

Amendment No.

CHAMBER ACTION

Senate

House

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Representative Smith, D. offered the following:

Amendment (with title amendment)

Remove line 1323 and insert:

Section 41. Effective upon this act becoming a law,
section 626.8621, Florida Statutes, is created to read:

626.8621 Adjustments by guaranty association employees.-

(1) An employee of the Florida Insurance Guaranty
Association, created under part II of chapter 631, may adjust
losses for the association if such employee holds, or has held
within the past 10 years, licensure in this state which allows
for the adjustment of such losses.

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13 (2) An employee of a guaranty association established by
14 another state and whose insurance regulators are members of the
15 National Association of Insurance Commissioners may adjust
16 losses for the Florida Insurance Guaranty Association. The
17 authorization for such employees to adjust losses must be
18 included in a contract with the Florida Insurance Guaranty
19 Association and the employee's guaranty association or
20 association's authorized representative. The Florida Insurance
21 Guaranty Association shall contract only for employees of other
22 state guaranty associations who maintain the appropriate
23 experience and training for adjusting such claims.

24 Section 42. Effective upon this act becoming a law,
25 subsections (1), (2), and (3) of section 631.914, Florida
26 Statutes, are amended to read:

27 631.914 Assessments.—

28 (1) (a) To the extent necessary to secure the funds for the
29 payment of covered claims, and also to pay the reasonable costs
30 to administer the same, the Office of Insurance Regulation, upon
31 certification by the board, shall levy assessments on each
32 ~~insurer initially estimated in the proportion that the insurer's~~
33 ~~net direct written premiums in this state bears to the total of~~
34 ~~said net direct written premiums received in this state by all~~
35 ~~such workers' compensation insurers for the preceding calendar~~
36 ~~year.~~ An insurer shall fully recoup assessments by applying the
37 uniform surcharge percentage levied by the office to all

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38 policies of the same kind or line as were considered by the
39 office in determining the assessment liability of the insurer.
40 Assessments levied against insurers and self-insurance funds
41 pursuant to this paragraph must be computed and levied on the
42 basis of ~~the full policy premium value on the net~~ direct written
43 premium amount as set forth in the state for workers'
44 compensation insurance ~~without consideration of any applicable~~
45 ~~discount or credit for deductibles.~~ An insurer's direct written
46 premium calculated for the purposes of determining the insurer's
47 assessment or policyholder surcharge may not be reduced by any
48 discount or credit for deductibles in a policy or by any premium
49 adjustment to a retrospectively rated policy. Insurers and self-
50 insurance funds must report premiums in compliance with this
51 paragraph, and the association may audit the reports.
52 Assessments shall be remitted to and administered by the board
53 of directors in the manner specified by the approved plan of
54 operation and paragraph (d). ~~Each assessment shall be a uniform~~
55 ~~percentage applicable to the net direct written premiums of each~~
56 ~~insurer writing workers' compensation insurance.~~ Assessments
57 levied against insurers and self-insurance funds shall not
58 exceed in any calendar year more than 2 percent of that
59 insurer's ~~net~~ direct written premiums in this state for workers'
60 compensation insurance.

61 (b)-(e) If assessments otherwise authorized in paragraph
62 (a) are insufficient to make all payments on reimbursements then

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63 owing to claimants in a calendar year, then upon certification
64 by the board, the office shall levy additional assessments of up
65 to 1.5 percent of the insurer's ~~net~~ direct written premiums in
66 this state.

67 (c) ~~(b)~~ The office shall levy the uniform surcharge
68 percentage on all policies of the same kind or line as were
69 considered by the office in determining the assessment liability
70 of the insurer. Member insurers shall collect policyholder
71 surcharges at a uniform percentage rate on new and renewal
72 policies issued and effective during the period of 12 months
73 beginning on January 1, April 1, July 1, or October 1, whichever
74 is the first day of the following calendar quarter as specified
75 in an order issued by the office ~~directing insurers to pay an~~
76 ~~assessment to the association.~~ The policyholder surcharge may
77 not begin until 90 days after the board of directors certifies
78 the assessment.

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

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88 ~~described in paragraph (a) and adjusted following the end of the~~
89 ~~12-month period during which the assessment is levied.~~

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

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

106 a. The assessment remitted must be based on an estimate of
107 the assessment due based on the proportion of each insurer's
108 direct written premium in this state for the preceding calendar
109 year as described in paragraph (a).

110 ~~b.a.~~ The levy order shall provide each insurer so assessed
111 at least 30 days' written notice of the date the initial
112 assessment payment is due and payable by the insurer.

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113 ~~c.b.~~ Insurers shall collect policyholder surcharges at a
114 uniform percentage rate specified by the order, as described in
115 paragraph (c) ~~(b)~~.

116 ~~d.e.~~ Assessments levied under this subparagraph and are
117 paid by an insurer constitute advances of funds from the insurer
118 to the association before policy surcharges are billed and
119 result in a receivable for policyholder ~~policy~~ surcharges to be
120 billed in the future. The amount of billed policyholder
121 surcharges, to the extent it is likely that it will be realized,
122 meets the definition of an admissible asset as specified in the
123 National Association of Insurance Commissioners' Statement of
124 Statutory Accounting Principles No. 4. The asset shall be
125 established and recorded separately from the liability. If an
126 insurer is unable to fully recoup the amount of the assessment,
127 the amount recorded as an asset shall be reduced to the amount
128 reasonably expected to be recouped.

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

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138 policyholder surcharges collected to the association. If the
139 insurer's reconciled ~~assessment~~ obligation is less than the
140 initial amount paid to the association, the association shall
141 return the overpayment to the insurer.

142 (2) Policyholder surcharges collected ~~Assessments~~ levied
143 under this section are not premium and are not subject to any
144 premium tax, fees, or commissions. Insurers shall treat the
145 failure of an insured to pay policyholder ~~assessment-related~~
146 surcharges as a failure to pay premium. An insurer is not liable
147 for any uncollectible policyholder ~~assessment-related~~ surcharges
148 levied pursuant to this section.

149 (3) Assessments levied under this section may be levied
150 only upon insurers. This section does not create a cause of
151 action by a policyholder with respect to the levying of an
152 assessment or a policyholder's duty to pay assessment-related
153 policyholder surcharges.

154 Section 43. Except as otherwise expressly provide in this
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157 **T I T L E A M E N D M E N T**

158 Remove line 117 and insert:
159 termination of the task force; creating s. 626.8621,
160 F.S.; authorizing an employee of the Florida Insurance
161 Guaranty Association or an employee of a guaranty
162 association of another state to adjust losses for the

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163 Florida Insurance Guaranty Association if certain
164 conditions are met; amending s. 631.914, F.S.;
165 revising requirements for the Office of Insurance
166 Regulation in levying assessments on workers'
167 compensation insurers; requiring such insurers to
168 recoup the assessments by applying a certain surcharge
169 percentage to certain policies; providing that an
170 insurer's direct written premium may not be reduced by
171 certain amounts for the purposes of determining
172 insurer assessments or policyholder surcharges;
173 authorizing the Florida Workers' Compensation
174 Insurance Guaranty Association to audit certain
175 reports; revising requirements for remitting policy
176 surcharges and assessments; conforming cross-
177 references; providing that assessments paid by an
178 insurer constitute advances of funds to the
179 association under certain circumstances; revising the
180 requirements for the insurers' reconciliation reports
181 to the Florida Workers' Compensation Insurance
182 Guaranty Association; revising construction; providing
183 effective

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