HB 927

1 A bill to be entitled 2 An act relating to title insurance; amending s. 3 631.401, F.S.; revising procedures and requirements 4 relating to the recovery of assessments from title 5 insurers through surcharges assessed on policies; 6 revising provisions relating to surcharges collected 7 in excess of the assessments paid by title insurers; 8 revising requirements for the payment of excess 9 surcharges to the Insurance Regulatory Trust Fund; 10 authorizing the Office of Insurance Regulation to adopt rules for certain purposes; providing an 11 effective date. 12 13 14 Be It Enacted by the Legislature of the State of Florida: 15 16 Section 1. Section 631.401, Florida Statutes, is amended 17 to read: 631.401 Recovery of assessments and assumed policy 18 19 obligations.-Upon the making of any assessment allowed by s. 20 (1)21 631.400, the office shall order a surcharge or, if a surcharge 2.2 is currently in effect, an additional surcharge amount on each 23 title insurance policy thereafter issued insuring an interest in 24 real property in this state. The office shall set the per transaction surcharge at an amount estimated to generate 25 26 sufficient funds to recover the amount assessed over a period of Page 1 of 4

CODING: Words stricken are deletions; words underlined are additions.

2015

## HB 927

52

27 not more than 7 years. The amount of the surcharge ordered under 28 this section may not exceed \$25 per transaction for each 29 impaired title insurer. If additional surcharges are occasioned 30 by additional title insurers becoming impaired, the office shall 31 order an increase in the amount of the surcharge to reflect the 32 aggregate surcharge.

The party responsible for the payment of title 33 (2) insurance premium, unless otherwise agreed between the parties, 34 35 shall be responsible for the payment of the surcharge. No 36 surcharge will be due or owing as to any policy of title 37 insurance subject to issued at the simultaneous issue premium 38 rate. For all other purposes, The surcharge will be considered a 39 governmental assessment to be separately stated on any 40 settlement statement as a surcharge. The surcharge is not 41 premium and is not subject to premium tax or reserve 42 requirements under chapter 625.

43 Title insurers doing business in this state which are (3)44 not subject to a given assessment writing no premiums in the 45 prior calendar year shall collect the same per transaction 46 surcharge as provided by this section. Such surcharge collected 47 shall be paid to the receiver within 60 days after receipt to be 48 maintained in an excess surcharge account and used only as 49 provided in subsection (6) from the title agent or agency. 50 (4)Each title insurance agent, agency, or direct title 51 operation shall collect the surcharge as to each title insurance

policy written and remit those surcharges along with the

## Page 2 of 4

CODING: Words stricken are deletions; words underlined are additions.

2015

and premiums within 60 days to the title insurer on

HB 927

53 policies

2015

54	which whom the policy was written.
55	(5) A title insurer may not retain more in surcharges <del>for</del>
56	an ordered assessment than the amount of aggregate assessments
57	paid by the assessment that title insurer paid. Any surcharges
58	collected in excess of the amount of the aggregate assessments
59	paid by a title insurer shall be paid as provided in subsection
60	(6). As used in this section, the term "aggregate assessments"
61	means the total amount of assessments ordered by the office
62	under s. 631.400.
63	(6) Each title insurer collecting surcharges shall
64	promptly notify the office when it has collected surcharges
65	equal to the amount of the <u>aggregate assessments</u> assessment paid
66	pursuant to s. 631.400. The office shall notify all companies,
67	including those collecting surcharges as required by subsection
68	(3), to cease collecting surcharges when notified that all
69	aggregate assessments have been recovered. Any surcharges
70	collected by a title insurer in excess of the total amount it
71	was assessed for aggregate assessments shall be paid quarterly
72	to the receiver to be maintained in the excess surcharge account
73	by the receiver. Excess surcharges may be used by the receiver
74	for the following purposes only:
75	(a) To reduce or eliminate the amount of a future
76	assessment for a title insurer in receivership;
77	(b) To reduce the amount of time that consumers in the
78	state are subject to surcharges by transferring excess
I	Page 3 of 4

CODING: Words stricken are deletions; words underlined are additions.

HB 927

2015

79	surcharges to title insurers that have not fully collected
80	surcharges equal to the amount of the aggregate assessments they
81	paid pursuant to s. 631.400; or
82	(c) To reduce or eliminate the need for future assessments
83	for title insurers not yet in receivership.
84	(7) In conjunction with the filing of each quarterly
85	financial statement, each title insurer shall provide the office
86	with an accounting of assessments paid and surcharges collected
87	during the period. Any surcharges collected in excess of the
88	amount assessed which are not used under subsection (6) within 1
89	year after the termination of all title insurer receiverships
90	shall be paid to the Insurance Regulatory Trust Fund. <u>The office</u>
91	may adopt rules specifying procedures for the collection, use,
92	and transfer of surcharges, including excess surcharges.
93	Section 2. This act shall take effect July 1, 2015.
	Dago 4 of 4
	Page 4 of 4

CODING: Words stricken are deletions; words underlined are additions.