

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 Rules

BILL: CS/SB 898

INTRODUCER: Banking and Insurance Committee and Senator Gruters and others

SUBJECT: Insurance Guaranty Associations

DATE: February 28, 2020

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Palecki</u>	<u>Knudson</u>	<u>BI</u>	Fav/CS
2.	<u>Oxamendi</u>	<u>Imhof</u>	<u>IT</u>	Favorable
3.	<u>Palecki</u>	<u>Phelps</u>	<u>RC</u>	Favorable

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). The FIGA provides a mechanism for the payment of covered claims of insolvent property and casualty insurance companies. Upon an insurer's insolvency, the FIGA is currently obligated to pay an insured condominium 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 the FIGA's obligation by increasing the covered property insurance claim limits to \$200,000 multiplied by the number of condominium or other residential units.

The bill also increases the amount of funding available to the 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 four 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 two percent. Such assessments may be used, up to the four-percent limit, to provide for the full and timely payment of the principal, redemption premium, if any, and interest, 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 The 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 the 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, the 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:

- The policy limits;⁵ or
- Each covered property insurance claim which is less than \$100,000 multiplied by the number of units in the association.⁶

For homeowners associations, the FIGA is only obligated to pay those covered claims for damage to, or loss of, residential units and attached structures.⁷

The 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.⁸

FIGA Funding and Assessments

In order to secure funds for the payment of covered claims, the Office of Insurance Regulation of the Financial Services Commission (OIR) levies assessments based on each insurer's net written

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)4., F.S.

⁶ Section 631.57(1)(a)3.a., F.S.

⁷ *Id.*

⁸ 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.

premiums in Florida.⁹ Regular assessments levied against any insurer may not exceed more than two 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.¹⁰ 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, the FIGA is authorized to levy emergency assessments upon insurers in addition to regular assessments. The emergency assessments levied against any insurer may not exceed two percent of that insurer's net written premiums in this state in any one calendar year.¹¹ Once an insurance company pays the assessment to the FIGA, it may begin to recoup the assessment from its policyholders at policy issuance or renewal. A uniform assessment percentage is collected from policyholders.¹²

III. Effect of Proposed Changes:

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

Section 631.57(1)(a)3.a., F.S., is amended by the bill to increase the limit of the FIGA obligations for policies covering condominium and homeowners associations claims. The bill increases the FIGA's responsibility for covered claims 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. The bill doubles the possible claim payout a condominium association or homeowners association could receive upon experiencing a covered loss and the insolvency of their insurer.

Section 631.57(3)(e)1., F.S., is amended by the bill to increase the amount of funding available to the FIGA via emergency assessments. The bill doubles the percentage of an insurer's net written premiums in this state that are available to the FIGA via an emergency assessment from two percent to four percent of an insurer's net written premiums for any one calendar year.

Section 631.57(3)(e)2., F.S., is amended by the bill to conform with the amendments to s. 631.57(3)(e)1., F.S. Thus, in each year the board of the FIGA chooses to participate in the issuance of municipal and county bonds in accordance with s. 631.695, F.S.,¹³ during which those bonds are secured by emergency assessments and are outstanding, the OIR may levy emergency assessments upon insurers in an amount up to the four-percent limit, as required, in order to provide for the full and timely payment of the principal of redemption premium, if any, interest, and costs related to issuance of such bonds.

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

⁹ Section 631.57(3)(a), F.S.

¹⁰ Section 631.57(3)(a), F.S.

¹¹ Section 631.57(3)(e), F.S.

¹² Section 631.57(3)(c), F.S.

¹³ 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.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

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 damage.

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 four percent, rather than the current two percent, is ultimately borne by the policyholders of the assessed insurers. The FIGA estimates that its current assessment base is approximately \$19.6 billion, which means that doubling the emergency assessment authority to four percent would, if utilized, currently result in up to approximately \$390 million in additional assessments.¹⁴

¹⁴ 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 Innovation, Industry, and Technology).

C. **Government Sector Impact:**

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

VI. **Technical Deficiencies:**

None.

VII. **Related Issues:**

None.

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 the FIGA can utilize the entirety of the proposed four percent emergency assessments in the issuance of bonds.

- B. **Amendments:**

None.