

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

---

Prepared By: The Professional Staff of the Committee on Banking and Insurance

---

BILL: CS/SB 292

INTRODUCER: Banking and Insurance Committee and Senator Broxson

SUBJECT: Insurance Claims Data

DATE: November 12, 2019      REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Arnold	Knudson	BI	Fav/CS
2.			CM	
3.			RC	

**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

---

**I. Summary:**

CS/SB 292 creates loss run reporting requirements for all admitted and nonadmitted insurance carriers.

The bill requires an insurance carrier to provide a loss run statement to the insured within 15 days of receipt of a written request submitted by the insured. For personal lines of insurance, carriers may instead provide information on how to obtain a loss run statement at no charge through a consumer reporting agency. The loss run statement must be provided electronically or made available through an electronic portal, and the insurance carrier must notify the agent of record at the time the statement was provided.

The bill requires the statement to include a loss run history for the preceding 5 years or, if the history is less than 5 years, a complete loss run history with the insurance carrier.

The bill prohibits an insurance carrier from charging a fee for preparing or annually providing one loss run statement.

The bill takes effect July 1, 2020.

## II. Present Situation:

### Loss Run Statements

The loss run statement is a report generated by an insurance carrier showing the claims history of an insured. Currently, many insurance carriers provide insureds with electronic access to loss run statements on a voluntary basis. Insurance carriers may use loss run statements for purposes of underwriting and issuing policies. The statement will usually provide the following information:

- Name and policy number of the insured;
- Date of each loss and claim;
- A brief description of the claim;
- Amounts paid to the insured or on reserve; and
- Whether the claim is open or closed.

### Loss Run Reporting Requirements in Other States

Among states that have adopted loss run reporting requirements, insurance carriers generally must provide a report within 10 to 30 days following receipt of a written request made by the insured or insured's agent. Further, the length of historical data required to be included in the provided report ranges 3-5 years.

State examples include:

State	Reporting Timeframe	Amount of Data Required
California	10 days	3 years
Kentucky	20 days	5 years
Louisiana	30 days	3 years
Missouri	20 days	5 years
Oklahoma	30 days	Unspecified
Tennessee	10 days	3 years

There is variance among the states as to which lines of insurance are subject to the reporting requirements. Some states require reporting compliance of all insurance lines while other states require reporting compliance of specific insurance lines only. Similarly, there is variance among the states as to penalties for insurance carriers that fail to provide the requested reports. Some states, like Oklahoma and Tennessee, consider such failure a violation of their respective states' Unfair Trade Practices Act. Others, like Kentucky, provide penalties either per each individual failure to comply or for each day that the report is not provided.

### Public Sources of Loss Run Statements

The majority of personal auto and personal property insurers participate in the Comprehensive Loss Underwriting Exchange (CLUE)<sup>1</sup>, a central database of claims information whose report is

<sup>1</sup> 99 percent of insurers writing automobile coverage, and 96 percent of insurers writing property coverage, participate in the CLUE database. See, e.g.: <https://risk.lexisnexis.com/products/clue-auto> and [https://risk.lexisnexis.com/-/media/files/insurance/brochure/clue\\_property%20pdf.pdf](https://risk.lexisnexis.com/-/media/files/insurance/brochure/clue_property%20pdf.pdf) (last visited November 12, 2019).

used by insurers to assist in making underwriting and rating decisions.<sup>2</sup> Developed by the consumer reporting agency LexisNexis Risk Solutions, the CLUE report contains 7 years of personal auto and personal property claims history associated with an individual, including date of loss, loss type, and amount paid.<sup>3</sup> Under the Fair and Accurate Credit Transactions Act of 2003, LexisNexis Risk Solutions and other consumer reporting agencies must provide one free copy of the consumer's file per year upon request of the consumer.<sup>4</sup>

### III. Effect of Proposed Changes:

The bill requires an insurance carrier must provide a loss run statement to an insured within 15 days following receipt of a request submitted by the insured. For personal lines of insurance, an insurance carrier may instead provide the insured with information on how to obtain a loss run statement at no charge through a consumer reporting agency. The insurance carrier must notify the agent of record that the statement was provided electronically or made available through an electronic portal. The statement must include a loss run history for the preceding 5 years or, if the history is less than 5 years, a complete loss run history with the insurance carrier. The bill specifies that an insurer is not required to provide loss reserve information as part of a loss run statement. The insurance carrier may not charge a fee for preparing or annually providing one loss run statement.

It creates the following definitions:

- “Loss run statement” means a report containing the policy number, period of coverage, number of claims, paid losses on all claims, and date of each loss<sup>5</sup>; and
- “Provide” means to send a document electronically or to allow access through an electronic portal to view or generate a document.

**Section 1** creates s. 626.9202, F.S., to apply these requirements to nonadmitted insurance carriers.

**Section 2** creates s. 627.444, F.S., to apply these requirements to admitted insurance carriers.

**Section 3** provides an effective date of July 1, 2020.

### IV. Constitutional Issues:

#### A. Municipality/County Mandates Restrictions:

None.

<sup>2</sup> [https://consumer-solutions.custhelp.com/app/answers/detail/a\\_id/743/~/-/what-is-lexisnexis-risk-solutions-role-in-supplying-the-credit-report%2C-auto-or](https://consumer-solutions.custhelp.com/app/answers/detail/a_id/743/~/-/what-is-lexisnexis-risk-solutions-role-in-supplying-the-credit-report%2C-auto-or) (last visited November 12, 2019).

<sup>3</sup> [https://personalreports.lexisnexis.com/fact\\_act\\_disclosure.jsp;jsessionid=162F0EE7199A58F7F42EF943FC1B0488](https://personalreports.lexisnexis.com/fact_act_disclosure.jsp;jsessionid=162F0EE7199A58F7F42EF943FC1B0488) (last visited November 12, 2019).

<sup>4</sup> Pub. L. No. 109-159, s. 211m 117 Stat 1952 (2003).

<sup>5</sup> The bill provides that “loss run statement” does not include supporting claim file documentation, including, but not limited to, copies of claim files, investigation reports, evaluation statements, insureds’ statements, and documents protected by a common law or statutory privilege.

**B. Public Records/Open Meetings Issues:**

None.

**C. Trust Funds Restrictions:**

None.

**D. State Tax or Fee Increases:**

None.

**E. Other Constitutional Issues:**

None.

**V. Fiscal Impact Statement:****A. Tax/Fee Issues:**

None.

**B. Private Sector Impact:**

The bill may help consumers with favorable claim histories to obtain insurance at a lower premium.

**C. Government Sector Impact:**

None.

**VI. Technical Deficiencies:**

The bill in creating s. 626.9202(2), F.S., and s. 627.444(2), F.S., provides that for personal lines of insurance, the insurer may either provide a loss run statement or provide to the insured “information on how to obtain a loss run statement through a consumer reporting agency.” The bill then states that “this section does not prohibit an insured from requesting a loss run statement after receiving information from a consumer reporting agency.” The section is unclear as to whether, and at what point, a personal lines insurer itself must provide a loss run statement to an insured.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill creates the following sections of the Florida Statutes: 626.9202 and 627.444.

**IX. Additional Information:**

- A. **Committee Substitute – Statement of Substantial Changes:**  
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

**CS by Banking and Insurance on November 12, 2019:**

- Includes specific data elements in the definition of “loss run statement.”
- Excludes specific data elements from the definition of “loss run statement.”
- Allows personal lines insurance carriers to provide the insured with information on how to obtain a loss run statement at no charge through a consumer reporting agency, rather than provide a loss run statement.
- Allows insurers to deny requests for loss reserve information.

- B. **Amendments:**

None.