



308964

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/04/2019	.	
	.	
	.	
	.	

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



308964

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



308964

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~~



308964

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



308964

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.



308964

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.

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

155 And the title is amended as follows:



308964

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.