

By the Committee on Banking and Insurance; and Senator Gruters

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1 A bill to be entitled
 2 An act relating to the Florida Workers' Compensation
 3 Joint Underwriting Association; amending s. 627.311,
 4 F.S.; providing that certain dividends or premium
 5 refunds must be retained by the association's joint
 6 underwriting plan of insurers as surplus, subject to
 7 specified diligent search and notification
 8 requirements and subject to certain claims by former
 9 insureds; defining the terms "diligent search" and
 10 "active notification attempt"; providing an effective
 11 date.

12
 13 Be It Enacted by the Legislature of the State of Florida:

14
 15 Section 1. Paragraph (h) of subsection (5) of section
 16 627.311, Florida Statutes, is amended to read:

17 627.311 Joint underwriters and joint reinsurers; public
 18 records and public meetings exemptions.—

19 (5)

20 (h)1. Any premium or assessments collected by the plan in
 21 excess of the amount necessary to fund projected ultimate
 22 incurred losses and expenses of the plan and not paid to
 23 insureds of the plan in conjunction with loss prevention or
 24 dividend programs must ~~shall~~ be retained by the plan for future
 25 use.

26 2. Any state funds received by the plan in excess of the
 27 amount necessary to fund deficits in subplan D or any tier must
 28 ~~shall~~ be returned to the state.

29 3. Any dividend or premium refund not paid to a former

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30 insured of the plan because the insured cannot be located must
31 be retained by the plan as surplus, subject to the following
32 conditions:

33 a. Within 12 months after the failed initial delivery of
34 the dividend or premium refund, the plan shall:

35 (I) Conduct a diligent search to locate the former insured.
36 As used in this sub-subparagraph, the term "diligent search"
37 means the use of a reasonable and prudent method under
38 particular circumstances to locate a former insured to whom a
39 dividend or premium refund is owed. Such method includes
40 searching a nationwide database by using the taxpayer
41 identification number or social security number, if known;
42 cross-indexing with other records related to the former insured;
43 mailing to the last known address unless the last known address
44 is known to be inaccurate; or engaging a licensed agency or
45 company capable of conducting such search and providing an
46 updated address.

47 (II) Notify the insurance agency on the policy of such
48 dividend or premium refund. Notification to the insurance agency
49 does not constitute notification to the former insured and does
50 not make the insurance agency responsible for the dividend or
51 premium refund.

52 (III) For an unclaimed dividend or premium refund valued at
53 \$250 or more, make at least one active notification attempt
54 after completing the diligent search. As used in this sub-sub-
55 subparagraph, the term "active notification attempt" means an
56 attempt to directly contact a former insured to notify him or
57 her of an unclaimed dividend or premium refund. The term does
58 not include other means of notification which do not involve an

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59 attempt to directly contact the former insured, such as
60 publication of the name of the former insured in a newspaper, on
61 television, on the Internet, or through other promotional
62 efforts and items.

63 b. The plan shall publish and maintain on the plan's
64 website a list of the names of the former insureds who have
65 unclaimed dividend or premium refunds and the amount of the
66 dividend or premium refunds owed.

67 c. Notwithstanding s. 95.11, a former insured with
68 satisfactory proof may claim any such dividend or premium refund
69 from the plan at any time.

70 Section 2. This act shall take effect July 1, 2019.