

By the Committee on Banking and Insurance; and Senator Bean

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1 A bill to be entitled

2 An act relating to insurance guaranty association  
3 assessments; amending s. 631.914, F.S.; requiring the  
4 Office of Insurance Regulation to levy assessments for  
5 certain purposes; revising and providing requirements  
6 for the levy of assessments; requiring insurers and  
7 self-insurance funds to report certain premiums;  
8 requiring insurers to collect policy surcharges and  
9 pay assessments to the association; revising  
10 requirements for reporting premium for assessment  
11 calculations; revising and providing requirements and  
12 limitations for remittance of assessments to the  
13 association; providing an effective date.

14  
15 Be It Enacted by the Legislature of the State of Florida:

16  
17 Section 1. Section 631.914, Florida Statutes, is amended to  
18 read:

19 631.914 Assessments.—

20 (1) (a) To the extent necessary to secure the funds for the  
21 payment of covered claims, and also to pay the reasonable costs  
22 to administer the same, the Office of Insurance Regulation  
23 ~~department~~, upon certification by the board, shall levy  
24 assessments on each insurer initially estimated in the  
25 proportion that the insurer's net direct written premiums in  
26 this state bears to the total of said net direct written  
27 premiums received in this state by all such workers'  
28 compensation insurers for the preceding calendar year.  
29 Assessments levied against insurers and self-insurance funds  
30 pursuant to this paragraph must be computed and levied on the  
31 basis of the full policy premium value on the net direct written  
32 premium amount as set forth in the state for workers'

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33 compensation insurance without consideration of any applicable  
34 discount or credit for deductibles. Insurers and self-insurance  
35 funds must report premiums in compliance with this paragraph.

36 Assessments shall be remitted to and administered by the board  
37 of directors in the manner specified by the approved plan of  
38 operation and paragraph (d). ~~The board shall give each insurer~~  
39 ~~so assessed at least 30 days' written notice of the date the~~  
40 ~~assessment is due and payable.~~ Each assessment shall be a  
41 uniform percentage applicable to the net direct written premiums  
42 of each insurer writing workers' compensation insurance.

43 ~~1. Beginning July 1, 1997,~~ Assessments levied against  
44 insurers ~~and, other than~~ self-insurance funds, shall not exceed  
45 in any calendar year more than 2 percent of that insurer's net  
46 direct written premiums in this state for workers' compensation  
47 insurance ~~during the calendar year next preceding the date of~~  
48 ~~such assessments.~~

49 (b) Member insurers shall collect surcharges at a uniform  
50 percentage rate on new and renewal policies issued and effective  
51 during the period of 12 months beginning on January 1, April 1,  
52 July 1, or October 1, whichever is the first day of the  
53 following calendar quarter as specified in an order issued by  
54 the office directing insurers to pay an assessment to the  
55 association. The surcharge may not begin until 90 days after the  
56 board of directors certifies the assessment.

57 ~~2. Beginning July 1, 1997,~~ assessments levied against self-  
58 insurance funds shall not exceed in any calendar year more than  
59 1.50 percent of that self-insurance fund's net direct written  
60 premiums in this state for workers' compensation insurance  
61 ~~during the calendar year next preceding the date of such~~

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62 assessments.

63 ~~3. Beginning July 1, 2003, assessments levied against~~  
64 ~~insurers and self-insurance funds pursuant to this paragraph are~~  
65 ~~computed and levied on the basis of the full policy premium~~  
66 ~~value on the net direct premiums written in the state for~~  
67 ~~workers' compensation insurance during the calendar year next~~  
68 ~~preceding the date of the assessment without taking into account~~  
69 ~~any applicable discount or credit for deductibles. Insurers and~~  
70 ~~self-insurance funds must report premiums in compliance with~~  
71 ~~this subparagraph.~~

72 ~~(b) Assessments shall be included as an appropriate factor~~  
73 ~~in the making of rates.~~

74 ~~(c)1. Effective July 1, 1999, If assessments otherwise~~  
75 ~~authorized in paragraph (a) are insufficient to make all~~  
76 ~~payments on reimbursements then owing to claimants in a calendar~~  
77 ~~year, then upon certification by the board, the office~~  
78 ~~department shall levy additional assessments of up to 1.5~~  
79 ~~percent of the insurer's net direct written premiums in this~~  
80 ~~state during the calendar year next preceding the date of such~~  
81 ~~assessments against insurers to secure the necessary funds.~~

82 (d) The association may use an installment method to  
83 require the insurer to remit the assessment as premium is  
84 written or may require the insurer to remit the assessment to  
85 the association before collecting the policyholder surcharge. If  
86 the assessment is remitted before the surcharge is collected,  
87 the assessment remitted must be based on an estimate of the  
88 assessment due based on the proportion of each insurer's net  
89 direct written premium in this state for the preceding calendar  
90 year as described in paragraph (a) and adjusted following the

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91 end of the 12-month period during which the assessment is  
92 levied.

93 1. If the association elects to use the installment method,  
94 the office may, in the order levying the assessment on insurers,  
95 specify that the assessment is due and payable quarterly as  
96 premium is written throughout the assessment year. Insurers  
97 shall collect surcharges at a uniform percentage rate specified  
98 by order as described in paragraph (b). Insurers are not  
99 required to advance funds if the association and the office  
100 elect to use the installment option. Assessments levied under  
101 this subparagraph are paid after policy surcharges are  
102 collected, and the recognition of assets is based on actual  
103 premium written offset by the obligation to the association.

104 2. If the association elects to require insurers to remit  
105 the assessment before surcharging the policyholder, the  
106 following shall apply:

107 a. The levy order shall provide each insurer so assessed at  
108 least 30 days written notice of the date the initial assessment  
109 payment is due and payable by the insurer.

110 b. Insurers shall collect surcharges at a uniform  
111 percentage rate specified by the order, as described in  
112 paragraph (b).

113 c. Assessments levied under this subparagraph are paid  
114 before policy surcharges are billed and result in a receivable  
115 for policy surcharges to be billed in the future. The amount of  
116 billed surcharges, to the extent it is likely that it will be  
117 realized, meets the definition of an admissible asset as  
118 specified in the National Association of Insurance  
119 Commissioners' Statement of Statutory Accounting Principles No.

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120 4. The asset shall be established and recorded separately from  
121 the liability. If an insurer is unable to fully recoup the  
122 amount of the assessment, the amount recorded as an asset shall  
123 be reduced to the amount reasonably expected to be recouped.

124 3. Insurers must submit a reconciliation report to the  
125 association within 120 days after the end of the 12-month  
126 assessment period and annually thereafter for a period of three  
127 years. The report must indicate the amount of the initial  
128 payment or installment payments made to the association and the  
129 amount of written premium pursuant to paragraph (a) for the  
130 assessment year. If the insurer's reconciled assessment  
131 obligation is more than the amount paid to the association, the  
132 insurer shall pay the excess surcharges collected to the  
133 association. If the insurer's reconciled assessment obligation  
134 is less than the initial amount paid to the association, the  
135 association shall credit the insurer that amount against future  
136 assessments.

137 (2) Assessments levied under this section are not premium  
138 and are not subject to any premium tax, fees, or commissions.  
139 Insurers shall treat the failure of an insured to pay  
140 assessment-related surcharges as a failure to pay premium. An  
141 insurer is not liable for any uncollectible assessment-related  
142 surcharges.

143 (3) Assessments levied under this section may be levied  
144 only upon insurers. This section does not create a cause of  
145 action by a policyholder with respect to the levying of an  
146 assessment or a policyholder's duty to pay assessment-related  
147 surcharges.

148 ~~2. To assure that insurers paying assessments levied under~~

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149 ~~this paragraph continue to charge rates that are neither~~  
150 ~~inadequate nor excessive, each insurer that is to be assessed~~  
151 ~~pursuant to this paragraph, or a licensed rating organization to~~  
152 ~~which the insurer subscribes, may make, within 90 days after~~  
153 ~~being notified of such assessments, a rate filing for workers'~~  
154 ~~compensation coverage pursuant to ss. 627.072 and 627.091. If~~  
155 ~~the filing reflects a percentage rate change equal to the~~  
156 ~~difference between the rate of such assessment and the rate of~~  
157 ~~the previous year's assessment under this paragraph, the filing~~  
158 ~~shall consist of a certification so stating and shall be deemed~~  
159 ~~approved when made. Any rate change of a different percentage~~  
160 ~~shall be subject to the standards and procedures of ss. 627.072~~  
161 ~~and 627.091.~~

162 (4)~~(2)~~(a) The board may exempt any insurer from an  
163 assessment if, in the opinion of the office department, an  
164 assessment would result in such insurer's financial statement  
165 reflecting an amount of capital or surplus less than the minimum  
166 amount required by any jurisdiction in which the insurer is  
167 authorized to transact insurance.

168 (b) The board may temporarily defer, in whole or in part,  
169 assessments against an insurer if, in the opinion of the office  
170 ~~department~~, payment of the assessment would endanger the ability  
171 of the insurer to fulfill its contractual obligations. In the  
172 case of a self-insurance fund, the trustees of the fund  
173 determined to be endangered must immediately levy an assessment  
174 upon the members of that self-insurance fund in an amount  
175 sufficient to pay the assessments to the corporation.

176 (c) The board may allow an insurer to pay an assessment on  
177 a quarterly basis.

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