

1 A bill to be entitled
2 An act relating to insurance guaranty associations;
3 creating s. 626.8621, F.S.; authorizing an employee of
4 the Florida Insurance Guaranty Association or an
5 employee of a guaranty association of another state to
6 adjust losses for the Florida Insurance Guaranty
7 Association if certain conditions are met; amending s.
8 631.914, F.S.; revising requirements for the Office of
9 Insurance Regulation in levying assessments on
10 workers' compensation insurers; requiring such
11 insurers to recoup the assessments by applying a
12 certain surcharge percentage to certain policies;
13 providing that an insurer's direct written premium may
14 not be reduced by certain amounts for the purposes of
15 determining insurer assessments or policyholder
16 surcharges; authorizing the Florida Workers'
17 Compensation Insurance Guaranty Association to audit
18 certain reports; revising requirements for remitting
19 policy surcharges and assessments; conforming cross-
20 references; providing that assessments paid by an
21 insurer constitute advances of funds to the
22 association under certain circumstances; revising the
23 requirements for the insurers' reconciliation reports
24 to the Florida Workers' Compensation Insurance
25 Guaranty Association; revising construction; providing

26 | an effective date.

27 |

28 | Be It Enacted by the Legislature of the State of Florida:

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30 | Section 1. Section 626.8621, Florida Statutes, is created
31 | to read:

32 | 626.8621 Adjustments by guaranty association employees.-

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

38 | (2) An employee of a guaranty association established by
39 | another state and whose insurance regulators are members of the
40 | National Association of Insurance Commissioners may adjust
41 | losses for the Florida Insurance Guaranty Association. The
42 | authorization for such employees to adjust losses must be
43 | included in a contract with the Florida Insurance Guaranty
44 | Association and the employee's guaranty association or
45 | association's authorized representative. The Florida Insurance
46 | Guaranty Association shall contract only for employees of other
47 | state guaranty associations who maintain the appropriate
48 | experience and training for adjusting such claims.

49 | Section 2. Subsections (1), (2), and (3) of section
50 | 631.914, Florida Statutes, are amended to read:

51 631.914 Assessments.—

52 (1) (a) To the extent necessary to secure the funds for the
53 payment of covered claims, and also to pay the reasonable costs
54 to administer the same, the Office of Insurance Regulation, upon
55 certification by the board, shall levy assessments on each
56 insurer ~~initially estimated in the proportion that the insurer's~~
57 ~~net direct written premiums in this state bears to the total of~~
58 ~~said net direct written premiums received in this state by all~~
59 ~~such workers' compensation insurers for the preceding calendar~~
60 ~~year.~~ An insurer shall fully recoup assessments by applying the
61 uniform surcharge percentage levied by the office to all
62 policies of the same kind or line as were considered by the
63 office in determining the assessment liability of the insurer.
64 Assessments levied against insurers and self-insurance funds
65 pursuant to this paragraph must be computed and levied on the
66 basis of ~~the full policy premium value on the net~~ direct written
67 premium amount as set forth in the state for workers'
68 compensation insurance ~~without consideration of any applicable~~
69 ~~discount or credit for deductibles.~~ An insurer's direct written
70 premium calculated for the purposes of determining the insurer's
71 assessment or policyholder surcharge may not be reduced by any
72 discount or credit for deductibles in a policy or by any premium
73 adjustment to a retrospectively rated policy. Insurers and self-
74 insurance funds must report premiums in compliance with this
75 paragraph, and the association may audit the reports.

76 Assessments shall be remitted to and administered by the board
77 of directors in the manner specified by the approved plan of
78 operation and paragraph (d). ~~Each assessment shall be a uniform~~
79 ~~percentage applicable to the net direct written premiums of each~~
80 ~~insurer writing workers' compensation insurance.~~ Assessments
81 levied against insurers and self-insurance funds shall not
82 exceed in any calendar year more than 2 percent of that
83 insurer's ~~net~~ direct written premiums in this state for workers'
84 compensation insurance.

85 (b) ~~(e)~~ If assessments otherwise authorized in paragraph
86 (a) are insufficient to make all payments on reimbursements then
87 owing to claimants in a calendar year, then upon certification
88 by the board, the office shall levy additional assessments of up
89 to 1.5 percent of the insurer's ~~net~~ direct written premiums in
90 this state.

91 (c) ~~(b)~~ The office shall levy the uniform surcharge
92 percentage on all policies of the same kind or line as were
93 considered by the office in determining the assessment liability
94 of the insurer. Member insurers shall collect policyholder
95 surcharges at a uniform percentage rate on new and renewal
96 policies issued and effective during the period of 12 months
97 beginning on January 1, April 1, July 1, or October 1, whichever
98 is the first day of the following calendar quarter as specified
99 in an order issued by the office ~~directing insurers to pay an~~
100 ~~assessment to the association.~~ The policyholder surcharge may

101 not begin until 90 days after the board of directors certifies
102 the assessment.

103 (d) The association may use an installment method to
104 require the insurer to remit the policyholder surcharge
105 ~~assessment~~ as premium is collected ~~written~~ or may require the
106 insurer to remit the assessment to the association before
107 collecting the policyholder surcharge. ~~If the assessment is~~
108 ~~remitted before the surcharge is collected, the assessment~~
109 ~~remitted must be based on an estimate of the assessment due~~
110 ~~based on the proportion of each insurer's net direct written~~
111 ~~premium in this state for the preceding calendar year as~~
112 ~~described in paragraph (a) and adjusted following the end of the~~
113 ~~12-month period during which the assessment is levied.~~

114 1. If the association elects to use the installment
115 method, the office may, in the order levying the assessment on
116 insurers, specify that the policyholder surcharge ~~assessment~~ is
117 due and payable quarterly as premium is collected ~~written~~
118 throughout the assessment year. Insurers shall collect
119 policyholder surcharges at a uniform percentage rate specified
120 by order as described in paragraph (c) ~~(b)~~. Insurers are not
121 required to advance funds if the association and the office
122 elect to use the installment option. Assessments levied under
123 this subparagraph are paid after policyholder ~~policy~~ surcharges
124 are collected, and the recognition of assets is based on actual
125 premium collected ~~written~~ offset by the obligation to the

126 association.

127 2. If the association elects to require insurers to remit
128 the assessment before surcharging the policyholder, the
129 following shall apply:

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

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

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

140 ~~d.e.~~ Assessments levied under this subparagraph and are
141 paid by an insurer constitute advances of funds from the insurer
142 to the association before policy surcharges are billed and
143 result in a receivable for policyholder ~~policy~~ surcharges to be
144 billed in the future. The amount of billed policyholder
145 surcharges, to the extent it is likely that it will be realized,
146 meets the definition of an admissible asset as specified in the
147 National Association of Insurance Commissioners' Statement of
148 Statutory Accounting Principles No. 4. The asset shall be
149 established and recorded separately from the liability. If an
150 insurer is unable to fully recoup the amount of the assessment,

151 the amount recorded as an asset shall be reduced to the amount
152 reasonably expected to be recouped.

153 3. Insurers must submit a reconciliation report to the
154 association within 120 days after the end of the 12-month
155 assessment period and annually thereafter for a period of 3
156 years. The report must indicate the amount of the initial
157 payment or installment payments made to the association and the
158 amount of policyholder surcharges collected ~~written premium~~
159 ~~pursuant to paragraph (a)~~ for the assessment year. If the
160 insurer's reconciled ~~assessment~~ obligation is more than the
161 amount paid to the association, the insurer shall pay the excess
162 policyholder surcharges collected to the association. If the
163 insurer's reconciled ~~assessment~~ obligation is less than the
164 initial amount paid to the association, the association shall
165 return the overpayment to the insurer.

166 (2) Policyholder surcharges collected ~~Assessments levied~~
167 under this section are not premium and are not subject to any
168 premium tax, fees, or commissions. Insurers shall treat the
169 failure of an insured to pay policyholder ~~assessment-related~~
170 surcharges as a failure to pay premium. An insurer is not liable
171 for any uncollectible policyholder ~~assessment-related~~ surcharges
172 levied pursuant to this section.

173 (3) Assessments levied under this section may be levied
174 only upon insurers. This section does not create a cause of
175 action by a policyholder with respect to the levying of an

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176 | assessment or a policyholder's duty to pay assessment-related
177 | policyholder surcharges.

178 | Section 3. This act shall take effect July 1, 2019.