

By Senator Rader

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1 A bill to be entitled
2 An act relating to insurance guaranty associations;
3 creating s. 631.576, 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 certain surcharge percentage to certain
12 policies; authorizing the Florida Workers'
13 Compensation Insurance Guaranty Association to audit
14 certain reports; revising requirements for remitting
15 assessments; conforming cross-references; providing
16 that assessments paid by an insurer constitute
17 advances of funds to the association under certain
18 circumstances; revising the requirements for the
19 insurers' reconciliation reports to the Florida
20 Workers' Compensation Insurance Guaranty Association;
21 revising construction; providing an effective date.

22
23 Be It Enacted by the Legislature of the State of Florida:

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25 Section 1. Section 631.576, Florida Statutes, is created to
26 read:

27 631.576 Guaranty association employees; loss adjustment.-
28 The Florida Insurance Guaranty Association may authorize an
29 employee of any state guaranty association to adjust losses for

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30 the Florida Insurance Guaranty Association pursuant to this
31 part. The guaranty association's employee is not required to be
32 licensed as an adjuster; however, the authorization for the
33 guaranty association's employee to adjust losses must be
34 included in a contract between the Florida Insurance Guaranty
35 Association and the guaranty association or the guaranty
36 association's authorized representative.

37 Section 2. Subsections (1), (2), and (3) of section
38 631.914, Florida Statutes, are amended to read:

39 631.914 Assessments.—

40 (1) (a) To the extent necessary to secure the funds for the
41 payment of covered claims, and also to pay the reasonable costs
42 to administer the same, the Office of Insurance Regulation, upon
43 certification by the board, shall levy assessments on each
44 ~~insurer initially estimated in the proportion that the insurer's~~
45 ~~net direct written premiums in this state bears to the total of~~
46 ~~said net direct written premiums received in this state by all~~
47 ~~such workers' compensation insurers for the preceding calendar~~
48 ~~year.~~ An insurer shall fully recoup assessments by applying the
49 uniform surcharge percentage levied by the office to all
50 policies of the same kind or line as were considered by the
51 office in determining the assessment liability of the insurer.
52 Assessments levied against insurers and self-insurance funds
53 pursuant to this paragraph must be computed and levied on the
54 basis of ~~the full policy premium value on the net direct written~~
55 ~~premium amount as set forth in the state for workers'~~
56 ~~compensation insurance without consideration of any applicable~~
57 ~~discount or credit for~~ large deductibles or retrospectively
58 rated policies. Insurers and self-insurance funds must report

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59 premiums in compliance with this paragraph, and the association
60 may audit the reports. Assessments shall be remitted to and
61 administered by the board of directors in the manner specified
62 by the approved plan of operation and paragraph (d). ~~Each~~
63 ~~assessment shall be a uniform percentage applicable to the net~~
64 ~~direct written premiums of each insurer writing workers'~~
65 ~~compensation insurance~~. Assessments levied against insurers and
66 self-insurance funds shall not exceed in any calendar year more
67 than 2 percent of that insurer's ~~net~~ direct written premiums in
68 this state for workers' compensation insurance.

69 (c) ~~(b)~~ Member insurers shall collect policyholder
70 surcharges at a uniform percentage rate on new and renewal
71 policies issued and effective during the period of 12 months
72 beginning on January 1, April 1, July 1, or October 1, whichever
73 is the first day of the following calendar quarter as specified
74 in an order issued by the office ~~directing insurers to pay an~~
75 ~~assessment to the association~~. The policyholder surcharge may
76 not begin until 90 days after the board of directors certifies
77 the assessment.

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

84 (d) The association may use an installment method to
85 require the insurer to remit the policyholder surcharge
86 ~~assessment~~ as premium is collected ~~written~~ or may require the
87 insurer to remit the assessment to the association before

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

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

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

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

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

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

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

133 3. Insurers must submit a reconciliation report to the
134 association within 120 days after the end of the 12-month
135 assessment period and annually thereafter for a period of 2 ~~3~~
136 years. The report must indicate the amount of the initial
137 payment or installment payments made to the association and the
138 amount of policyholder surcharges collected ~~written premium~~
139 ~~pursuant to paragraph (a)~~ for the assessment year. If the
140 insurer's reconciled ~~assessment~~ obligation is more than the
141 amount paid to the association, the insurer shall pay the excess
142 policyholder surcharges collected to the association. If the
143 insurer's reconciled ~~assessment~~ obligation is less than the
144 initial amount paid to the association, the association shall
145 return the overpayment to the insurer.

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

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

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