

By Senator Bean

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

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

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

19 631.914 Assessments.—

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

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

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

49 (b) Member insurers shall collect surcharges at a uniform
50 percentage rate for a period of 12 months beginning on January
51 1, April 1, July 1, or October 1, whichever is the first day of
52 the following calendar quarter as specified in an order issued
53 by the office directing insurers to pay an assessment to the
54 association. The surcharge may not begin until 90 days after the
55 board of directors certifies the assessment.

56 ~~2. Beginning July 1, 1997, assessments levied against self-~~
57 ~~insurance funds shall not exceed in any calendar year more than~~
58 ~~1.50 percent of that self-insurance fund's net direct written~~

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59 ~~premiums in this state for workers' compensation insurance~~
60 ~~during the calendar year next preceding the date of such~~
61 ~~assessments.~~

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

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

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

81 ~~(d) The association may use an installment method to~~
82 ~~require the insurer to remit the assessment as written or may~~
83 ~~require the insurer to remit the assessment to the association~~
84 ~~before collecting the policyholder surcharge. If the assessment~~
85 ~~is remitted before the surcharge is collected, the assessment~~
86 ~~remitted must be based on an estimate of the assessment due~~
87 ~~based on the proportion of each insurer's net direct written~~

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88 premium in this state for the preceding calendar year as
89 described in paragraph (a) and adjusted following the end of the
90 12-month period during which the assessment is levied.

91 1. If the association elects to use the installment method,
92 the office may, in the order levying the assessment on insurers,
93 specify that the assessment is due and payable quarterly as
94 premium is written throughout the assessment year. Insurers
95 shall collect surcharges at a uniform percentage rate specified
96 by order as described in paragraph (b). Insurers are not
97 required to advance funds if the association and the office
98 elect to use the installment option. Assessments levied under
99 this subparagraph are paid after policy surcharges are billed,
100 and the recognition of assets is based on actual premium written
101 offset by the obligation to the association.

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

105 a. The levy order shall provide each insurer so assessed at
106 least 30 days written notice of the date the initial assessment
107 payment is due and payable by the insurer.

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

111 c. Insurers must submit a reconciliation report to the
112 association within 120 days after the end of the 12-month
113 assessment period. The report must indicate the amount of the
114 initial payment made to the association and the amount of
115 written premium pursuant to paragraph (a) for the assessment
116 year. If the insurer's calculated assessment is more than the

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117 amount initially paid to the association, the insurer shall pay
118 the excess amount to the association. If the insurer's
119 calculated assessment is less than the initial amount paid to
120 the association, the association shall credit the insurer that
121 amount against future assessments.

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

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

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

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

144 ~~2. To assure that insurers paying assessments levied under~~
145 ~~this paragraph continue to charge rates that are neither~~

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146 ~~inadequate nor excessive, each insurer that is to be assessed~~
147 ~~pursuant to this paragraph, or a licensed rating organization to~~
148 ~~which the insurer subscribes, may make, within 90 days after~~
149 ~~being notified of such assessments, a rate filing for workers'~~
150 ~~compensation coverage pursuant to ss. 627.072 and 627.091. If~~
151 ~~the filing reflects a percentage rate change equal to the~~
152 ~~difference between the rate of such assessment and the rate of~~
153 ~~the previous year's assessment under this paragraph, the filing~~
154 ~~shall consist of a certification so stating and shall be deemed~~
155 ~~approved when made. Any rate change of a different percentage~~
156 ~~shall be subject to the standards and procedures of ss. 627.072~~
157 ~~and 627.091.~~

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

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

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

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