

By Senator Boyd

21-01280A-21

20211470__

1 A bill to be entitled
2 An act relating to the Florida Life and Health
3 Insurance Guaranty Association; amending s. 631.714,
4 F.S.; defining the term "Moody's Corporate Bond Yield
5 Average"; revising the definition of the term
6 "person"; amending s. 631.717, F.S.; authorizing the
7 association to assume or reissue covered policies of
8 impaired insurers; granting the association the right
9 to appear or intervene before a court or an agency in
10 certain proceedings; authorizing the association to
11 take legal action to recover payment of improper
12 claims; authorizing the association to join an
13 organization of other state guaranty associations for
14 certain purposes; amending s. 631.718, F.S.; revising
15 the calculation of Class A assessments; specifying
16 requirements for repayment of deferred assessments
17 upon removal or rectification of the conditions
18 causing a deferral; deleting a prohibition on certain
19 nonprofit insurance companies being assessed more than
20 a certain amount in a calendar year; amending s.
21 631.721, F.S.; revising the requirements of the
22 association's plan of operation; providing an
23 effective date.

24
25 Be It Enacted by the Legislature of the State of Florida:

26
27 Section 1. Present subsections (8), (9), and (10) of
28 section 631.714, Florida Statutes, are redesignated as
29 subsections (9), (10), and (11), respectively, a new subsection

21-01280A-21

20211470__

30 (8) is added to that section, and present subsection (9) of that
31 section is amended, to read:

32 631.714 Definitions.—As used in this part, the term:

33 (8) "Moody's Corporate Bond Yield Average" means the
34 monthly average corporates as published by Moody's Investors
35 Service, Inc., or a similar successor organization.

36 (10)(9) "Person" means any individual, corporation, limited
37 liability company, partnership, association, governmental body
38 or entity, or voluntary organization.

39 Section 2. Subsections (1) and (7) and paragraph (f) of
40 subsection (13) of section 631.717, Florida Statutes, are
41 amended, and paragraph (h) is added to subsection (13) of that
42 section, to read:

43 631.717 Powers and duties of the association.—

44 (1) If a domestic insurer is an impaired insurer, the
45 association may, subject to the approval of the impaired insurer
46 and the department:

47 (a) Guarantee, assume, reissue, or reinsure, or cause to be
48 guaranteed, assumed, reissued, or reinsured, any or all of the
49 covered policies of the impaired insurer;

50 (b) Provide such moneys, pledges, notes, guarantees, or
51 other means as are proper to effectuate paragraph (a) and assure
52 payment of the contractual obligations of the impaired insurer
53 pending action under paragraph (a); and

54 (c) Loan money to the impaired insurer.

55 (7) The association has ~~shall have~~ standing to appear
56 before any court in this state which has jurisdiction over an
57 impaired or insolvent insurer to which the association is or may
58 become obligated under this part. Such standing extends ~~shall~~

21-01280A-21

20211470__

59 ~~extend~~ to all matters germane to the powers and duties of the
60 association, including, but not limited to, proposals for
61 reinsuring, reissuing, modifying, or guaranteeing the covered
62 policies of the impaired or insolvent insurer and the
63 determination of the covered policies and contractual
64 obligations. The association has the right to appear or
65 intervene before a court or an agency in another state with
66 jurisdiction over an impaired or insolvent insurer for which the
67 association is or may become obligated or with jurisdiction over
68 any person or property against whom the association may have
69 rights through subrogation or otherwise.

70 (13) The association may:

71 (f) Take such legal action as may be necessary to avoid or
72 recover payment of improper claims.

73 (h) Join an organization of other state guaranty
74 associations to further the purposes and administer the powers
75 and duties of the association.

76 Section 3. Paragraph (a) of subsection (3) and subsections
77 (4) and (9) of section 631.718, Florida Statutes, are amended to
78 read:

79 631.718 Assessments.—

80 (3) (a) The amount of any Class A assessment shall be
81 determined by the board and may be made on a pro rata or non-pro
82 rata basis. If the assessment is made on a pro rata basis, the
83 board may provide that it be credited against future Class B
84 assessments ~~The assessment may not be credited against future~~
85 ~~insolvency assessments and may not exceed \$250 per member~~
86 ~~insurer in any one calendar year.~~

87 (4) The association may abate or defer, in whole or in

21-01280A-21

20211470__

88 part, the assessment of a member insurer if, in the opinion of
89 the board, payment of the assessment would endanger the ability
90 of the member insurer to fulfill its contractual obligations. In
91 the event an assessment against a member insurer is abated, or
92 deferred in whole or in part, the amount by which such
93 assessment is abated or deferred may be assessed against the
94 other member insurers in a manner consistent with the basis for
95 assessments set forth in this section. Once the conditions that
96 caused a deferral have been removed or rectified, the member
97 insurer shall pay all assessments that were deferred pursuant to
98 a repayment plan approved by the association.

99 ~~(9) Notwithstanding any provision to the contrary, no~~
100 ~~member insurer that is a nonprofit insurance company which~~
101 ~~issues annuity contracts or group annuity contracts pursuant to~~
102 ~~s. 121.35, or for the benefit of employees of educational~~
103 ~~institutions situated in this state may be assessed in any one~~
104 ~~calendar year an amount greater than the amount which it paid to~~
105 ~~this state in the previous year as premium tax and corporate tax~~
106 ~~on the business to which this part applies or 0.1 percent of~~
107 ~~written premium on such business in this state, whichever is~~
108 ~~greater.~~

109 Section 4. Paragraphs (h) and (i) are added to subsection
110 (3) of section 631.721, Florida Statutes, to read:

111 631.721 Plan of operation.—

112 (3) The plan of operation shall, in addition to
113 requirements enumerated elsewhere in this part:

114 (h) Establish a procedure for removing a member insurer
115 director when that member insurer becomes an impaired or
116 insolvent insurer.

21-01280A-21

20211470__

117 (i) Require the board of directors to establish policies
118 and procedures for addressing conflicts of interest.

119 Section 5. This act shall take effect July 1, 2021.