses. The actuarial opinion must conform to the annual statement instructions for title insurers adopted by the National Association of Insurance Commissioners and include the actuary’s professional opinion of the insurer’s reserves as of the date of the annual statement. If the amount of the reserve stated in the opinion and displayed in Schedule P of the annual statement for that reporting date is greater than the sum of the known claim reserve and unearned premium reserve as calculated under this section, as of the same reporting date and including any previous actuarial provisions added at earlier dates, the insurer shall add to the insurer’s unearned premium reserve an actuarial amount equal to the reserve shown in the actuarial opinion, minus the known claim reserve and the unearned premium reserve, as of the current reporting date and calculated in accordance with this section, but not calculated as of any date before December 31, 1999. The comparison shall be made using that line on Schedule P displaying the Total Net Loss and Loss Adjustment Expense which is comprised of the Known Claim Reserve, and any associated Adverse Development Reserve, the reserve for Incurred But Not Reported Losses, and Unallocated Loss Adjustment Expenses.

(3)(a) If a title insurer that is organized under the laws of another state transfers its domicile to this state, the statutory or unearned premium reserve shall be the amount required by the laws of the state of the title insurer's former state of domicile as of the date of transfer of domicile. Thereafter, the aggregate of such unearned premium reserve shall be earned and released from the reserve by the title insurer over the subsequent 20 years at an amortization rate not to exceed the formula in paragraph (c) ~~and shall be released from reserve according to the requirements of law in effect in the former state at the time of domicile~~.

(b) On or after January 1, 2014, for new business written after the effective date of the transfer of domicile to this state, the domestic title insurer shall add to and set aside in the statutory or unearned premium reserve such amount as provided in subsection (1).

(c) The aggregate amounts set aside in the reserve required under paragraph (a) shall be earned and released from the reserve by the title insurer over a period of 20 years at an amortization rate not to exceed the following formula: an initial release of 35 percent of the aggregate of such reserves on the 45th day following the last day of the calendar quarter in which the insurer transfers its domicile. Thereafter, the insurer shall release, with one-quarter of the amount being released on March 31, June 30, September 30, and December 31 of such year, a percentage of the aggregate sum as follows:

1. Fifteen percent during each year of the next succeeding 2 years;

2. Ten percent during the next succeeding year;

3. Three percent during each of the next succeeding 3 years;

4. Two percent during each of the next succeeding 3 years; and

5. One percent during each of the next succeeding 10 years.

(4) At any reporting date, the amount of the required releases of existing unearned premium reserves under subsections ~~subsection~~ (2) and (3) shall be calculated and deducted from the total unearned premium reserve before any additional amount is established for the current calendar year in accordance with paragraph (1)(d).

Section 2. This act shall take effect July 1, 2016.