

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           631.54, F.S.; defining the term "direct written  
9           premiums" rather than the term "net direct written  
10          premiums"; amending s. 631.57, F.S.; deleting a  
11          provision specifying the manner in which the Office of  
12          Insurance Regulation initially estimates assessments  
13          levied on insurers; deleting a provision specifying  
14          the timeline to address notices of such assessments;  
15          conforming provisions to changes made by the act;  
16          requiring certain assessments to be made quarterly  
17          rather than monthly; revising the calculation of  
18          insurers' initial payments to the association;  
19          amending ss. 625.012, 631.59, and 631.912, F.S.;  
20          conforming provisions to changes made by the act;  
21          amending s. 631.914, F.S.; revising requirements for  
22          the office in levying workers' compensation insurers;  
23          providing that an insurer's direct written premium may  
24          not be reduced by certain amounts for the purposes of  
25          determining insurer assessments or policy surcharges;

26 | authorizing the Florida Workers' Compensation  
 27 | Insurance Guaranty Association to audit certain  
 28 | reports; revising requirements for remitting policy  
 29 | surcharges and assessments; providing that assessments  
 30 | paid by an insurer constitute advances of funds to the  
 31 | association under certain circumstances; revising the  
 32 | requirements for the insurers' reconciliation reports  
 33 | to the Florida Workers' Compensation Insurance  
 34 | Guaranty Association; revising construction; providing  
 35 | an effective date.

36 |

37 | Be It Enacted by the Legislature of the State of Florida:

38 |

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

41 | 626.8621 Adjustments by guaranty association employees.-

42 | (1) An employee of the Florida Insurance Guaranty  
 43 | Association, created under part II of chapter 631, may adjust  
 44 | losses for the association if such employee holds, or has held  
 45 | within the past 10 years, licensure in this state which allows  
 46 | for the adjustment of such losses.

47 | (2) An employee of a guaranty association established by  
 48 | another state and whose insurance regulators are members of the  
 49 | National Association of Insurance Commissioners may adjust  
 50 | losses for the Florida Insurance Guaranty Association. The

51 authorization for such employees to adjust losses must be  
52 included in a contract with the Florida Insurance Guaranty  
53 Association and the employee's guaranty association or  
54 association's authorized representative. The Florida Insurance  
55 Guaranty Association shall contract only for employees of other  
56 state guaranty associations who maintain the appropriate  
57 experience and training for adjusting such claims.

58 Section 2. Subsection (9) of section 631.54, Florida  
59 Statutes, is amended to read:

60 631.54 Definitions.—As used in this part:

61 (9) ~~"Net Direct written premiums"~~ means direct gross  
62 premiums written in this state on insurance policies to which  
63 this part applies, less return premiums thereon ~~and dividends~~  
64 ~~paid or credited to policyholders~~ on such direct business. The  
65 term "Net direct written premiums" does not include premiums on  
66 contracts between insurers or reinsurers.

67 Section 3. Paragraphs (a), (e), and (f) of subsection (3)  
68 of section 631.57, Florida Statutes, are amended to read:

69 631.57 Powers and duties of the association.—

70 (3) (a) To the extent necessary to secure funds for the  
71 respective accounts for the payment of covered claims, to pay  
72 the reasonable costs to administer such accounts, and to secure  
73 funds for the account specified in s. 631.55(2)(b) or to retire  
74 indebtedness, including, without limitation, the principal,  
75 redemption premium, if any, and interest on, and related costs

76 of issuance of, bonds issued under s. 631.695 and the funding of  
77 reserves and other payments required under the bond resolution  
78 or trust indenture pursuant to which such bonds have been  
79 issued, the office, upon certification of the board of  
80 directors, shall levy assessments, in accordance with  
81 subparagraph (f)1. or subparagraph (f)2., ~~initially estimated in~~  
82 ~~the proportion that each insurer's net direct written premiums~~  
83 ~~in this state in the classes protected by the account bears to~~  
84 ~~the total of said net direct written premiums received in this~~  
85 ~~state by all such insurers for the preceding calendar year for~~  
86 ~~the kinds of insurance included within such account.~~ Assessments  
87 shall be remitted to and administered by the board of directors  
88 in the manner specified by the approved plan and paragraph (f).  
89 ~~Each insurer so assessed shall have at least 30 days' written~~  
90 ~~notice as to the date the initial assessment payment is due and~~  
91 ~~payable.~~ Every assessment shall be a uniform percentage. The  
92 assessments levied against any insurer may not exceed in any one  
93 calendar year more than 2 percent of that insurer's ~~net~~ direct  
94 written premiums in this state for the kinds of insurance  
95 included within such account.

96 (e)1. In addition to assessments authorized in paragraph  
97 (a), and to the extent necessary to secure the funds for the  
98 account specified in s. 631.55(2)(b) for the direct payment of  
99 covered claims of insurers rendered insolvent by the effects of  
100 a hurricane and to pay the reasonable costs to administer such

101 claims, or to retire indebtedness, including, without  
102 limitation, the principal, redemption premium, if any, and  
103 interest on, and related costs of issuance of, bonds issued  
104 under s. 631.695 and the funding of any reserves and other  
105 payments required under the bond resolution or trust indenture  
106 pursuant to which such bonds have been issued, the office, upon  
107 certification of the board of directors, shall levy emergency  
108 assessments upon insurers holding a certificate of authority.  
109 The emergency assessments levied against any insurer may not  
110 exceed in any one calendar year more than 2 percent of that  
111 insurer's ~~net~~ written premiums in this state for the kinds of  
112 insurance within the account specified in s. 631.55(2)(b).

113 2. Emergency assessments authorized under this paragraph  
114 shall be levied by the office upon insurers in accordance with  
115 paragraph (f), upon certification as to the need for such  
116 assessments by the board of directors. If the board participates  
117 in the issuance of bonds in accordance with s. 631.695,  
118 emergency assessments shall be levied in each year that bonds  
119 issued under s. 631.695 and secured by such emergency  
120 assessments are outstanding in amounts up to such 2-percent  
121 limit as required in order to provide for the full and timely  
122 payment of the principal of, redemption premium, if any, and  
123 interest on, and related costs of issuance of, such bonds. The  
124 emergency assessments are assigned and pledged to the  
125 municipality, county, or legal entity issuing bonds under s.

126 631.695 for the benefit of the holders of such bonds in order to  
127 provide for the payment of the principal of, redemption premium,  
128 if any, and interest on such bonds, the cost of issuance of such  
129 bonds, and the funding of any reserves and other payments  
130 required under the bond resolution or trust indenture pursuant  
131 to which such bonds have been issued, without further action by  
132 the association, the office, or any other party. If bonds are  
133 issued under s. 631.695 and the association determines to secure  
134 such bonds by a pledge of revenues received from the emergency  
135 assessments, such bonds, upon such pledge of revenues, shall be  
136 secured by and payable from the proceeds of such emergency  
137 assessments, and the proceeds of emergency assessments levied  
138 under this paragraph shall be remitted directly to and  
139 administered by the trustee or custodian appointed for such  
140 bonds.

141 3. Emergency assessments used to defease bonds issued  
142 under this part may be payable in a single payment or, at the  
143 option of the association, may be payable in quarterly ~~12~~  
144 ~~monthly~~ installments with the first installment being due and  
145 payable at the end of the month after an emergency assessment is  
146 levied and subsequent installments being due by the end of each  
147 succeeding month.

148 4. If emergency assessments are imposed, the report  
149 required by s. 631.695(7) must include an analysis of the  
150 revenues generated from the emergency assessments imposed under

151 | this paragraph.

152 |         5. If emergency assessments are imposed, the references in  
153 | sub-subparagraph (1)(a)3.b. and s. 631.695(2) and (7) to  
154 | assessments levied under paragraph (a) must include emergency  
155 | assessments imposed under this paragraph.

156 |         6. If the board of directors participates in the issuance  
157 | of bonds in accordance with s. 631.695, an annual assessment  
158 | under this paragraph shall continue while the bonds issued with  
159 | respect to which the assessment was imposed are outstanding,  
160 | including any bonds the proceeds of which were used to refund  
161 | bonds issued pursuant to s. 631.695, unless adequate provision  
162 | has been made for the payment of the bonds in the documents  
163 | authorizing the issuance of such bonds.

164 |         (f)1. The association, office, and insurers remitting  
165 | assessments pursuant to paragraph (a) or paragraph (e) must  
166 | comply with the following:

167 |         a. In the order levying an assessment, the office shall  
168 | specify the actual percentage amount to be collected uniformly  
169 | from all the policyholders of insurers subject to the assessment  
170 | and the date on which the assessment year begins, which may not  
171 | begin before 90 days after the association board certifies such  
172 | an assessment.

173 |         b. Insurers shall make an initial payment to the  
174 | association before the beginning of the assessment year on or  
175 | before the date specified in the order of the office. Each

176 | insurer shall have at least 30 days' written notice as to the  
 177 | date on which the initial assessment payment is due and payable.

178 | c. Insurers that have written insurance in the calendar  
 179 | year before the year in which the assessment is certified by the  
 180 | board shall make an initial payment based on the ~~net~~ direct  
 181 | written premium in this state for the classes protected by the  
 182 | account ~~amount~~ from the previous calendar year as set forth in  
 183 | the insurer's annual statement, multiplied by the uniform  
 184 | percentage of premium specified in the order issued by the  
 185 | office. Insurers that have not written insurance in the previous  
 186 | calendar year in any of the lines under the account which are  
 187 | being assessed, but which are writing insurance as of, or after,  
 188 | the date the board certifies the assessment to the office, shall  
 189 | pay an amount based on a good faith estimate of the amount of  
 190 | ~~net~~ direct written premium anticipated to be written in the  
 191 | subject lines of business for the assessment year, multiplied by  
 192 | the uniform percentage of premium specified in the order issued  
 193 | by the office.

194 | d. Insurers shall file a reconciliation report with the  
 195 | association which indicates the amount of the initial payment to  
 196 | the association before the assessment year, whether such amount  
 197 | was based on ~~net~~ direct written premium contained in a previous  
 198 | calendar year annual statement or a good faith projection, the  
 199 | amount actually collected during the assessment year, and such  
 200 | other information contained on a form adopted by the association



201 and provided to the insurers in advance. If the insurer  
202 collected from policyholders more than the amount initially  
203 paid, the insurer shall pay the excess amount to the  
204 association. If the insurer collected from policyholders an  
205 amount which is less than the amount initially paid to the  
206 association, the association shall credit the insurer that  
207 amount against future assessments. Such payment reconciliation  
208 report, and any payment of excess amounts collected from  
209 policyholders, shall be completed and remitted to the  
210 association within 90 days after the end of the assessment year.  
211 The association shall send a final reconciliation report on all  
212 insurers to the office within 120 days after each assessment  
213 year.

214 e. Insurers remitting reconciliation reports under this  
215 paragraph to the association are subject to s. 626.9541(1)(e).

216 2. For assessments required under paragraph (a) or  
217 paragraph (e), the association may use a quarterly ~~monthly~~  
218 installment method instead of the method described in sub-  
219 subparagraphs 1.b. and c. or in combination thereof based on the  
220 association's projected cash flow. If the association projects  
221 that it has cash on hand for the payment of anticipated claims  
222 in the applicable account for at least 6 months, the board may  
223 make an estimate of the assessment needed and may recommend to  
224 the office the assessment percentage that may be collected as a  
225 quarterly ~~monthly~~ assessment. The office may, in the order

226 | levying the assessment on insurers, specify that the assessment  
 227 | is due and payable quarterly ~~monthly~~ as the funds are collected  
 228 | from insureds throughout the assessment year, in which case the  
 229 | assessment shall be a uniform percentage of premium collected  
 230 | during the assessment year and shall be collected from all  
 231 | policyholders with policies in the classes protected by the  
 232 | account. All insurers shall collect the assessment without  
 233 | regard to whether the insurers reported premium in the year  
 234 | preceding the assessment. Insurers are not required to advance  
 235 | funds if the association and the office elect to use the  
 236 | quarterly ~~monthly~~ installment option. All funds collected shall  
 237 | be retained by the association for the payment of current or  
 238 | future claims. This subparagraph does not alter the obligation  
 239 | of an insurer to remit assessments levied pursuant to this  
 240 | subsection to the association.

241 | Section 4. Paragraph (b) of subsection (15) of section  
 242 | 625.012, Florida Statutes, is amended to read:

243 | 625.012 "Assets" defined.—In any determination of the  
 244 | financial condition of an insurer, there shall be allowed as  
 245 | "assets" only such assets as are owned by the insurer and which  
 246 | consist of:

247 | (15)

248 | (b) Assessments levied as ~~monthly~~ installments pursuant to  
 249 | s. 631.57(3)(e)3. or s. 631.914 which are paid after policy  
 250 | surcharges are collected so that the recognition of assets is

251 based on actual premium written offset by the obligation to the  
 252 Florida Insurance Guaranty Association or the Florida Workers'  
 253 Compensation Insurance Guaranty Association, Incorporated.

254 Section 5. Subsection (3) of section 631.59, Florida  
 255 Statutes, is amended to read:

256 631.59 Duties and powers of department and office.—

257 (3) The office shall, upon request of the board of  
 258 directors, provide the association with a statement of the ~~net~~  
 259 direct written premiums of each member insurer.

260 Section 6. Subsection (1) of section 631.912, Florida  
 261 Statutes, is amended to read:

262 631.912 Board of directors.—

263 (1) The board of directors of the corporation shall  
 264 consist of 11 persons, 1 of whom is the insurance consumer  
 265 advocate appointed under s. 627.0613 or designee and 1 of whom  
 266 is designated by the Chief Financial Officer. The department  
 267 shall appoint to the board 6 persons selected by private  
 268 carriers from among the 20 workers' compensation insurers with  
 269 the largest amount of ~~net~~ direct written premium as determined  
 270 by the department, and 2 persons selected by the self-insurance  
 271 funds. The Governor shall appoint one person who has commercial  
 272 insurance experience. At least two of the private carriers shall  
 273 be foreign carriers authorized to do business in this state. The  
 274 board shall elect a chairperson from among its members. The  
 275 Chief Financial Officer may remove any board member for cause.

276 Each board member shall be appointed to serve a 4-year term and  
277 may be reappointed. A vacancy on the board shall be filled for  
278 the remaining period of the term in the same manner by which the  
279 original appointment was made.

280 Section 7. Subsections (1), (2), and (3) of section  
281 631.914, Florida Statutes, are amended to read:

282 631.914 Assessments.—

283 (1) (a) To the extent necessary to secure the funds for the  
284 payment of covered claims, and also to pay the reasonable costs  
285 to administer the same, the Office of Insurance Regulation, upon  
286 certification by the board, shall levy assessments on each  
287 insurer ~~initially estimated in the proportion that the insurer's~~  
288 ~~net direct written premiums in this state bears to the total of~~  
289 ~~said net direct written premiums received in this state by all~~  
290 ~~such workers' compensation insurers for the preceding calendar~~  
291 ~~year.~~ Assessments levied against insurers and self-insurance  
292 funds pursuant to this paragraph must be computed and levied on  
293 the basis of ~~the full policy premium value on the net direct~~  
294 ~~written premium amount as set forth in the state for workers'~~  
295 ~~compensation insurance without consideration of any applicable~~  
296 ~~discount or credit for deductibles.~~ An insurer's direct written  
297 premium calculated for the purposes of determining the insurer's  
298 assessment or policy surcharge may not be reduced by any  
299 discount or credit for deductibles in a policy or by any premium  
300 adjustment to a retrospectively rated policy. Insurers and self-

301 insurance funds must report premiums in compliance with this  
302 paragraph, and the association may audit the reports.  
303 Assessments shall be remitted to and administered by the board  
304 of directors in the manner specified by the approved plan of  
305 operation and paragraph (d). ~~Each assessment shall be a uniform~~  
306 ~~percentage applicable to the net direct written premiums of each~~  
307 ~~insurer writing workers' compensation insurance.~~ Assessments  
308 levied against insurers and self-insurance funds shall not  
309 exceed in any calendar year more than 2 percent of that  
310 insurer's ~~net~~ direct written premiums in this state for workers'  
311 compensation insurance.

312 (c) ~~(b)~~ The office shall levy the uniform surcharge  
313 percentage on all policies of the same kind or line as were  
314 considered by the office in determining the assessment liability  
315 of the insurer. Member insurers shall collect policy surcharges  
316 at a uniform percentage rate on new and renewal policies issued  
317 and effective during the period of 12 months beginning on  
318 January 1, April 1, July 1, or October 1, whichever is the first  
319 day of the following calendar quarter as specified in an order  
320 issued by the office ~~directing insurers to pay an assessment to~~  
321 ~~the association.~~ The policy surcharge may not begin until 90  
322 days after the board of directors certifies the assessment.

323 (b) ~~(e)~~ If assessments otherwise authorized in paragraph  
324 (a) are insufficient to make all payments on reimbursements then  
325 owing to claimants in a calendar year, then upon certification

326 by the board, the office shall levy additional assessments of up  
327 to 1.5 percent of the insurer's ~~net~~ direct written premiums in  
328 this state.

329 (d) The association may use an installment method to  
330 require the insurer to remit the policy surcharge assessment as  
331 collected ~~premium is written~~ or may require the insurer to remit  
332 the assessment to the association before collecting the policy  
333 ~~policyholder~~ surcharge. ~~If the assessment is remitted before the~~  
334 ~~surcharge is collected, the assessment remitted must be based on~~  
335 ~~an estimate of the assessment due based on the proportion of~~  
336 ~~each insurer's net direct written premium in this state for the~~  
337 ~~preceding calendar year as described in paragraph (a) and~~  
338 ~~adjusted following the end of the 12-month period during which~~  
339 ~~the assessment is levied.~~

340 1. If the association elects to use the installment  
341 method, the office may, in the order levying the assessment on  
342 insurers, specify that the policy surcharge assessment is due  
343 and payable quarterly as collected ~~premium is written~~ throughout  
344 the assessment year. Insurers shall collect policy surcharges at  
345 a uniform percentage rate specified by order as described in  
346 paragraph (c) ~~(b)~~. Insurers are not required to advance funds if  
347 the association and the office elect to use the installment  
348 option. Assessments levied under this subparagraph are paid  
349 after policy surcharges are collected, and the recognition of  
350 assets is based on actual policy surcharges collected ~~premium~~

351 ~~written~~ offset by the obligation to the association.

352       2. If the association elects to require insurers to remit  
353 the assessment before surcharging the policy ~~policyholder~~, the  
354 following shall apply:

355       a. On or before the date specified in the order of the  
356 office, insurers shall make an initial payment to the  
357 association of the percentage specified in the order multiplied  
358 by the insurer's direct written premiums received in this state  
359 for the preceding calendar year for the kinds of insurance  
360 included within such account before the beginning of the  
361 assessment year.

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

365       ~~c.b.~~ Insurers shall collect policy surcharges at a uniform  
366 percentage rate specified by the order, as described in  
367 paragraph (c) ~~(b)~~.

368       ~~d.e.~~ Assessments levied under this subparagraph and are  
369 paid by an insurer constitute advances of funds from the insurer  
370 to the association ~~before policy surcharges are billed~~ and  
371 result in a receivable for policy surcharges to be billed in the  
372 future. The amount of billed policy surcharges, to the extent it  
373 is likely that it will be realized, meets the definition of an  
374 admissible asset as specified in the National Association of  
375 Insurance Commissioners' Statement of Statutory Accounting

376 Principles No. 4. The asset shall be established and recorded  
377 separately from the liability. If an insurer is unable to fully  
378 recoup the amount of the assessment, the amount recorded as an  
379 asset shall be reduced to the amount reasonably expected to be  
380 recouped.

381 3. Insurers must submit a reconciliation report to the  
382 association within 120 days after the end of the 12-month  
383 assessment period and annually thereafter for a period of 3  
384 years. The report must indicate the amount of the initial  
385 payment or installment payments made to the association and the  
386 amount of policy surcharges collected ~~written premium pursuant~~  
387 ~~to paragraph (a)~~ for the assessment year. If the insurer's  
388 reconciled ~~assessment~~ obligation is more than the amount paid to  
389 the association, the insurer shall pay the excess policy  
390 surcharges collected to the association. If the insurer's  
391 reconciled ~~assessment~~ obligation is less than the initial amount  
392 paid to the association, the association shall return the  
393 overpayment to the insurer.

394 (2) Policy surcharges collected ~~Assessments levied~~ under  
395 this section are not premium and are not subject to any premium  
396 tax, fees, or commissions. Insurers shall treat the failure of  
397 an insured to pay policy ~~assessment-related~~ surcharges as a  
398 failure to pay premium. An insurer is not liable for any  
399 uncollectible policy ~~assessment-related~~ surcharges levied  
400 pursuant to this section.



401           (3) Assessments levied under this section may be levied  
402 only upon insurers. This section does not create a cause of  
403 action by a policyholder with respect to the levying of an  
404 assessment or a policyholder's duty to pay assessment-related  
405 policy surcharges.

406           Section 8. This act shall take effect July 1, 2020.