

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 275 Loss Run Statements
SPONSOR(S): Commerce Committee, Fernandez-Barquin
TIED BILLS: IDEN./SIM. BILLS: SB 156

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Insurance & Banking Subcommittee	15 Y, 0 N	Fortenberry	Luczynski
2) State Administration & Technology Appropriations Subcommittee	12 Y, 0 N	Lee	Topp
3) Commerce Committee	21 Y, 0 N, As CS	Fortenberry	Hamon

SUMMARY ANALYSIS

A loss run statement is a report from an insurer that shows the claims a specific insured has filed under that insured's policy during a particular period of time. This report can be provided to a prospective insurer when an insured is shopping for a new insurance policy. 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.

Statutes enacted in 2020, established a framework regarding when, and how, insurers must provide loss run statements to insureds. Pursuant to these statutes, for all lines of insurance written on the admitted and surplus lines markets, insurers must provide loss run statements with a five-year loss run history within 15 days of receiving an insured's written request. If an insured requests a loss run statement regarding a personal lines policy, an insurer may provide the insured information about how to obtain a loss run statement at no charge through a consumer reporting agency. However, the insured may still ask the insurer for a loss run statement even after receiving information from a consumer reporting agency.

The bill amends the loss run statutes that were enacted in 2020, so that they better reflect existing industry standards. It revises the number of years of loss history that an insurer must provide from a minimum of five years to a minimum of three years to reflect the industry practice of routinely providing insureds with a three-year history upon request before the enactment of the 2020 statutes. The bill requires that if a personal lines insured asks an insurer for a loss run statement after receiving information from a consumer reporting agency, the insurer must provide that statement within 15 days. It clarifies that if a surplus lines agent provides a loss run statement to an insured on behalf of the insurer, the insurer is considered to have responded to an insured's request for a loss run statement. It establishes that ss. 626.9202 and 627.444, F.S., regarding loss run statements, do not apply to life insurers.

The bill also resolves a conflict between the 2020 statutes and an existing statute regarding loss run statements for group health insurance policies by repealing the health-specific statute. Repealing this statute, s. 627.6647, F.S., will create a more seamless process for requesting a loss run statement regardless of the type of insurance for which the statement is requested. The bill establishes that, as applied to group health insurance, a loss run statement also includes premiums paid, number of insureds on a monthly basis, and dependent status. Finally, the bill clarifies that for group health insurance, only plan sponsors, not individual employees covered by the group policy, may request a loss run statement.

The bill has no impact on state or local government revenues or expenditures and no direct economic impact on the private sector.

The bill is effective upon becoming law.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

A loss run statement¹ is a report from an insurer that shows the 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 run 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 or consumer reporting agencies.

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 However, 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.

Statutes enacted in 2020, established a framework regarding when, and how, insurers must provide loss run statements to insureds.¹¹ These statutes define "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.¹² This definition also specifies that a loss run statement does not include supporting claim file documents, such as copies of claim files, investigation reports, evaluation statements, insureds' statements, and documents protected by common law or statutory privilege.¹³

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 Nov. 22, 2021).

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 Nov. 22, 2021).

⁸ Office of the Insurance Commissioner Washington State, <https://www.insurance.wa.gov/clue-comprehensive-loss-underwriting-exchange> (last visited Nov. 19, 2021).

⁹ *Id.*

¹⁰ Florida Association of Insurance Agents, *Loss Run Statements*, [https://www.faia.com/resources-\(1\)/legislative-summaries/300-words/2020-300-words/loss-run-statements](https://www.faia.com/resources-(1)/legislative-summaries/300-words/2020-300-words/loss-run-statements) (last visited Dec. 16, 2021). See also Forbes Advisor, *What is a C.L.U.E. Report for Insurance?*, <https://www.forbes.com/advisor/homeowners-insurance/clue-report/> (last visited Dec. 16, 2021).

¹¹ See ss. 626.9202 and 627.444, F.S.

¹² *Id.*

¹³ *Id.*

Pursuant to these statutes, for all lines of insurance written on the admitted and surplus lines markets, insurers must provide loss run statements with a five-year loss run history within 15 days of receiving insured's written requests.¹⁴ If an insured requests a loss run statement regarding a personal lines policy, an insurer may provide the insured information about how to obtain a loss run statement at no charge through a consumer reporting agency.¹⁵ However, the insured may still ask the insurer for a loss run statement even after receiving information from a consumer reporting agency.¹⁶ An insurer is prohibited from charging an insured for the first loss run statement that an insured requests annually.¹⁷ Additionally, an insurer is not required to provide loss reserve information as part of a loss run statement provided to an insured.¹⁸

Effect of the Bill

The bill amends the loss run statutes that were enacted in 2020, so that they better reflect existing industry standards. It revises the number of years of loss history that an insurer must provide from a minimum of five years to a minimum of three years to reflect the industry practice of routinely providing insureds with a three-year history upon request before the enactment of the 2020 statutes. The bill requires that if a personal lines insured asks an insurer for a loss run statement after receiving information from a consumer reporting agency, the insurer must provide that statement within 15 days. It clarifies that if a surplus lines agent provides a loss run statement to an insured on behalf of the insurer, the insurer is considered to have responded to an insured's request for a loss run statement. It establishes that ss. 626.9202 and 627.444, F.S., regarding loss run statements, do not apply to life insurers.¹⁹

The bill also resolves a conflict between the 2020 statutes and an existing statute regarding loss run statements for group health insurance policies by repealing the health-specific statute.²⁰ Repealing this statute will create a more seamless process for requesting a loss run statement regardless of the type of insurance for which the statement is requested. The bill establishes that, as applied to group health insurance, a loss run statement also includes premiums paid, number of insureds on a monthly basis, and dependent status. Finally, the bill clarifies that for group health insurance, only plan sponsors, not individual employees covered by the group policy, may request a loss run statement.

B. SECTION DIRECTORY:

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

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

Section 3. Repeals s. 627.6647, F.S., relating to release of claims experience.

Section 4. Provides that the bill is effective upon becoming law.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

¹⁴ *Id.*

¹⁵ Ss. 626.9202(2)(b) and 627.444(2)(b), F.S.

¹⁶ *Id.*

¹⁷ Ss. 626.9202(6) and 627.444(6), F.S.

¹⁸ Ss. 626.9202(5) and 627.444(5), F.S.

¹⁹ Because loss run statements are used to shop for new insurance, and life insurance claims are only made after the death of an insured, loss run statements are not necessary for this type of policy.

²⁰ *See* s. 627.6647, F.S.

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

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:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

On February 1, 2022, the Commerce Committee considered the bill, adopted one amendment, and reported the bill favorably as a committee substitute. The amendment clarified that if a surplus lines agent provides a loss run statement to an insured on behalf of the insurer, the insurer is considered to have responded to an insured's request for a loss run statement.

The analysis is drafted to the committee substitute as passed by the Commerce Committee.