

**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.)

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

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**BILL:** CS/SB 618

**INTRODUCER:** Banking and Insurance Committee and Senator Truenow

**SUBJECT:** Workers' Compensation Insurance

**DATE:** February 5, 2026      **REVISED:** \_\_\_\_\_

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	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Johnson	Knudson	BI	Fav/CS
2.			AEG	
3.			FP	

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**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/SB 618 revises the percentage of policies in which an insurer may charge rates in excess of filed rates for commercial insurance and workers' compensation insurance with the written consent of the insured. Specifically, the bill would allow an insurer to charge rates in excess of rates filed with the Office of Insurance Regulation for up to 10 percent of its commercial insurance policies, excluding workers' compensation, and up to 20 percent of its workers' compensation insurance policies, excluding policies written for an employer who had coverage or was offered coverage through the Florida Workers' Compensation Joint Underwriting Association (FWCJUA), the insurer of last resort. Further, an insurer would continue to be allowed to charge a rate in excess of the otherwise applicable rate for up to five percent of its personal lines insurance policies with the consent of the insured.

Under current law, an insurer may not use excess rates for more than 10 percent of any line of commercial insurance policies, which includes workers' compensation, written each year by the insurer, or for more than 5 percent of any of its personal lines insurance policies written each year. Current law also has the exclusion of FWCJUA policies from the excess rate percentage cap for first three years of coverage.

CS/SB 618 also revises the composition of the board of directors for the Florida Workers' Compensation Insurance Guaranty Association (FWCIGA). The bill removes the two members representing self-insurance funds and replacing them with one person nominated by a statewide

trade association representing Florida employers, which is designated by the Chief Financial Officer (CFO), and one person nominated by the largest property and casualty insurance agents' association in Florida to serve in place of a nominee of either association. The FWCIGA provides for the payment of covered claims and benefits to injured workers in the event of the insolvency of an insurer or self-insurance funds.

## II. Present Situation:

### General Regulation of Insurance

The Office of Insurance Regulation (OIR)<sup>1</sup> is responsible for the regulation of all activities of insurers and other risk-bearing entities, including licensure, rates, policy forms, market conduct, claims, solvency, administrative supervision, as provided under the Florida Insurance Code (code).<sup>2</sup> An insurer must obtain a certificate of authority from the OIR to transact business in Florida.<sup>3</sup> As part of the licensure process, an insurer must meet minimum surplus and capital requirements<sup>4</sup> and other provisions of part III, ch. 624, F.S.

Generally, policy forms and rates are subject to approval by the OIR.<sup>5</sup> The OIR must disapprove rates for property and casualty policies that are excessive, inadequate, or unfairly discriminatory, as defined.<sup>6</sup> Section 627.062, F.S., provides that insurers must file proposed rate changes with OIR least 90 days prior to the proposed effective date (file and use)<sup>7</sup> or, alternatively, must file rates within 30 days after their effective date (use and file)<sup>8</sup>, subject to a potential order by OIR to refund that portion of a rate determined to be excessive.

Premium rates for policies of property, casualty, or surety insurance issued in Florida are subject to regulation by OIR pursuant to s. 627.062, F.S., the rating law. This includes, but is not limited to, policies of property insurance, general liability, business owners' policies, commercial automobile, medical malpractice, professional liability, and surety bonds. Private passenger motor vehicle insurance<sup>9</sup> and workers' compensation insurance<sup>10</sup> are subject to regulation under separate sections of the code. Likewise, this section does apply to residential property insurance, but such policies are subject to additional rating requirements contained in other provisions of the code.<sup>11</sup>

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<sup>1</sup> The OIR is an office under the Financial Services Commission (commission), which is composed of the Governor, the Attorney General, the Chief Financial Officer, and the Commissioner of Agriculture. The commission is not subject to control, supervision, or direction by the Department of Financial Services in any manner, including purchasing, transactions involving real or personal property, personnel, or budgetary matters. Section 20.121(3), F.S.

<sup>2</sup> Section 20.121(3)(a)1., F.S.

<sup>3</sup> Section 624.401, F.S.

<sup>4</sup> Section 624.404, F.S.

<sup>5</sup> Part I, ch. 627, F.S.

<sup>6</sup> Section 627.062, F.S.

<sup>7</sup> Section 627.0651(1)(a), F.S., rates for motor vehicle insurance.

<sup>8</sup> Section 627.0651(1)(b), F.S., rates for motor vehicle insurance.

<sup>9</sup> Section 627.0651, F.S.

<sup>10</sup> Sections 627.072 and 627.091, F.S.

<sup>11</sup> Section 627.0629, F.S.

For workers' compensation insurance, the OIR must approve rates in the voluntary market prior to the rates becoming effective.<sup>12</sup> In determining whether to approve or disapprove a workers' compensation rate filing, the OIR considers certain statutory standards and factors specified in ss. 627.062 and 627.072, F.S.<sup>13</sup>

The code and the rating plans approved by OIR provide mechanisms for insurers to vary premiums. These pricing tools include retrospective rating plans<sup>14</sup> that adjust the premium at the end of the policy period to reflect the actual loss experience of the employer; dividend plans that allow insurers to provide refunds to participating policyholders; and premium credits for large deductible policies, approved safety programs,<sup>15</sup> drug-free workplaces,<sup>16</sup> and other standard credits. The law permits insurers to file for approval of a rate deviation, by which the insurer proposes a uniform percentage increase or decrease to be applied to all rates charged or to rates for a particular class or classes of insurance.<sup>17</sup>

Florida's "consent to rate" law<sup>18</sup> or excess rates provision allows an insurer to use a rate in excess of its filed rate on any specific risk (employer) with the written consent of the insurer. However, an insurer may not use excess rates for more than 10 percent of any line of commercial insurance policies, including workers' compensation insurance, written each year by the insurer, or for more than 5 percent of any of its personal lines insurance policies written each year. Workers' compensation policies are considered commercial insurance. Thus, the 10-percent limit applies to those policies.

### **Florida Workers' Compensation Rate Trends Post 2003 Reforms<sup>19</sup>**

In 2000, Florida had the highest workers' compensation insurance rates in the country. In 2003, the Florida Legislature enacted significant reforms,<sup>20</sup> including but not limited to, benefits, attorney fees, compensability, workers' compensation coverage requirements, and enforcement authority.

As a result of the reforms, Florida's workers' compensation rates declined by 64.7 percent as of July 1, 2010. In 2003, the OIR approved a 14 percent rate reduction, with an additional reduction of 5.1 percent effective January 1, 2005. These annual rate reductions continued unabated through the rate reduction of 6.8 percent that took effect on January 1, 2010. The rate changes during this seven-year period include the three largest decreases ever in Florida, namely -18.6 percent for 2009, -18.4 percent for 2008, and -15.7 percent for 2007. These seven filings

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<sup>12</sup> Section 627.091, F.S. An insurer may satisfy its obligation to make such filings by becoming a member of, or a subscriber to, a licensed rating organization which makes such filings and by authorizing the office to accept such filings in its behalf; but nothing contained in this chapter shall be construed as requiring any insurer to become a member or a subscriber to any rating organization.

<sup>13</sup> Sections 627.151 and 627.091, F.S.

<sup>14</sup> Section 627.072, F.S.

<sup>15</sup> Section 627.0915, F.S.

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

<sup>17</sup> Section 627.211, F.S.

<sup>18</sup> Section 627.171, F.S.

<sup>19</sup> Office of Insurance Regulation, 2025 Workers' Compensation Annual Report (Jan. 2026), [WC Cover Page](#) (last visited Jan. 20, 2026). The report noted that similar conclusions were noted in the previous 20 annual reports.

<sup>20</sup> Senate Bill 50A (Ch. 2003-412, Laws of Fla.)

represent the state's largest consecutive cumulative decrease on record for workers' compensation rates, dating back to 1965.

The Oregon Workers' Compensation Premium Rate Ranking, published by the Oregon Department of Consumer and Business Services, includes a comparison of workers' compensation rates with other states based on January 1, 2024, Florida rates.<sup>21</sup> The latest Oregon report shows a decrease in the average Florida indexed rate from \$1.26 in 2022 to \$1.00, which resulted in Florida having the 30th highest rates; thus, there are 21 jurisdictions with a lower average rate than Florida. The 2024 report also reflects that the average Florida indexed rate of \$1.00 has dropped 8 percent below the study's national median indexed rate of \$1.09.

### **Florida Workers' Compensation Insurance Market<sup>22</sup>**

According to the Office of Insurance Regulation (OIR), in 2023, 278 privately-owned insurers actively wrote workers' compensation insurance in Florida. In total, private sector insurers wrote about \$3.2 billion in premium. Moreover, during 2024, six insurers entered the Florida workers' compensation market, either with direct authority or reinsurance only. During 2024, three insurers exited the Florida market, and five insurers withdrew the line of business. These new entrants and voluntary withdrawals had no disruptive impact on the marketplace, as should be the case in a competitive market.

In general, the most recent Workers' Compensation Annual Report (for calendar year 2025 data) issued by OIR made the following findings:

- Florida's workers' compensation insurance market contained a large number of independent insurers, none of which had enough market share to individually exercise market control in an uncompetitive nature.
- The Herfindahl-Hirschman Index (HHI) indicated Florida's market was not overly concentrated, and consequently exhibited a reasonable degree of competition. Following the U.S. Department of Justice guidelines, this measure suggests a highly competitive market. Moreover, the HHI measure indicates the Florida market has become progressively more competitive.
- There were no significant barriers for insurers entering and exiting the Florida workers' compensation insurance market.
- The residual market was small relative to the private market, indicating the voluntary market offers reasonable availability. However, affordability within the residual market appears to be an ongoing issue.
- Medical cost distributions showed that Florida has a higher portion of cost paid for drugs, hospital inpatient, and ambulatory surgical centers than the countrywide average.
- There may have been some small segments of the market which had difficulty obtaining workers' compensation insurance, including small firms and new firms.<sup>23</sup>

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<sup>21</sup> Oregon Department of Consumer and Business Services, 2024 Oregon worker's compensation premium rate ranking, [Department of Consumer and Business Services : Report and resources : Workers' compensation cost : State of Oregon](#) (last visited Jan. 2, 2026).

<sup>22</sup> *Supra*, OIR at 19.

<sup>23</sup> *Id.*

One of the most significant indicators of an availability problem in an insurance market is the size of the residual market mechanism.<sup>24</sup> The FWCJUA is the market of last resort for workers' compensation insurance. Only employers that cannot find coverage in the voluntary market are eligible for coverage in the FWCJUA. Thus, the size of the FWCJUA is a measure of availability of coverage in the voluntary market.

The Florida Workers' Compensation Insurance Plan was the residual market for Florida until the FWCJUA was created on January 1, 1994, as an insurer of last resort pursuant to s. 627.311(5), F.S., to provide workers compensation and employers liability insurance to employers who are required by law to maintain such insurance and who are in good faith entitled to, but who are unable to, purchase such insurance through the voluntary market, and to collect premiums and assessments from its policyholders in order to satisfy the obligations of the FWCJUA. If the FWCJUA is unable to pay its obligations, certain policyholders will be required to contribute on a pro-rata-earned-premium basis the money necessary to meet any assessment levied to fund the deficit.

The FWCJUA saw its premium volume stabilize over the 2014 to 2018 period. Recently, the FWCJUA has seen its volume significantly decrease dropping from \$36.2 million in direct written premium in 2018 down to \$8.4 million in 2024. In 2024, 361 Florida policyholders obtained coverage through the FWCJUA which is a record low point representing less than 0.3 percent of the Florida direct written premium. Going forward, the residual market could grow if voluntary writers are no longer willing to write certain risks.

The total premium paid by FWCJUA policyholders is affected by the rate differential of the policyholder's tier as well as other surcharges. The tier rate differential is multiplied by the voluntary rate (e.g. A tier rate differential of 1.05 represents that the rate for the tier is 5% above the voluntary rates). In addition to a much higher rate differential, Tier 3 is also subject to the ARAP surcharge. Additionally, all three tiers have a flat surcharge of \$475. Tier 3 policyholders also have a burden Tiers 1 and 2 do not have. Tier 3 policies are assessable if premiums are not sufficient to cover losses and expenses. The Tier 1 rate differential, effective January 1, 2025, increased to 1.81. The Tier 2 rate differential increased to 2.66. The Tier 3 rate differential increased to 2.66. While Tier 3 accounts for 38 percent of the total FWCJUA policies, it accounts for 68 percent of the total premium. The FWCJUA modified its rating plan, effective January 1, 2025, to reflect the NCCI approved rate change, resulting in an overall average premium level decrease of 1.9 percent.

The main contributor to the level of FWCJUA rates has been the level of expenses and losses incurred relative to premium. Both of these components were adversely impacted when the volume of FWCJUA business decreased in the late 1990s and, again, over the period from 2018 to 2024. The FWCJUA rates have historically been very high in comparison to the residual markets in other states where the residual market is administered by National Council on Compensation Insurance.

The number of policies issued by the FWCJUA has been small in comparison to the total voluntary market from 1997 to the present. In the recent past, the residual market share was low

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<sup>24</sup> *Supra* at 19.

because the FWCJUA rates were not very affordable to many employers and the voluntary market was very competitive. The high premiums in the FWCJUA discouraged many employers from even applying to the FWCJUA. These employers decided to close their business, go without coverage, or sought the services of a professional employer organization (PEO). Coupled with a very competitive market by insurers who aggressively sought new policyholders, this created an extremely small residual market. Ultimately, availability is likely not an issue as coverage can be found in either the voluntary market, the FWCJUA, or through a PEO.

### **FWCJUA Market Assistance Program (MAP)<sup>25</sup>**

The purpose of the MAP is to implement ss. 627.311(5)(c)4.d. and 627.311(5)(c)24., F.S., establishing a market assistance plan to provide access to and assist in the placement of workers compensation and employers' liability insurance coverage in the voluntary market for employers applying for or securing coverage through the FWCJUA. The MAP assists employers who submit applications for coverage to the FWCJUA in obtaining coverage in the voluntary market.

The depopulation program is part of MAP, too, and provides that an employer insured through the FWCJUA is no longer eligible for coverage through the FWCJUA if the employer is offered coverage from an insurer:

1. During the 30 calendar days of FWCJUA coverage;
2. Before an FWCJUA policy is issued;
3. By issuance of a policy upon expiration or cancellation of the FWCJUA policy; or
4. By assumption of the FWCJUA's obligation with respect to an in-force policy.<sup>26</sup>

Further, the premium for risks assumed by the insurer through the depopulation program must be no greater than the premium the insured would have paid under the FWCJUA, and must be adjusted upon renewal to reflect changes in the FWCJUA rates and the tier for which the insured would qualify as of the time of renewal.<sup>27</sup> The insured may be charged such premiums only for the first three years of coverage by the insurer.<sup>28</sup> A premium under s. 627.311(5)(c)24., F.S., is deemed approved and is not an excess premium for purposes of s. 627.171, F.S.<sup>29</sup>

### **The Florida Workers' Compensation Insurance Guaranty Association<sup>30</sup>**

As a condition of their authority to offer workers' compensation insurance coverage in Florida, all insurers and self-insurance funds are required to be members of the Florida Workers' Compensation Insurance Guaranty Association, Inc. (FWCIGA).<sup>31</sup> The association provides for the payment of covered claims and benefits to injured workers in the event of the insolvency of a carrier or self-insurance fund, but does not pay claims for insolvent individually self-insured employers. In order to keep its fund solvent, FWCIGA determines whether an assessment against

<sup>25</sup> See FWCJUA Operations Manual (Dec. 1, 2025), [FWCJUA Operations Manual Revision 1-1-21](#) (last visited Jan. 2, 2026).

<sup>26</sup> Section 627.311(5)(c)24, F.S.

<sup>27</sup> *Id.*

<sup>28</sup> *Id.*

<sup>29</sup> *Id.*

<sup>30</sup> Part V, ch. 631, F.S.

<sup>31</sup> Section 631.911, F.S.

its members is necessary to pay covered claims or to reimburse FWCIGA for its administrative expenses.<sup>32</sup>

### **The Department of Financial Services**

The Department of Financial Services is responsible for administering the workers' compensation law. Employers are required to pay compensation or furnish benefits pursuant to ch. 440, F.S., if an employee suffers an accidental compensable injury or death arising out of work performed in the course and the scope of the employment.<sup>33</sup> Generally, employers may secure coverage from an authorized carrier, qualify as a self-insurer,<sup>34</sup> or purchase coverage from the Florida Workers' Compensation Joint Underwriting Association (FWCJUA), the insurer of last resort.<sup>35</sup> Workers' compensation is the injured employee's remedy for "compensable" workplace injuries.<sup>36</sup> Indemnity benefits only become payable to employees who are disabled for at least eight days due to a compensable workplace injury.<sup>37</sup>

### **III. Effect of Proposed Changes:**

**Section 1** amends s. 627.171, F.S., relating to excess rates or consent to rate, to expand the percentage of policies an insurer may charge rates in excess of rates filed with the OIR. The bill allows an insurer to use excess rates for up to 10 percent of its commercial insurance policies, other than workers compensation policies. Further, the bill allows an insurer to charge excess rates for up to 20 percent of its workers' compensation policies. Pursuant to current law, an insurer may continue to charge excess rates for up to five percent of its personal lines policies.

The 20 percent limitation for workers' compensation policies excludes policies that are written for an employer who had coverage through the Florida Workers' Compensation Joint Underwriting Association (FWCJUA) immediately prior to the writing of the policy by the insurer and any workers' compensation policy that was written for an employer who had been offered coverage in the FWCJUA but was written by an insurer in lieu of accepting the FWCJUA policy. Further such policies must be excluded from the 20 percent limitation for the first three years of coverage. Under current law, the limitation is 10 percent for commercial lines policies, but it does not apply to FWCJUA workers compensation policies.

Currently, an insurer is limited to charging excess rates for up to 10 percent of its commercial policies, which includes workers compensation policies. Pursuant to current law, an insurer may use excess rates for up to five percent of its personal lines policies. An insurer must obtain the written consent of an insured to use rates in excess of the applicable filed rate prior to the policy inception date.

**Section 2** amends s. 631.912(1), F.S., relating to the composition of the Florida Workers Compensation Insurance Guaranty Association (FWCIGA), by removing the two members

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<sup>32</sup> Section 631.914, F.S.

<sup>33</sup> Section 440.09, F.S.

<sup>34</sup> Section 440.38, F.S.

<sup>35</sup> Section 627.511(5)(a), F.S.

<sup>36</sup> Section 440.13(1), F.S.

<sup>37</sup> Sections 440.12 and 440.15, F.S.

representing self-insurance funds and replacing them with one person nominated by a statewide trade association representing Florida employers, who is designated by the Chief Financial Officer (CFO), and one person nominated by the largest property and casualty insurance agents association in this state. Further, the CFO may appoint other persons with workers' compensation experience to the board to serve in place of a nominee of either association specified above.

**Section 3** provides the bill takes effect July 1, 2026.

**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:

Increasing the percentage of policies that a workers' compensation carrier may impose excess rates may allow some small employers to obtain more affordable coverage outside of the Florida Workers' Compensation Joint Underwriting Association.

C. Government Sector Impact:

None.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill amends sections 627.171 and 631.912 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 February 4, 2026:**

The CS revises the composition of the board of directors of the Florida Workers' Compensation Insurance Guaranty Association by removing the two members representing self-insurance funds and replacing them with one person nominated by a statewide trade association representing Florida employers, who is designated by the Chief Financial Officer (CFO), and one person nominated by the largest property and casualty insurance agents' association in this state. Further, the CFO may appoint other persons to the board to serve in place of a nominee of either of these described associations.

- B. **Amendments:**

None.