

By the Committee on Banking and Insurance; and Senator Rader

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1                                   A bill to be entitled  
2       An act relating to insurance guaranty associations;  
3       creating s. 626.8621, F.S.; authorizing an employee of  
4       the Florida Insurance Guaranty Association or an  
5       employee of a guaranty association of another state to  
6       adjust losses for the Florida Insurance Guaranty  
7       Association if certain conditions are met; amending s.  
8       631.914, F.S.; revising requirements for the Office of  
9       Insurance Regulation in levying assessments on  
10      workers' compensation insurers; requiring such  
11      insurers to recoup the assessments by applying a  
12      certain surcharge percentage to certain policies;  
13      providing that an insurer's direct written premium may  
14      not be reduced by certain amounts for the purposes of  
15      determining insurer assessments or policyholder  
16      surcharges; authorizing the Florida Workers'  
17      Compensation Insurance Guaranty Association to audit  
18      certain reports; revising requirements for remitting  
19      policy surcharges and assessments; conforming cross-  
20      references; providing that assessments paid by an  
21      insurer constitute advances of funds to the  
22      association under certain circumstances; revising  
23      requirements for insurers' reconciliation reports to  
24      the association; revising construction; providing an  
25      effective date.

26  
27   Be It Enacted by the Legislature of the State of Florida:

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29       Section 1. Section 626.8621, Florida Statutes, is created

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30 to read:

31 626.8621 Adjustments by guaranty association employees.-

32 (1) An employee of the Florida Insurance Guaranty  
 33 Association, created under part II of chapter 631, may adjust  
 34 losses for the association if such employee holds, or has held  
 35 within the past 10 years, licensure in this state which allows  
 36 for the adjustment of such losses.

37 (2) An employee of a guaranty association established by  
 38 another state and whose insurance regulators are members of the  
 39 National Association of Insurance Commissioners may adjust  
 40 losses for the Florida Insurance Guaranty Association. The  
 41 authorization for such employees to adjust losses must be  
 42 included in a contract with the Florida Insurance Guaranty  
 43 Association and the employee's guarantee association or  
 44 association's authorized representative. The Florida Insurance  
 45 Guaranty Association shall contract only for employees of other  
 46 state guaranty associations who maintain the appropriate  
 47 experience and training for adjusting such claims.

48 Section 2. Subsections (1), (2), and (3) of section  
 49 631.914, Florida Statutes, are amended to read:

50 631.914 Assessments.-

51 (1) (a) To the extent necessary to secure the funds for the  
 52 payment of covered claims, and also to pay the reasonable costs  
 53 to administer the same, the Office of Insurance Regulation, upon  
 54 certification by the board, shall levy assessments on each  
 55 insurer ~~initially estimated in the proportion that the insurer's~~  
 56 ~~net direct written premiums in this state bears to the total of~~  
 57 ~~said net direct written premiums received in this state by all~~  
 58 ~~such workers' compensation insurers for the preceding calendar~~

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59 year. An insurer shall fully recoup assessments by applying the  
60 uniform surcharge percentage levied by the office to all  
61 policies of the same kind or line as were considered by the  
62 office in determining the assessment liability of the insurer.  
63 Assessments levied against insurers and self-insurance funds  
64 pursuant to this paragraph must be computed and levied on the  
65 basis of ~~the full policy premium value on the net~~ direct written  
66 premium amount as set forth in the state for workers'  
67 compensation insurance ~~without consideration of any applicable~~  
68 ~~discount or credit for deductibles.~~ An insurer's direct written  
69 premium calculated for the purposes of determining the insurer's  
70 assessment or policyholder surcharge may not be reduced by any  
71 discount or credit for deductibles in a policy or by any premium  
72 adjustment to a retrospectively rated policy. Insurers and self-  
73 insurance funds must report premiums in compliance with this  
74 paragraph, and the association may audit the reports.  
75 Assessments shall be remitted to and administered by the board  
76 of directors in the manner specified by the approved plan of  
77 operation and paragraph (d). ~~Each assessment shall be a uniform~~  
78 ~~percentage applicable to the net direct written premiums of each~~  
79 ~~insurer writing workers' compensation insurance.~~ Assessments  
80 levied against insurers and self-insurance funds shall not  
81 exceed in any calendar year more than 2 percent of that  
82 insurer's ~~net~~ direct written premiums in this state for workers'  
83 compensation insurance.

84 (c) ~~(b)~~ The office shall levy the uniform surcharge  
85 percentage on all policies of the same kind or line as were  
86 considered by the office in determining the assessment liability  
87 of the insurer. Member insurers shall collect policyholder

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88 surcharges at a uniform percentage rate on new and renewal  
89 policies issued and effective during the period of 12 months  
90 beginning on January 1, April 1, July 1, or October 1, whichever  
91 is the first day of the following calendar quarter as specified  
92 in an order issued by the office ~~directing insurers to pay an~~  
93 ~~assessment to the association.~~ The policyholder surcharge may  
94 not begin until 90 days after the board of directors certifies  
95 the assessment.

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

102 (d) The association may use an installment method to  
103 require the insurer to remit the policyholder surcharge  
104 ~~assessment~~ as premium is collected ~~written~~ or may require the  
105 insurer to remit the assessment to the association before  
106 collecting the policyholder surcharge. ~~If the assessment is~~  
107 ~~remitted before the surcharge is collected, the assessment~~  
108 ~~remitted must be based on an estimate of the assessment due~~  
109 ~~based on the proportion of each insurer's net direct written~~  
110 ~~premium in this state for the preceding calendar year as~~  
111 ~~described in paragraph (a) and adjusted following the end of the~~  
112 ~~12-month period during which the assessment is levied.~~

113 1. If the association elects to use the installment method,  
114 the office may, in the order levying the assessment on insurers,  
115 specify that the policyholder surcharge ~~assessment~~ is due and  
116 payable quarterly as premium is collected ~~written~~ throughout the

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117 assessment year. Insurers shall collect policyholder surcharges  
118 at a uniform percentage rate specified by order as described in  
119 paragraph (c) ~~(b)~~. Insurers are not required to advance funds if  
120 the association and the office elect to use the installment  
121 option. Assessments levied under this subparagraph are paid  
122 after policyholder ~~policy~~ surcharges are collected, and the  
123 recognition of assets is based on actual premium collected  
124 ~~written~~ offset by the obligation to the association.

125 2. If the association elects to require insurers to remit  
126 the assessment before surcharging the policyholder, the  
127 following shall apply:

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

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

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

138 ~~d.e.~~ Assessments levied under this subparagraph and are  
139 paid by an insurer constitute advances of funds from the insurer  
140 to the association ~~before policy surcharges are billed~~ and  
141 result in a receivable for policyholder ~~policy~~ surcharges to be  
142 billed in the future. The amount of billed policyholder  
143 surcharges, to the extent it is likely that it will be realized,  
144 meets the definition of an admissible asset as specified in the  
145 National Association of Insurance Commissioners' Statement of

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146 Statutory Accounting Principles No. 4. The asset shall be  
147 established and recorded separately from the liability. If an  
148 insurer is unable to fully recoup the amount of the assessment,  
149 the amount recorded as an asset shall be reduced to the amount  
150 reasonably expected to be recouped.

151 3. Insurers must submit a reconciliation report to the  
152 association within 120 days after the end of the 12-month  
153 assessment period and annually thereafter for a period of 3  
154 years. The report must indicate the amount of the initial  
155 payment or installment payments made to the association and the  
156 amount of policyholder surcharges collected ~~written premium~~  
157 ~~pursuant to paragraph (a)~~ for the assessment year. If the  
158 insurer's reconciled ~~assessment~~ obligation is more than the  
159 amount paid to the association, the insurer shall pay the excess  
160 policyholder surcharges collected to the association. If the  
161 insurer's reconciled ~~assessment~~ obligation is less than the  
162 initial amount paid to the association, the association shall  
163 return the overpayment to the insurer.

164 (2) Policyholder surcharges collected ~~Assessments levied~~  
165 under this section are not premium and are not subject to any  
166 premium tax, fees, or commissions. Insurers shall treat the  
167 failure of an insured to pay policyholder ~~assessment-related~~  
168 surcharges as a failure to pay premium. An insurer is not liable  
169 for any uncollectible policyholder ~~assessment-related~~ surcharges  
170 levied pursuant to this section.

171 (3) Assessments levied under this section may be levied  
172 only upon insurers. This section does not create a cause of  
173 action by a policyholder with respect to the levying of an  
174 assessment or a policyholder's duty to pay assessment-related

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175 policyholder surcharges.

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