

HB 467

2016

1 A bill to be entitled

2 An act relating to insurance guaranty association
3 assessments; amending s. 631.914, F.S.; authorizing
4 the Office of Insurance Regulation to levy assessments
5 for certain purposes; revising and providing
6 requirements for the levy of assessments; requiring
7 insurers to collect policy surcharges and pay
8 assessments to the association; revising requirements
9 for reporting premium for assessment calculations;
10 revising and providing requirements and limitations
11 for remittance of assessments to the association;
12 providing an effective date.

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14 Be It Enacted by the Legislature of the State of Florida:

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16 Section 1. Section 631.914, Florida Statutes, is amended
17 to read:

18 631.914 Assessments.—

19 (1)(a) To the extent necessary to secure the funds for the
20 payment of covered claims, and also to pay the reasonable costs
21 to administer the same, the Office of Insurance Regulation
22 ~~department~~, upon certification by the board, shall levy
23 assessments on each insurer initially estimated in the
24 proportion that the insurer's net direct written premiums in
25 this state bears to the total of said net direct written
26 premiums received in this state by all such workers'

27 | compensation insurers for the preceding calendar year.
 28 | Assessments levied against insurers and self-insurance funds
 29 | pursuant to this paragraph must be computed and levied on the
 30 | basis of the full policy premium value on the net direct written
 31 | premium amount as set forth in the state for workers'
 32 | compensation insurance without consideration of any applicable
 33 | discount or credit for deductibles. Insurers and self-insurance
 34 | funds must report premiums in compliance with this paragraph.
 35 | Assessments shall be remitted to and administered by the board
 36 | of directors in the manner specified by the approved plan of
 37 | operation and paragraph (d). ~~The board shall give each insurer~~
 38 | ~~so assessed at least 30 days' written notice of the date the~~
 39 | ~~assessment is due and payable.~~ Each assessment shall be a
 40 | uniform percentage applicable to the net direct written premiums
 41 | of each insurer writing workers' compensation insurance.

42 | ~~1. Beginning July 1, 1997,~~ Assessments levied against
 43 | insurers and, ~~other than~~ self-insurance funds, shall not exceed
 44 | in any calendar year more than 2 percent of that insurer's net
 45 | direct written premiums in this state for workers' compensation
 46 | insurance ~~during the calendar year next preceding the date of~~
 47 | ~~such assessments.~~

48 | (b) Member insurers shall collect surcharges at a uniform
 49 | percentage rate for a period of 12 months beginning on January
 50 | 1, April 1, July 1, or October 1, whichever is the first day of
 51 | the following calendar quarter as specified in an order issued
 52 | by the office directing insurers to pay an assessment to the

53 association. The surcharge may not begin until 90 days after the
54 board of directors certifies the assessment.

55 ~~2. Beginning July 1, 1997, assessments levied against~~
56 ~~self-insurance funds shall not exceed in any calendar year more~~
57 ~~than 1.50 percent of that self-insurance fund's net direct~~
58 ~~written premiums in this state for workers' compensation~~
59 ~~insurance during the calendar year next preceding the date of~~
60 ~~such assessments.~~

61 ~~3. Beginning July 1, 2003, assessments levied against~~
62 ~~insurers and self-insurance funds pursuant to this paragraph are~~
63 ~~computed and levied on the basis of the full policy premium~~
64 ~~value on the net direct premiums written in the state for~~
65 ~~workers' compensation insurance during the calendar year next~~
66 ~~preceding the date of the assessment without taking into account~~
67 ~~any applicable discount or credit for deductibles. Insurers and~~
68 ~~self-insurance funds must report premiums in compliance with~~
69 ~~this subparagraph.~~

70 ~~(b) Assessments shall be included as an appropriate factor~~
71 ~~in the making of rates.~~

72 ~~(c)1. Effective July 1, 1999, If assessments otherwise~~
73 ~~authorized in paragraph (a) are insufficient to make all~~
74 ~~payments on reimbursements then owing to claimants in a calendar~~
75 ~~year, then upon certification by the board, the office~~
76 ~~department shall levy additional assessments of up to 1.5~~
77 ~~percent of the insurer's net direct written premiums in this~~
78 ~~state during the calendar year next preceding the date of such~~

79 ~~assessments against insurers to secure the necessary funds.~~

80 (d) The association may use an installment method to
81 require the insurer to remit the assessment as written or may
82 require the insurer to remit the assessment to the association
83 before collecting the policyholder surcharge. If the assessment
84 is 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
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 assessment is due and payable
93 quarterly as premium is written throughout the assessment year.
94 Insurers shall collect surcharges at a uniform percentage rate
95 specified by order as described in paragraph (b). Insurers are
96 not required to advance funds if the association and the office
97 elect to use the installment option. Assessments levied under
98 this subparagraph are paid after policy surcharges are billed,
99 and the recognition of assets is based on actual premium written
100 offset by the obligation to the association.

101 2. If the association elects to require insurers to remit
102 the assessment prior to surcharging the policyholder, the
103 following shall apply:

104 a. The levy order shall provide each insurer so assessed

105 at least 30 days written notice of the date the initial
106 assessment payment is due and payable by the insurer.

107 b. Insurers shall collect surcharges at a uniform
108 percentage rate specified by the order, as described in
109 paragraph (b).

110 c. Insurers must submit a reconciliation report to the
111 association within 120 days after the end of the 12-month
112 assessment period. The report must indicate the amount of the
113 initial payment made to the association and the amount of
114 written premium pursuant to paragraph (a) for the assessment
115 year. If the insurer's calculated assessment is more than the
116 amount initially paid to the association, the insurer shall pay
117 the excess amount to the association. If the insurer's
118 calculated assessment is less than the initial amount paid to
119 the association, the association shall credit the insurer that
120 amount against future assessments.

121 d. An insurer is not liable for any uncollectible
122 assessments.

123 e. Assessments levied under this subparagraph are paid
124 before policy surcharges are billed and result in a receivable
125 for policy surcharges to be billed in the future. This amount,
126 to the extent it is likely that it will be realized, meets the
127 definition of an admissible asset as specified in the National
128 Association of Insurance Commissioners' Statement of Statutory
129 Accounting Principles No. 4. The asset shall be established and
130 recorded separately from the liability. If an insurer is unable

131 to fully recoup the amount of the assessment, the amount
132 recorded as an asset shall be reduced to the amount reasonably
133 expected to be recouped.

134 (2) Assessments levied under this section are not premium
135 and are not subject to any premium tax, fees, or commissions.
136 Insurers shall treat the failure of an insured to pay an
137 assessment surcharge or the recoupment of an assessment
138 surcharge as a failure to pay the premium.

139 (3) Assessments levied under this section may only be
140 levied upon insurers. This section does not create a cause of
141 action by a policyholder with respect to the levying of, or a
142 policyholder's duty to pay, assessments.

143 ~~2. To assure that insurers paying assessments levied under~~
144 ~~this paragraph continue to charge rates that are neither~~
145 ~~inadequate nor excessive, each insurer that is to be assessed~~
146 ~~pursuant to this paragraph, or a licensed rating organization to~~
147 ~~which the insurer subscribes, may make, within 90 days after~~
148 ~~being notified of such assessments, a rate filing for workers'~~
149 ~~compensation coverage pursuant to ss. 627.072 and 627.091. If~~
150 ~~the filing reflects a percentage rate change equal to the~~
151 ~~difference between the rate of such assessment and the rate of~~
152 ~~the previous year's assessment under this paragraph, the filing~~
153 ~~shall consist of a certification so stating and shall be deemed~~
154 ~~approved when made. Any rate change of a different percentage~~
155 ~~shall be subject to the standards and procedures of ss. 627.072~~
156 ~~and 627.091.~~

157 ~~(4)~~(2)(a) The board may exempt any insurer from an
158 assessment if, in the opinion of the office ~~department~~, an
159 assessment would result in such insurer's financial statement
160 reflecting an amount of capital or surplus less than the minimum
161 amount required by any jurisdiction in which the insurer is
162 authorized to transact insurance.

163 (b) The board may temporarily defer, in whole or in part,
164 assessments against an insurer if, in the opinion of the office
165 ~~department~~, payment of the assessment would endanger the ability
166 of the insurer to fulfill its contractual obligations. In the
167 case of a self-insurance fund, the trustees of the fund
168 determined to be endangered must immediately levy an assessment
169 upon the members of that self-insurance fund in an amount
170 sufficient to pay the assessments to the corporation.

171 (c) The board may allow an insurer to pay an assessment on
172 a quarterly basis.

173 Section 2. This act shall take effect July 1, 2016.