

## HOUSE OF REPRESENTATIVES STAFF FINAL BILL ANALYSIS

**BILL #:** CS/HB 275 Loss Run Statements

**SPONSOR(S):** Commerce Committee, Fernandez-Barquin and others

**TIED BILLS:** IDEN./SIM. BILLS: SB 156

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**FINAL HOUSE FLOOR ACTION:** 117 Y's 0 N's

**GOVERNOR'S ACTION:** Approved

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### SUMMARY ANALYSIS

CS/HB 275 passed the House on March 9, 2022, as SB 156 as amended. The Senate concurred in the House amendment to the Senate bill and subsequently passed the bill as amended on March 10, 2022.

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 statement statutes that were enacted in 2020, so that they better reflect existing industry standards. It revises the number of years of loss history that a health insurer must provide for a group health insurance policy from a minimum of five years to a minimum of three years. 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 loss run statement statutes do not apply to life insurers.

The bill 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 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 was approved by the Governor on June 24, 2022, ch. 2022-207, L.O.F., and became effective on that date.

## I. SUBSTANTIVE INFORMATION

### A. EFFECT OF CHANGES:

#### Background

A loss run statement<sup>1</sup> 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.<sup>2</sup> This report can be provided to a prospective insurer when an insured is shopping for a new insurance policy.<sup>3</sup> 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.<sup>4</sup> 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.<sup>5</sup>

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 insurance<sup>6</sup> 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.<sup>7</sup> 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.<sup>8</sup> 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.<sup>9</sup> However, CLUE reports and other publicly available reports, may not be completely accurate.<sup>10</sup> 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.<sup>11</sup> 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.<sup>12</sup> 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.<sup>13</sup>

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<sup>1</sup> Loss run statements are also referred to as loss runs or loss run reports.

<sup>2</sup> Insureon, <https://www.insureon.com/insurance-glossary/loss-runs> (last visited Nov. 22, 2021).

<sup>3</sup> *Id.*

<sup>4</sup> *Id.*

<sup>5</sup> *Id.*

<sup>6</sup> *Id.*

<sup>7</sup> 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).

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

<sup>9</sup> *Id.*

<sup>10</sup> 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).

<sup>11</sup> See ss. 626.9202 and 627.444, F.S.

<sup>12</sup> *Id.*

<sup>13</sup> *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.<sup>14</sup> 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.<sup>15</sup> However, the insured may still ask the insurer for a loss run statement even after receiving information from a consumer reporting agency.<sup>16</sup> An insurer is prohibited from charging an insured for the first loss run statement that an insured requests annually.<sup>17</sup> Additionally, an insurer is not required to provide loss reserve information as part of a loss run statement provided to an insured.<sup>18</sup>

## **Effect of the Bill**

The bill amends the loss run statement statutes that were enacted in 2020, so that they better reflect existing industry standards. It revises the number of years of loss history that a health insurer must provide for a group health insurance policy from a minimum of five years to a minimum of three years. 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 loss run statement statutes do not apply to life insurers.

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## **II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

### **A. FISCAL IMPACT ON STATE GOVERNMENT:**

#### **1. Revenues:**

None.

#### **2. Expenditures:**

None.

### **B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

#### **1. Revenues:**

None.

#### **2. Expenditures:**

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<sup>14</sup> *Id.*

<sup>15</sup> Ss. 626.9202(2)(b) and 627.444(2)(b), F.S.

<sup>16</sup> *Id.*

<sup>17</sup> Ss. 626.9202(6) and 627.444(6), F.S.

<sup>18</sup> Ss. 626.9202(5) and 627.444(5), F.S.

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.