The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Banking and Insurance

BILL: CS/SB 898

INTRODUCER: Banking and Insurance Committee and Senators Gruters and Broxson

SUBJECT: Insurance Guaranty Associations

DATE: January 15, 2020 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Palecki	Knudson	BI	**Fav/CS**
2.			IT	
3.			RC	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 898 amends s. 631.57, F.S., which governs the powers and duties of the Florida Insurance Guaranty Association, Incorporated (FIGA). FIGA provides a mechanism for the payment of covered claims of insolvent property and casualty insurance companies. Upon insurer insolvency, FIGA is currently obligated to pay an insured condominium association or homeowners association the lesser of policy limits or the amount of each covered property insurance claim up to $100,000 multiplied by the number of condominium or other residential units. The bill increases FIGA's obligation by increasing the covered property insurance claim limits to $200,000 multiplied by the number of condominium or other units.

The bill also increases the amount of funding available to FIGA through emergency assessments levied against insurers for the direct payment of covered claims of insurers rendered insolvent by the effects of a hurricane. The bill authorizes emergency assessments up to 4 percent of an insurer's net written premiums in this state in any one calendar year, which is an increase from the current limit of 2 percent. Such assessments may be used, up to the 4-percent limit, to provide for the full and timely payment of the principal of, redemption premium, if any, and interest on, and related costs of the issuance of municipal and county bonds for the purpose of paying covered claims caused by a hurricane.

The bill has an effective date of July 1, 2020.

II. Present Situation:

Florida Insurance Guaranty Association

Part II of ch. 631, F.S., governs the operations of the Florida Insurance Guaranty Association, Incorporated (FIGA), a nonprofit corporation created to provide a mechanism for the payment of covered claims, including unearned premiums, of insolvent property and casualty insurance companies.[1] A covered claim is an unpaid insurance claim arising out of and within the coverage of the applicable limits of an insurance policy issued by an insurer that has become insolvent.[2] FIGA was designed with the intent of avoiding excessive delay in payment and financial loss to claimants or policyholders due to the insolvency of an insurer.[3] Membership in FIGA is a condition of the authority to transact business in Florida as a property or casualty insurance company.[4] When a property and casualty insurance company becomes insolvent, FIGA is required to assume the claims of the insurer and pay the claims of the company's policyholders, which includes claims on residential and commercial property insurance, automobile insurance, and liability insurance, among others.

Condominium and Homeowners' Association Claims

For condominium and homeowners' associations that have a responsibility to provide insurance coverage on residential units within the association, FIGA is obligated to pay out the lesser of policy limits or each covered property insurance claim which is less than $100,000 multiplied by the number of units in the association. For homeowners associations, FIGA is only obligated to pay those covered claims for damage to or loss of residential units and the structures attached to them.[5] FIGA does not, however, have an obligation to pay covered claims that are funded by the proceeds of municipality and county bonds issued for the purpose of paying claims arising out of the hurricane-related insolvency of an insurer.[6]

FIGA Funding and Assessments

In order to secure funds for the payment of covered claims, the OFR levies assessments based on each insurer's net written premiums in Florida.[7] Regular assessments levied against any insurer may not exceed more than 2 percent of that insurer's net direct written premiums in this state for the kinds of insurance included within such account in any one calendar year.[8] To the extent necessary to secure funds for the payment of covered claims of insurers rendered insolvent by the effects of a hurricane, and the reasonable costs to administer such claims, FIGA is authorized

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[1] Workers' compensation insurance is excluded from FIGA since the Florida Workers' Compensation Insurance Guaranty Association (FWCIGA) pays covered claims under ch. 440, F.S., Florida's Workers' Compensation Law.
[2] Section 631.54(4), F.S.
[3] Section 631.51(1), F.S.
[4] Section 631.55(1), F.S.
[5] Section 631.57(1)(a)3.a., F.S.
[6] Section 631.57(1)(a)3.b., F.S. Such bonds are payable from and secured by moneys received by or on behalf of the municipality or county from assessments levied under s. 631.57(3)(a), F.S., and assigned and pledged to or on behalf of the municipality or county for the benefit of the holders of the bonds in connection with the assistance program. See s. 631.695(2), F.S.
[7] Section 631.57(3)(a), F.S.
[8] Section 631.57(3)(a), F.S.

to levy emergency assessments upon insurers in addition to regular assessments. The emergency assessments levied against any insurer may not exceed 2 percent of that insurer's net written premiums in this state in any one calendar year.[9] Once an insurance company pays the assessment to FIGA, it may begin to recoup the assessment from its policyholders at policy issuance or renewal. A uniform assessment percentage is collected from policyholders.[10]

III. Effect of Proposed Changes:

Section 1 of the bill amends Paragraphs (1)(a) and (3)(e) of s. 631.57, F.S., regarding the powers and duties of FIGA.

Sub-subparagraph 3.a. of paragraph (1)(a) is amended to increase the limit of FIGA obligations for policies covering condominium associations and homeowners associations claims. FIGA's responsibility for covered claims increases from $100,000 multiplied by the number of condos or other residential units to $200,000 multiplied by the number of condos or other residential units. This amendment thus doubles the possible claim payout a condominium association or homeowners association could receive upon experiencing both a covered loss and the insolvency of their insurer.

Subparagraph 1. of paragraph (3)(a) is amended to increase the amount of funding available to FIGA via emergency assessments. The percentage of an insurer's net written premiums in this state available to FIGA via an emergency assessment is doubled from 2 to 4 percent of an insurer's net written premiums for any one calendar year.

Subparagraph 2. of paragraph (3)(a) is amended to conform with the amendments to subparagraph 1. Thus, in each year the board of FIGA chooses to participate in the issuance of municipal and county bonds in accordance with s. 631.695, F.S.,[11] during which those bonds are secured by emergency assessments and are outstanding, the OIR is authorized to levy emergency assessments upon insurers in an amount up to the 4-percent limit, as required, in order to provide for the full and timely payment of the principal of redemption premium, if any, and interest on, and related costs of issuance of such bonds.

Section 2 of the bill provides an effective date of July 1, 2020.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

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[9] Section 631.57(3)(e), F.S.
[10] Section 631.57(3)(c), F.S.
[11] Municipality and county bonds issued for the purpose of paying claims arising out of the hurricane-related insolvency of an insurer. *See* s. 631.695(2), F.S.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Condominium and homeowners' association policyholders of insolvent insurers will be eligible for a higher claim payout and thus stand a better chance of being made whole after suffering a loss or damages.

The increase in the percentage of an insurer's net premiums that are subject to emergency assessments imposes upon insurers a higher potential liability for emergency assessments. Insurers recoup such assessments from their policyholders, so the cost of the increased obligation to pay an emergency assessment of up to 4 percent, rather than 2 percent, is ultimately borne by the policyholders of the assessed insurers. FIGA estimates that its current assessment base is approximately $19.6 billion dollars, which means that the 2 percent increase in emergency assessment authority would, if utilized, currently result in up to approximately $390 million dollars in additional assessments.[12]

C. Government Sector Impact:

The bill doubles both the obligation of FIGA to pay a covered claim of an insured condominium association or homeowners association, and the emergency assessment authority of FIGA to pay covered claims caused by a hurricane.

VI. Technical Deficiencies:

None.

VII. None.Related Issues:

None.

[12] Email from Tom Streukens, Executive Director, Florida Insurance Guaranty Association to James Knudson, Staff Director, Florida Senate Banking and Insurance Committee (Jan. 15, 2020) (on file with the Senate Committee on Banking and Insurance).

VIII. Statutes Affected:

This bill substantially amends section 631.57 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Banking and Insurance on January 15, 2020:
The CS makes conforming changes to ensure FIGA can utilize the entirety of the proposed 4-percent emergency assessments in the issuance of bonds.

B. Amendments:

None.