



308964

LEGISLATIVE ACTION

Senate

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House

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The Committee on Banking and Insurance (Rader) recommended the following:

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause  
and insert:

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

626.8621 Adjustments by guaranty association employees.—

(1) An employee of the Florida Insurance Guaranty  
Association, created under part II of chapter 631, may adjust  
losses for the association if such employee holds, or has held



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11 within the past 10 years, licensure in this state which allows  
12 for the adjustment of such losses.

13 (2) An employee of a guaranty association established by  
14 another state and whose insurance regulators are members of the  
15 National Association of Insurance Commissioners may adjust  
16 losses for the Florida Insurance Guaranty Association. The  
17 authorization for such employees to adjust losses must be  
18 included in a contract with the Florida Insurance Guaranty  
19 Association and the employee's guarantee association or  
20 association's authorized representative. The Florida Insurance  
21 Guaranty Association shall contract only for employees of other  
22 state guaranty associations who maintain the appropriate  
23 experience and training for adjusting such claims.

24 Section 2. Subsections (1), (2), and (3) of section  
25 631.914, Florida Statutes, are amended to read:

26 631.914 Assessments.—

27 (1) (a) To the extent necessary to secure the funds for the  
28 payment of covered claims, and also to pay the reasonable costs  
29 to administer the same, the Office of Insurance Regulation, upon  
30 certification by the board, shall levy assessments on each  
31 ~~insurer initially estimated in the proportion that the insurer's~~  
32 ~~net direct written premiums in this state bears to the total of~~  
33 ~~said net direct written premiums received in this state by all~~  
34 ~~such workers' compensation insurers for the preceding calendar~~  
35 ~~year.~~ An insurer shall fully recoup assessments by applying the  
36 uniform surcharge percentage levied by the office to all  
37 policies of the same kind or line as were considered by the  
38 office in determining the assessment liability of the insurer.  
39 Assessments levied against insurers and self-insurance funds



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40 pursuant to this paragraph must be computed and levied on the  
41 basis of ~~the full policy premium value on the net~~ direct written  
42 premium amount as set forth in the state for workers'  
43 compensation insurance ~~without consideration of any applicable~~  
44 ~~discount or credit for deductibles.~~ An insurer's direct written  
45 premium calculated for the purposes of determining the insurer's  
46 assessment or policyholder surcharge may not be reduced by any  
47 discount or credit for deductibles in a policy or by any premium  
48 adjustment to a retrospectively rated policy. Insurers and self-  
49 insurance funds must report premiums in compliance with this  
50 paragraph, and the association may audit the reports.

51 Assessments shall be remitted to and administered by the board  
52 of directors in the manner specified by the approved plan of  
53 operation and paragraph (d). ~~Each assessment shall be a uniform~~  
54 ~~percentage applicable to the net direct written premiums of each~~  
55 ~~insurer writing workers' compensation insurance.~~ Assessments  
56 levied against insurers and self-insurance funds shall not  
57 exceed in any calendar year more than 2 percent of that  
58 insurer's ~~net~~ direct written premiums in this state for workers'  
59 compensation insurance.

60 (c) ~~(b)~~ The office shall levy the uniform surcharge  
61 percentage on all policies of the same kind or line as were  
62 considered by the office in determining the assessment liability  
63 of the insurer. Member insurers shall collect policyholder  
64 surcharges at a uniform percentage rate on new and renewal  
65 policies issued and effective during the period of 12 months  
66 beginning on January 1, April 1, July 1, or October 1, whichever  
67 is the first day of the following calendar quarter as specified  
68 in an order issued by the office ~~directing insurers to pay an~~



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69 ~~assessment to the association.~~ The policyholder surcharge may  
70 not begin until 90 days after the board of directors certifies  
71 the assessment.

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

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

89 1. If the association elects to use the installment method,  
90 the office may, in the order levying the assessment on insurers,  
91 specify that the policyholder surcharge ~~assessment~~ is due and  
92 payable quarterly as premium is collected ~~written~~ throughout the  
93 assessment year. Insurers shall collect policyholder surcharges  
94 at a uniform percentage rate specified by order as described in  
95 paragraph (c) ~~(b)~~. Insurers are not required to advance funds if  
96 the association and the office elect to use the installment  
97 option. Assessments levied under this subparagraph are paid



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98 after policyholder ~~policy~~ surcharges are collected, and the  
99 recognition of assets is based on actual premium collected  
100 ~~written~~ offset by the obligation to the association.

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

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

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

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

114 ~~d.e.~~ Assessments levied under this subparagraph and are  
115 paid by an insurer constitute advances of funds from the insurer  
116 to the association before policy surcharges are billed and  
117 result in a receivable for policyholder ~~policy~~ surcharges to be  
118 billed in the future. The amount of billed policyholder  
119 surcharges, to the extent it is likely that it will be realized,  
120 meets the definition of an admissible asset as specified in the  
121 National Association of Insurance Commissioners' Statement of  
122 Statutory Accounting Principles No. 4. The asset shall be  
123 established and recorded separately from the liability. If an  
124 insurer is unable to fully recoup the amount of the assessment,  
125 the amount recorded as an asset shall be reduced to the amount  
126 reasonably expected to be recouped.



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

140           (2) Policyholder surcharges collected ~~Assessments levied~~  
141 under this section are not premium and are not subject to any  
142 premium tax, fees, or commissions. Insurers shall treat the  
143 failure of an insured to pay policyholder ~~assessment-related~~  
144 surcharges as a failure to pay premium. An insurer is not liable  
145 for any uncollectible policyholder ~~assessment-related~~ surcharges  
146 levied pursuant to this section.

147           (3) Assessments levied under this section may be levied  
148 only upon insurers. This section does not create a cause of  
149 action by a policyholder with respect to the levying of an  
150 assessment or a policyholder's duty to pay assessment-related  
151 policyholder surcharges.

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

153  
154 ===== T I T L E   A M E N D M E N T =====

155 And the title is amended as follows:



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156 Delete everything before the enacting clause  
157 and insert:

158 A bill to be entitled  
159 An act relating to insurance guaranty associations;  
160 creating s. 626.8621, F.S.; authorizing an employee of  
161 the Florida Insurance Guaranty Association or an  
162 employee of a guaranty association of another state to  
163 adjust losses for the Florida Insurance Guaranty  
164 Association if certain conditions are met; amending s.  
165 631.914, F.S.; revising requirements for the Office of  
166 Insurance Regulation in levying assessments on  
167 workers' compensation insurers; requiring such  
168 insurers to recoup the assessments by applying a  
169 certain surcharge percentage to certain policies;  
170 providing that an insurer's direct written premium may  
171 not be reduced by certain amounts for the purposes of  
172 determining insurer assessments or policyholder  
173 surcharges; authorizing the Florida Workers'  
174 Compensation Insurance Guaranty Association to audit  
175 certain reports; revising requirements for remitting  
176 policy surcharges and assessments; conforming cross-  
177 references; providing that assessments paid by an  
178 insurer constitute advances of funds to the  
179 association under certain circumstances; revising  
180 requirements for insurers' reconciliation reports to  
181 the association; revising construction; providing an  
182 effective date.