

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/CS/HB 269 Loss Run Statements

SPONSOR(S): Commerce Committee, Insurance & Banking Subcommittee, Insurance & Banking Subcommittee; Perez

TIED BILLS: **IDEN./SIM. BILLS:** CS/SB 292

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Insurance & Banking Subcommittee	14 Y, 0 N, As CS	Fortenberry	Cooper
2) Commerce Committee	22 Y, 0 N, As CS	Fortenberry	Hamon

SUMMARY ANALYSIS

A loss run statement is a report from an insurer that shows how many claims a specific insured has filed under that insured's policy during a particular period of time. It may be provided to a prospective insurer when an insured is shopping for a new insurance policy so that the prospective insurer can determine whether to write a policy for the prospective insured and what premium to charge for that policy. Loss run statements typically contain claims history for three to five years.

While insureds may request loss run statements for any line of insurance, insureds seeking new general commercial line policies often request these statement to shop for new insurance. Some insurers have existing loss runs systems that allow their insureds to log into a portal and to obtain their own detailed reports on claims. However, other insurers, may provide insureds with loss run statements that they have created upon request or direct the insureds to obtain such statements from their agents of record.

Often, personal lines loss history can be obtained from public sources, but these publicly available reports may not be completely accurate. Additionally, commercial and health insurance data are not readily available from public sources. While insurers routinely provide loss run information to insureds, Florida has no existing statutory framework regarding when or how insurers must provide this information to insureds. Approximately 11 other states currently have statutory requirements for insurers providing loss run statements to insureds.

The bill establishes a statutory framework for an insurance practice that routinely occurs. The bill defines "loss run statement" as a report that contains the policy number, the period of coverage, the number of claims, the paid losses on all claims, and the date of each loss. The bill defines "provide" as electronically sending a document, or allowing access through an electronic portal to review or generate a document. It also specifies what is not included in a loss run statement.

The bill provides that, for all lines of insurance, an insurer shall provide a loss run statement to an insured within 15 calendar days after receipt of a written request. The loss run statement provided must be a five-year loss run history for five continuous years before the year in which the insured makes the request, or the complete loss run history if it is less than five years. The bill requires that the insurer notify the insured's agent of record that it provided the loss run statement to the insured at the time that the insurer provided it. The bill also prohibits an insurer from charging an insured for the first loss run statement that an insured requests each year. The bill imposes identical requirements to provide loss run statements to insureds whether the insurers are authorized insurers, eligible surplus lines insurers, or unauthorized insurers permitted to issue policies.

The bill has no impact on state or local government revenues and expenditures. It also may have a positive direct economic impact on the private sector.

This bill has an effective date of January 1, 2021.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

A loss run statement¹ is a report from an insurer that shows how many claims a specific insured has filed under that insured's policy during a particular period of time.² This report can be provided to a prospective insurer when an insured is shopping for a new insurance policy.³ The prospective insurer can use the loss run statement to review the types, frequency, and dollar value of prior claims in order to determine whether to write a policy for the prospective insured and what premium to charge for that policy.⁴ Prospective insurers often want to review loss run statements showing a loss run history from three to five years to make decisions about writing insurance policies.⁵

While insureds may request loss run statements for any line of insurance, insureds seeking new general liability, business owner's, commercial property, commercial auto insurance, or workers' compensation insurance, often request them to shop for new insurance⁶ upon cancellation or nonrenewal of a policy by an insurer or when the insured chooses to shop for new insurance at the time a policy is up for renewal. Some insurers, especially those providing commercial lines coverage or workers' compensation insurance, have existing loss runs systems that allow their insureds to log into a portal and to obtain their own detailed reports on claims.⁷ However, other insurers, in these and other lines of insurance, may provide insureds with loss run statements that they have created upon request or direct the insureds to obtain such statements from their agents of record.

Often, personal lines loss history can be obtained from public sources. A Comprehensive Loss Underwriting Exchange, or CLUE, report is a claims report generated by the consumer-reporting agency, LexisNexis.⁸ A CLUE report contains claims information reported by insurers for all personal auto and personal property claims in which they pay money, set up a file for a possible claim, or deny a claim.⁹ Yet, CLUE reports and other publicly available reports, may not be completely accurate.¹⁰ Additionally, commercial and health insurance data are not readily available from public sources.

While insurers routinely provide loss run information to insureds, Florida has no existing statutory framework regarding when or how insurers much provide this information to insureds. Approximately 11 other states currently have statutory requirements for insurers providing loss run statements to insureds.¹¹

Effect of the Bill

¹ Loss run statements are also referred to as loss runs or loss run reports.

² Insureon, <https://www.insureon.com/insurance-glossary/loss-runs> (last visited Oct. 31, 2019).

³ *Id.*

⁴ *Id.*

⁵ *Id.*

⁶ *Id.*

⁷ *See, e.g.*, MSIG Loss Runs, <https://www.msigusa.com/loss-runs/> and StarStone, <http://myaccount.starstoneworkcomp.com/index.htm> (last visited Oct. 31, 2019).

⁸ Office of the Insurance Commissioner Washington State, <https://www.insurance.wa.gov/clue-comprehensive-loss-underwriting-exchange> (last visited Oct. 31, 2019).

⁹ *Id.*

¹⁰ Information reported by Florida Association of Insurance Agents, which is a nonprofit trade association and a proponent of this bill.

¹¹ *See, e.g.*, Okla. Stat. Ann. 36, §1204.1, which provides that loss runs or claims history must be made available within 30 days of a written request, and Ky. Rev. Stat. Ann. §304.20-100, which provides that a five-year loss run history must be made available within 20 days following a written request.

The bill establishes a statutory framework for a practice that routinely occurs in the insurance industry. The bill defines “loss run statement” as a report that contains the policy number, the period of coverage, the number of claims, the paid losses on all claims, and the date of each loss. This definition also specifies that “loss run statement” does not include supporting claim file documentation, such as copies of claim files, investigation reports, evaluation statements, insureds’ statements, and documents protected by common law or statutory privilege. The bill defines “provide” as electronically sending a document, or allowing access through an electronic portal to review or generate a document.

The bill provides that, within 15 calendar days of a insured’s request for a loss run statement, an insurer must provide to the insured either the loss run statement or, for personal lines of insurance, information on how to obtain a loss run statement from a consumer reporting agency at no charge. An insured may request a loss run statement from an insurer after receiving information from a consumer reporting agency. If such request is made, an insurer must fulfill it within 15 calendar days.

The loss run statement that the insurer provides must be a five-year loss run history for five continuous years before the year in which the insured makes the request, or the complete loss run history if it is less than five years. The bill requires that the insurer notify the insured’s agent of record that it provided the loss run statement to the insured at the time that the insurer provided it. The bill establishes that no insurer shall be required to provide loss reserve information as part of a loss run statement. The bill also prohibits an insurer from charging an insured for the first loss run statement that an insured requests annually.

The bill imposes identical requirements on insurers to provide loss run statements to insureds regardless of whether the insurers are authorized insurers¹², eligible surplus lines insurers¹³, or unauthorized insurers permitted by the Florida Office of Insurance Regulation (OIR) to issue policies under certain circumstances¹⁴.

B. SECTION DIRECTORY:

Section 1. Creates s. 626.9202, F.S., relating to loss run statements for all lines of insurance.

Section 2. Creates s. 627.444, F.S., relating to loss run statements for all lines of insurance.

Section 3. Provides an effective date of January 1, 2021.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

¹² An authorized insurer is one authorized by a certificate of authority issued by OIR to transact insurance business in Florida. S. 624.09, F.S.

¹³ Chapter 626, part VIII, F.S., sets forth the criteria under which surplus lines carriers may write insurance policies in Florida.

¹⁴ Section 626.918(5) and (6), F.S., establishes the circumstances under which an otherwise unauthorized insurer may issue an insurance policy in Florida.

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Because most insurers likely already provide loss run statements to insureds upon request or via an electronic portal, or they can easily create them, the bill codifies an existing practice and should not place a financial burden upon insurers. The bill may benefit consumers as they may be able to obtain premium discounts if they are able to use loss run statements to show prospective insurers that they have no claim history for a certain period of time.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. The bill does not appear to affect county or municipal governments.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill neither authorizes nor requires administrative rulemaking.

C. DRAFTING ISSUES OR OTHER COMMENTS:

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On November 6, 2019, the Insurance & Banking Subcommittee considered the bill, adopted one strike all amendment, and reported the bill favorably as a committee substitute. The strike all amendment maintained the intent of the originally filed bill and made the following modifications and clarifications to the bill:

- Changed the definition of “loss run statement” so that it more precisely defines what must be included in a loss run statement. In addition, it specifies what is not included.
- Established that any insurer is only required to provide an insured with a loss run statement once per policy period.
- Established that no insurer shall be required to provide loss reserve information as part of a loss run statement.
- Clarified that a workers’ compensation insurer may not charge for providing a loss run statement to an insured. This resolved a question regarding a potential conflict with existing workers’ compensation statutes.
- Placed provisions relating to authorized insurers in a different location in statutes than the bill.
- Made various formatting and technical changes.

On January 16, 2020, the Commerce Committee considered the bill, adopted one strike all amendment, and reported the bill favorably as a committee substitute. The strike all amendment established that within 15 calendar days of a insured’s request for a loss run statement, an insurer must provide to the insured either the loss run statement or, for personal lines of insurance, information on how to obtain a loss run statement from a consumer reporting agency at no charge. The strike all amendment further established that an insured may request a loss run statement from an insurer after receiving information from a consumer reporting agency. If such request is made, an insurer must fulfill it within 15 calendar days.

The staff analysis has been updated to reflect the committee substitutes.