

1 A bill to be entitled
 2 An act relating to insurance guaranty associations;
 3 creating s. 626.8621, F.S.; authorizing the Florida
 4 Insurance Guaranty Association to authorize certain
 5 employees to adjust losses for the association;
 6 requiring such authorization to be included in a
 7 contract; amending s. 631.914, F.S.; revising the
 8 assessments levied by the Office of Insurance
 9 Regulation on workers' compensation insurers;
 10 requiring such insurers to recoup the assessments by
 11 applying a specified percentage to certain policies;
 12 conforming cross-references; providing that
 13 assessments paid by an insurer constitute advances of
 14 funds to the association under certain circumstances;
 15 revising the requirements for the insurers'
 16 reconciliation reports to the Florida Workers'
 17 Compensation Insurance Guaranty Association; revising
 18 construction; providing an effective date.

19
 20 Be It Enacted by the Legislature of the State of Florida:

21
 22 Section 1. Section 626.8621, Florida Statutes, is created
 23 to read:

24 626.8621 Adjustments by guaranty association employees.—An
 25 employee of the Florida Insurance Guaranty Association, created

26 | under part II of chapter 631, may adjust losses for the
27 | association without being licensed as an adjuster. An employee
28 | of a guaranty association established by a state whose insurance
29 | regulators are members of the National Association of Insurance
30 | Commissioners may also adjust losses for the Florida Insurance
31 | Guaranty Association without being licensed as an adjuster when
32 | doing so under a contract with the Florida Insurance Guaranty
33 | Association.

34 | Section 2. Subsections (1), (2), and (3) of section
35 | 631.914, Florida Statutes, are amended to read:

36 | 631.914 Assessments.—

37 | (1) (a) To the extent necessary to secure the funds for the
38 | payment of covered claims, and also to pay the reasonable costs
39 | to administer the same, the Office of Insurance Regulation, upon
40 | certification by the board, shall levy assessments on each
41 | insurer ~~initially estimated in the proportion that the insurer's~~
42 | ~~net direct written premiums in this state bears to the total of~~
43 | ~~said net direct written premiums received in this state by all~~
44 | ~~such workers' compensation insurers for the preceding calendar~~
45 | ~~year. An insurer shall fully recoup assessments by applying the~~
46 | uniform surcharge percentage levied by the office to all
47 | policies of the same kind or line as were considered by the
48 | office in determining the assessment liability of the insurer.
49 | Assessments levied against insurers and self-insurance funds
50 | pursuant to this paragraph must be computed and levied on the

51 basis of ~~the full policy premium value on the net~~ direct written
52 premium amount as set forth in the state for workers'
53 compensation insurance ~~without consideration of any applicable~~
54 ~~discount or credit for deductibles.~~ An insurer's direct written
55 premium calculated for the purposes of determining the insurer's
56 premium subject to surcharge may not be reduced by any discount
57 or credit for deductibles in a policy or by any premium
58 adjustment on a retrospectively rated policy. Insurers and self-
59 insurance funds must report premiums in compliance with this
60 paragraph, and the association may audit the reports.
61 Assessments shall be remitted to and administered by the board
62 of directors in the manner specified by the approved plan of
63 operation and paragraph (d). ~~Each assessment shall be a uniform~~
64 ~~percentage applicable to the net direct written premiums of each~~
65 ~~insurer writing workers' compensation insurance.~~ Assessments
66 levied against insurers and self-insurance funds shall not
67 exceed in any calendar year more than 2 percent of that
68 insurer's ~~net~~ direct written premiums in this state for workers'
69 compensation insurance.

70 (c) ~~(b)~~ Member insurers shall collect policyholder
71 surcharges at a uniform percentage rate on new and renewal
72 policies issued and effective during the period of 12 months
73 beginning on January 1, April 1, July 1, or October 1, whichever
74 is the first day of the following calendar quarter as specified
75 in an order issued by the office ~~directing insurers to pay an~~

76 ~~assessment to the association.~~ The policyholder surcharge may
77 not begin until 90 days after the board of directors certifies
78 the assessment.

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

85 (d) The association may use an installment method to
86 require the insurer to remit the policyholder surcharge
87 ~~assessment~~ as premium is collected ~~written~~ or may require the
88 insurer to remit the assessment to the association before
89 collecting the policyholder surcharge. ~~If the assessment is~~
90 ~~remitted before the surcharge is collected, the assessment~~
91 ~~remitted must be based on an estimate of the assessment due~~
92 ~~based on the proportion of each insurer's net direct written~~
93 ~~premium in this state for the preceding calendar year as~~
94 ~~described in paragraph (a) and adjusted following the end of the~~
95 ~~12-month period during which the assessment is levied.~~

96 1. If the association elects to use the installment
97 method, the office may, in the order levying the assessment on
98 insurers, specify that the policyholder surcharge ~~assessment~~ is
99 due and payable quarterly as premium is collected ~~written~~
100 throughout the assessment year. Insurers shall collect

101 policyholder surcharges at a uniform percentage rate specified
102 by order as described in paragraph (c) ~~(b)~~. Insurers are not
103 required to advance funds if the association and the office
104 elect to use the installment option. Assessments levied under
105 this subparagraph are paid after policyholder ~~policy~~ surcharges
106 are collected, and the recognition of assets is based on actual
107 premium collected ~~written~~ offset by the obligation to the
108 association.

109 2. If the association elects to require insurers to remit
110 the assessment before surcharging the policyholder, the
111 following shall apply:

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

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

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

122 ~~d.e.~~ Assessments levied under this subparagraph and are
123 paid by an insurer constitute advances of funds from the insurer
124 to the association ~~before policy surcharges are billed~~ and
125 result in a receivable for policyholder ~~policy~~ surcharges to be

126 billed in the future. The amount of billed policyholder
127 surcharges, to the extent it is likely that it will be realized,
128 meets the definition of an admissible asset as specified in the
129 National Association of Insurance Commissioners' Statement of
130 Statutory Accounting Principles No. 4. The asset shall be
131 established and recorded separately from the liability. If an
132 insurer is unable to fully recoup the amount of the assessment,
133 the amount recorded as an asset shall be reduced to the amount
134 reasonably expected to be recouped.

135 3. Insurers must submit a reconciliation report to the
136 association within 120 days after the end of the 12-month
137 assessment period and annually thereafter for a period of 3
138 years. The report must indicate the amount of the initial
139 payment or installment payments made to the association and the
140 amount of policyholder surcharges collected ~~written premium~~
141 ~~pursuant to paragraph (a)~~ for the assessment year. If the
142 insurer's reconciled ~~assessment~~ obligation is more than the
143 amount paid to the association, the insurer shall pay the excess
144 policyholder surcharges collected to the association. If the
145 insurer's reconciled ~~assessment~~ obligation is less than the
146 initial amount paid to the association, the association shall
147 return the overpayment to the insurer.

148 (2) Policyholder surcharges collected ~~Assessments levied~~
149 under this section are not premium and are not subject to any
150 premium tax, fees, or commissions. Insurers shall treat the

151 failure of an insured to pay policyholder ~~assessment-related~~
152 surcharges as a failure to pay premium. An insurer is not liable
153 for any uncollectible policyholder ~~assessment-related~~ surcharges
154 levied pursuant to this section.

155 (3) Assessments levied under this section may be levied
156 only upon insurers. This section does not create a cause of
157 action by a policyholder with respect to the levying of an
158 assessment or a policyholder's duty to pay assessment-related
159 policyholder surcharges.

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