

1                                   A bill to be entitled  
 2           An act relating to insurance guaranty associations;  
 3           creating s. 631.576, F.S.; authorizing the Florida  
 4           Insurance Guaranty Association to authorize certain  
 5           employees to adjust losses for the association;  
 6           requiring such authorization to be included in a  
 7           contract; amending s. 631.914, F.S.; revising the  
 8           assessments levied by the Office of Insurance  
 9           Regulation on workers' compensation insurers;  
 10          requiring such insurers to recoup the assessments by  
 11          applying a specified percentage to certain policies;  
 12          conforming cross-references; providing that  
 13          assessments paid by an insurer constitute advances of  
 14          funds to the association under certain circumstances;  
 15          revising the requirements for the insurers'  
 16          reconciliation reports to the Florida Workers'  
 17          Compensation Insurance Guaranty Association; revising  
 18          construction; providing an effective date.

19  
 20 Be It Enacted by the Legislature of the State of Florida:

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 22           Section 1. Section 631.576, Florida Statutes, is created  
 23 to read:

24           631.576 Guaranty association employees; loss adjustment.-  
 25 The Florida Insurance Guaranty Association may authorize an

26 | employee of any state guaranty association to adjust losses for  
27 | the Florida Insurance Guaranty Association pursuant to this  
28 | part. The guaranty association's employee is not required to be  
29 | licensed as an adjuster; however, the authorization for the  
30 | guaranty association's employee to adjust losses must be  
31 | included in a contract between the Florida Insurance Guaranty  
32 | Association and the guaranty association or the guaranty  
33 | association's authorized representative.

34 | Section 2. Subsections (1), (2), and (3) of section  
35 | 631.914, Florida Statutes, are amended to read:

36 | 631.914 Assessments.—

37 | (1) (a) To the extent necessary to secure the funds for the  
38 | payment of covered claims, and also to pay the reasonable costs  
39 | to administer the same, the Office of Insurance Regulation, upon  
40 | certification by the board, shall levy assessments on each  
41 | insurer ~~initially estimated in the proportion that the insurer's~~  
42 | ~~net direct written premiums in this state bears to the total of~~  
43 | ~~said net direct written premiums received in this state by all~~  
44 | ~~such workers' compensation insurers for the preceding calendar~~  
45 | ~~year. An insurer shall fully recoup assessments by applying the~~  
46 | uniform surcharge percentage levied by the office to all  
47 | policies of the same kind or line as were considered by the  
48 | office in determining the assessment liability of the insurer.  
49 | Assessments levied against insurers and self-insurance funds  
50 | pursuant to this paragraph must be computed and levied on the

51 basis of ~~the full policy premium value on the net~~ direct written  
52 premium amount as set forth in the state for workers'  
53 compensation insurance without consideration of any applicable  
54 discount or credit for large deductibles or retrospectively  
55 rated policies. Insurers and self-insurance funds must report  
56 premiums in compliance with this paragraph, and the association  
57 may audit the reports. Assessments shall be remitted to and  
58 administered by the board of directors in the manner specified  
59 by the approved plan of operation and paragraph (d). ~~Each~~  
60 ~~assessment shall be a uniform percentage applicable to the net~~  
61 ~~direct written premiums of each insurer writing workers'~~  
62 ~~compensation insurance~~. Assessments levied against insurers and  
63 self-insurance funds shall not exceed in any calendar year more  
64 than 2 percent of that insurer's ~~net~~ direct written premiums in  
65 this state for workers' compensation insurance.

66 (c) ~~(b)~~ Member insurers shall collect policyholder  
67 surcharges at a uniform percentage rate on new and renewal  
68 policies issued and effective during the period of 12 months  
69 beginning on January 1, April 1, July 1, or October 1, whichever  
70 is the first day of the following calendar quarter as specified  
71 in an order issued by the office ~~directing insurers to pay an~~  
72 ~~assessment to the association~~. The policyholder surcharge may  
73 not begin until 90 days after the board of directors certifies  
74 the assessment.

75 (b) ~~(e)~~ If assessments otherwise authorized in paragraph

76 (a) are insufficient to make all payments on reimbursements then  
77 owing to claimants in a calendar year, then upon certification  
78 by the board, the office shall levy additional assessments of up  
79 to 1.5 percent of the insurer's ~~net~~ direct written premiums in  
80 this state.

81 (d) The association may use an installment method to  
82 require the insurer to remit the policyholder surcharge  
83 ~~assessment~~ as premium is collected ~~written~~ or may require the  
84 insurer to remit the assessment to the association before  
85 collecting the policyholder surcharge. ~~If the assessment is~~  
86 ~~remitted before the surcharge is collected, the assessment~~  
87 ~~remitted must be based on an estimate of the assessment due~~  
88 ~~based on the proportion of each insurer's net direct written~~  
89 ~~premium in this state for the preceding calendar year as~~  
90 ~~described in paragraph (a) and adjusted following the end of the~~  
91 ~~12-month period during which the assessment is levied.~~

92 1. If the association elects to use the installment  
93 method, the office may, in the order levying the assessment on  
94 insurers, specify that the policyholder surcharge ~~assessment~~ is  
95 due and payable quarterly as premium is collected ~~written~~  
96 throughout the assessment year. Insurers shall collect  
97 policyholder surcharges at a uniform percentage rate specified  
98 by order as described in paragraph (c) ~~(b)~~. Insurers are not  
99 required to advance funds if the association and the office  
100 elect to use the installment option. Assessments levied under

101 this subparagraph are paid after policyholder ~~policy~~ surcharges  
102 are collected, and the recognition of assets is based on actual  
103 premium collected ~~written~~ offset by the obligation to the  
104 association.

105 2. If the association elects to require insurers to remit  
106 the assessment before surcharging the policyholder, the  
107 following shall apply:

108 a. The assessment remitted must be based on an estimate of  
109 the assessment due based on the proportion of each insurer's  
110 direct written premium in this state for the preceding calendar  
111 year as described in paragraph (a).

112 ~~b.a.~~ The levy order shall provide each insurer so assessed  
113 at least 30 days' written notice of the date the initial  
114 assessment payment is due and payable by the insurer.

115 ~~c.b.~~ Insurers shall collect policyholder surcharges at a  
116 uniform percentage rate specified by the order, as described in  
117 paragraph (c) ~~(b)~~.

118 ~~d.e.~~ Assessments levied under this subparagraph and are  
119 paid by an insurer constitute advances of funds from the insurer  
120 to the association ~~before policy surcharges are billed~~ and  
121 result in a receivable for policyholder ~~policy~~ surcharges to be  
122 billed in the future. The amount of billed policyholder  
123 surcharges, to the extent it is likely that it will be realized,  
124 meets the definition of an admissible asset as specified in the  
125 National Association of Insurance Commissioners' Statement of

126 Statutory Accounting Principles No. 4. The asset shall be  
127 established and recorded separately from the liability. If an  
128 insurer is unable to fully recoup the amount of the assessment,  
129 the amount recorded as an asset shall be reduced to the amount  
130 reasonably expected to be recouped.

131 3. Insurers must submit a reconciliation report to the  
132 association within 120 days after the end of the 12-month  
133 assessment period and annually thereafter for a period of 2 ~~3~~  
134 years. The report must indicate the amount of the initial  
135 payment or installment payments made to the association and the  
136 amount of policyholder surcharges collected ~~written premium~~  
137 ~~pursuant to paragraph (a)~~ for the assessment year. If the  
138 insurer's reconciled ~~assessment~~ obligation is more than the  
139 amount paid to the association, the insurer shall pay the excess  
140 policyholder surcharges collected to the association. If the  
141 insurer's reconciled ~~assessment~~ obligation is less than the  
142 initial amount paid to the association, the association shall  
143 return the overpayment to the insurer.

144 (2) Policyholder surcharges collected ~~Assessments levied~~  
145 under this section are not premium and are not subject to any  
146 premium tax, fees, or commissions. Insurers shall treat the  
147 failure of an insured to pay policyholder ~~assessment-related~~  
148 surcharges as a failure to pay premium. An insurer is not liable  
149 for any uncollectible policyholder ~~assessment-related~~ surcharges  
150 levied pursuant to this section.

151           (3) Assessments levied under this section may be levied  
152 only upon insurers. This section does not create a cause of  
153 action by a policyholder with respect to the levying of an  
154 assessment or a policyholder's duty to pay assessment-related  
155 policyholder surcharges.

156           Section 3. This act shall take effect July 1, 2019.