

By the Committees on Finance and Tax; and Banking and Insurance;
and Senator Bean

593-02546-16

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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

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32 premium amount as set forth in the state for workers'
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

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61 ~~during the calendar year next preceding the date of such~~
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~~

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90 year as described in paragraph (a) and adjusted following the
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

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119 Commissioners' Statement of Statutory Accounting Principles No.
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 return the overpayment to the insurer.

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

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

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

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

161 (4)~~(2)~~(a) The board may exempt any insurer from an
162 assessment if, in the opinion of the office department, an
163 assessment would result in such insurer's financial statement
164 reflecting an amount of capital or surplus less than the minimum
165 amount required by any jurisdiction in which the insurer is
166 authorized to transact insurance.

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

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

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