

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 Commerce and Tourism

BILL: CS/SB 292

INTRODUCER: Banking and Insurance Committee and Senator Broxson

SUBJECT: Insurance Claims Data

DATE: December 9, 2019

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Arnold</u>	<u>Knudson</u>	<u>BI</u>	Fav/CS
2.	<u>McMillan</u>	<u>McKay</u>	<u>CM</u>	Favorable
3.	_____	_____	<u>RC</u>	_____

Please see Section IX. for Additional Information:

PLEASE MAKE SELECTION

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 January 1, 2021.

II. Present Situation:

Loss Run Statements

A loss run statement¹ is a report generated by an insurance carrier showing the claims history of an insured.² Some insurers have existing loss runs systems that allow their insureds to log into a portal to obtain their own detailed reports on claims.³ Insurance carriers may use loss run statements for purposes of underwriting and issuing policies.⁴ 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.⁵

Loss Run Reporting Requirements in Other States

Currently, Florida does not have an existing statutory framework regarding when and how insurers are required to provide loss run statements to insureds. Among states that have adopted loss run reporting requirements, insurance carriers are generally required to provide a report within 10 to 30 days following receipt of a written request made by the insured or insured's agent.⁶ 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 ⁷	10 days	3 years
Kentucky ⁸	20 days	5 years
Louisiana ⁹	30 days	3 years
Oklahoma ¹⁰	30 days	Unspecified
Tennessee ¹¹	10 days	3 years

There is variance among states as to which lines of insurance are subject to the reporting requirements. Some states require reporting compliance of all insurance lines, whereas other states require reporting compliance of specific insurance lines only. Similarly, there is variance

¹ Loss run statements are also referred to as “loss runs” or “loss run reports.”

² Insureon, *Loss Runs*, <https://www.insureon.com/insurance-glossary/loss-runs> (last visited Dec. 9, 2019).

³ See, e.g., MSIG Loss Runs, <https://www.msigusa.com/loss-runs/> and StarStone, <http://myaccount.starstoneworkcomp.com/index.htm> (last visited Dec. 9, 2019)

⁴ Insureon, *Loss Runs*, <https://www.insureon.com/insurance-glossary/loss-runs> (last visited Dec. 9, 2019).

⁵ *Id.*

⁶ See FindLaw, *What Is a Loss Run Report?*, <https://consumer.findlaw.com/insurance/what-is-a-loss-run-report.html> (last visited Dec. 9, 2019).

⁷ Cal. INS. Code. § 679.7

⁸ Ky. Rev. Stat. § 304.20-100.

⁹ LSA-R.S. 22:636.4.

¹⁰ 36 O.S. § 36-1204.1.

¹¹ T.C.A. § 56-5-323.

among 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.¹² Others, like Kentucky, provide penalties either per each individual failure to comply or for each day that the report is not provided.¹³

Public Sources of Loss Run Statements

The majority of personal auto and personal property insurers participate in the Comprehensive Loss Underwriting Exchange (CLUE)¹⁴, a central database of claims information whose report is used by insurers to assist in making underwriting and rating decisions.¹⁵ 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.¹⁶ The report includes date of loss, loss type, and amount paid.¹⁷ 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.¹⁸

III. Effect of Proposed Changes:

The bill requires an insurance carrier to 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.

The bill 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 loss¹⁹; and

¹² 36 O.S. §36-1204 and T.C.A. § 56-5-323.

¹³ Ky. Rev. Stat. § 304.99-082.

¹⁴ 99 percent of insurers writing automobile coverage, and 96 percent of insurers writing property coverage, participate in the CLUE database. See <https://risk.lexisnexis.com/products/clue-auto> and https://risk.lexisnexis.com/-/media/files/insurance/brochure/clue_property%20pdf.pdf (last visited Dec. 9, 2019).

¹⁵ LexisNexis Risk Solutions, *What is LexisNexis Risk Solutions' role in supplying the credit report, auto or property loss history, and/or insurance score to the insurance company?*, https://consumer-solutions.custhelp.com/app/answers/detail/a_id/743/~/~what-is-lexisnexis-risk-solutions-role-in-supplyingthe-credit-report%2C-auto-or (last visited Dec. 9, 2019).

¹⁶ LexisNexis Risk Solutions, *Who We Are*, https://personalreports.lexisnexis.com/fact_act_disclosure.jsp;jsessionid=162F0EE7199A58F7F42EF943FC1B0488 (last visited Dec. 9, 2019).

¹⁷ *Id.*

¹⁸ Pub. L. No. 109-159, s. 211m 117 Stat 1952 (2003).

¹⁹ 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.

- “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 January 1, 2021.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

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 “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 makes it unclear if a personal lines insurer itself must provide a loss run statement, and if so, at what point they must provide it.

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 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.
- Provides an effective date of January 1, 2021.

B. Amendments:

None.