**FLORIDA WORKERS' COMPENSATION**

**INSURANCE GUARANTY ASSOCIATION ACT**

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**§ 631.90. Repealed by Laws 1997, c. 97-262, § 30**

**§** **631.901 Title**

This part may be cited as the "Florida Workers' Compensation Insurance Guaranty Association Act.

**History:** Added by Laws 1997, c. 97-262, § 20, eff. 5-30-97.

**§** **631.902 Purposes**

The purposes of this part are to:

1. Create a not-for-profit Florida Workers' Compensation Insurance Guaranty Association, Incorporated, to provide a mechanism for the payment of covered claims under chapter 440 to avoid excessive delay in payment and to avoid financial loss to claimants because of the insolvency of a member insurer.
2. Assist in the detection and prevention of insurer insolvencies.
3. Allocate the cost of such protection among the insurers.
4. Provide for the prompt payment by the corporation of workers' compensation claims incurred by insolvent insurers.

**History:** Added by Laws 1997, c. 97-262, § 20, eff. 5-30-97.

**§ 631.903 Construction**

The statutes controlling the corporation shall be construed liberally to achieve the purposes stated in § 631.902. The corporation shall perform its functions under a plan of operation established by its board of directors and approved by the department.

**History:** Added by Laws 1997, c. 97-262, § 20, eff. 5-30-97.

**§ 631.904 Definitions**

As used in this part, the term:

1. "Corporation" means the Florida Workers' Compensation Insurance Guaranty Association, Incorporated.
2. "Covered claim" means an unpaid claim, including a claim for return of unearned premiums, which arises out of, is within the coverage of, and is not in excess of the applicable limits of, an insurance policy to which this part applies, which policy was issued by an insurer and which claim is made on behalf of a claimant or insured who was a resident of this state at the time of the injury. The term "covered claim" includes unpaid claims under any employer liability coverage of a workers' compensation policy limited to the lesser of $300,000 or the limits of the policy. The term “covered claim” does not include any amount sought as a return of premium under any retrospective rating plan; any amount due any reinsurer, insurer, insurance pool, or underwriting association, as subrogation recoveries or otherwise; or any claim that would otherwise be a covered claim that has been rejected or denied by any other state guaranty fund based upon that state’s statutory exclusions, including, but not limited to, those based on coverage, policy type, or an insured’s net worth except this exclusion from the definition of covered claim does not apply to employers who, prior to April 30, 2004, entered into an agreement with the corporation preserving the employer’s right to seek coverage of claims rejected by another state’s guaranty fund. Member insurers have no right of subrogation against the insured of any insolvent insurer. This provision applies retroactively to cover claims of an insolvent self-insurance fund resulting from accidents or losses incurred prior to January 1, 1994, regardless of the date the petition in circuit court was filed alleging insolvency and the date the court entered an order appointing a receiver.
3. "Insolvency" means that condition in which all of the assets of the insurer, if made immediately available, would not be sufficient to discharge all of its liabilities or that condition in which the insurer is unable to pay its debts as they become due in the usual course of business. When the context of any provision of this part so indicates, insolvency also includes impairment of surplus or impairment of capital.
4. "Insolvent insurer" means an insurer that was authorized to transact insurance in this state, either at the time the policy was issued or when the insured event occurred, and against which an order of liquidation with a finding of insolvency has been entered by a court of competent jurisdiction if such order has become final by the exhaustion of appellate review.
5. "Insurer" means an insurance carrier or self-insurance fund authorized to insure under chapter 440. For purposes of this act, "insurer" does not include a qualified local government self-insurance fund, as defined in § 624.4622, or an individual self-insurer as defined in § 440.385.
6. "Self-insurance fund" means a group self-insurance fund authorized under § 624.4621, a commercial self-insurance fund writing workers' compensation insurance authorized under § 624.462, or an assessable mutual insurer authorized under § 628.6011. For purposes of this act, the term "self-insurance fund" does not include a qualified local government self-insurance fund, as defined in § 624.4622, an independent educational institution self-insurance fund as defined in s. 624.4623, an electric cooperative self-insurance fund as defined ins. 624.4626, or an individual self-insurer as defined in § 440.385.

**History:** Added by Laws 1997, c. 97-262, § 20, eff. 5-30-97; Amended by Laws 2002, c. 2002-25, § 17, eff. July 1, 2002; Laws 2002, c. 2002-282, § 10, eff. July 1, 2002; Laws 2003, c. 2003-261, § 1371, eff. June 26, 2003; Laws 2004, c. 2004-89, § 1, eff. May 21, 2004; Laws 2004, c. 2004-374, § 38, eff. July 1, 2004; [Laws 2009, c. 2009-116, § 4, eff. July 1, 2009](https://web2.westlaw.com/find/default.wl?tf=-1&rs=WLW9.11&fn=_top&sv=Split&docname=UUID%28I998DCDF055-C111DE8AADA-BACE8F0265F%29&tc=-1&pbc=3F3CC5CE&ordoc=8554358&findtype=l&db=1077005&vr=2.0&rp=%2ffind%2fdefault.wl&mt=Westlaw); [Laws 2010, c. 2010-49, § 10, eff. July 1, 2010](http://web2.westlaw.com/find/default.wl?tc=-1&docname=UUID%28I7221EDD05E-D711DF849BF-023C5493D1E%29&rp=%2ffind%2fdefault.wl&sv=Split&utid=%7bBA8D8040-B026-4974-A7BB-C774FCF5ED54%7d&rs=WLW10.10&db=1077005&tf=-1&findtype=l&fn=_top&mt=WestlawGC&vr=2.0&pbc=EDB99DF9&ordoc=8554358); Laws 2011, c. 2011-226, §10, eff. July 1, 2011; [Laws 2021, c. 2021-104, § 21, eff. June 16, 2021](http://www.westlaw.com/Link/Document/FullText?findType=l&pubNum=1077005&cite=UUID(I0C5FB880B4-8211EB82B7F-A8CBB78D992)&originatingDoc=N6D67B410BC3A11EBB30A9C6FC20748DC&refType=SL&originationContext=document&vr=3.0&rs=cblt1.0&transitionType=DocumentItem&contextData=(sc.DocLink)).

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**§§ 631.905 Repealed. Laws 1997, c. 97-262, § 30, eff. 5-30-97.**

**§§631.91. Repealed by Laws 1997, c. 97-262, § 30**

**§ 631.911 Creation of the Florida Workers’ Compensation Insurance Guaranty Association, Incorporated; merger; effect of merger**

1. (a) The Florida Self-Insurance Fund Guaranty Association established in former part V of chapter 631 and the workers' compensation insurance account, which includes excess workers' compensation insurance, established in former s. 631.55(2)(a) shall be merged in accordance with the plan of operation adopted by the interim board of directors. The successor nonprofit corporation shall be known as the "Florida Workers' Compensation Insurance Guaranty Association, Incorporated."
2. Upon the effective date of the merger:
3. The Florida Self-Insurance Fund Guaranty Association and the workers' compensation insurance account within the Florida Insurance Guaranty Association cease to exist and are succeeded by the Florida Workers' Compensation Insurance Guaranty Association.
4. Title to all assets of any description, all real estate and other property, or any interest therein, owned by each party to the merger is vested in the successor corporation without reversion or impairment.
5. The successor corporation shall be responsible and liable for all the liabilities and obligations of each party to the merger.
6. Any claim existing or action or proceeding pending by or against any party to the merger may be continued as if the merger did not occur or the successor corporation may be substituted in the proceeding for the corporation or account which ceased existence.
7. Neither the rights of creditors nor any liens upon the property of any party to the merger shall be impaired by such merger.
8. Outstanding assessments levied by the Florida Self-Insurance Guaranty Association or the Florida Insurance Guaranty Association on behalf of the workers' compensation insurance account remain in full force and effect and shall be paid when due.
9. All insurers must be members of the corporation as a condition of their authority to offer workers' compensation coverage in this state. An insurer must reimburse the corporation for all funds advanced to the insurer and all claim payments the insurer makes on the insured's behalf if the insurer, having been placed in rehabilitation receivership, is subsequently rehabilitated.
10. The corporation shall perform its functions under a plan of operation and shall exercise its powers through a board of directors. Upon adoption of a plan of operation for the corporation, the board shall manage the Florida Workers' Compensation Insurance Guaranty Association Account.
11. The corporation has all powers granted or allowed to not-for-profit corporations under chapter 617, in addition to other powers granted in this section.

**History:** Added by Laws 1997, c. 97-262, § 20, eff. 5-30-97; Amended by Laws 2000, c. 2000-154, § 84, eff. 7-4-2000; Laws 2001, c. 2001-63, § 69, eff. 7-3-2001; Laws 2003, c. 2003-261, § 1372, eff. June 26, 2003.

**§ 631.912 Board of directors**

1. The board of directors of the corporation shall consist of 11 persons, 1 of whom is the insurance consumer advocate appointed under s. 627.0613 or designee and 1 of whom is designated by the Chief Financial Officer. The department shall appoint to the board 6 persons selected by private carriers from among the 20 workers' compensation insurers with the largest amount of direct written premium as determined by the department, and 2 persons selected by the self-insurance funds or other persons with experience in workers’ compensation insurance as determined by the Chief Financial Officer. These appointments are deemed to be within the scope of the exemption provided in [s. 112.313(7)(b)](https://www.westlaw.com/Link/Document/FullText?findType=L&pubNum=1000006&cite=FLSTS112.313&originatingDoc=N8511F400FF7B11ED968FB667C355346F&refType=SP&originationContext=document&vr=3.0&rs=cblt1.0&transitionType=DocumentItem&contextData=(sc.Default)#co_pp_bbe600004b9a4). The Governor shall appoint 1 person who has commercial insurance experience. At least two of the private carriers shall be foreign carriers authorized to do business in this state. The board shall elect a chairperson from among its members. The Chief Financial Officer may remove any board member for cause. Each board member shall be appointed to serve a 4-year term and may be reappointed. A vacancy on the board shall be filled for the remaining period of the term in the same manner by which the original appointment was made.
2. Members of the board may be reimbursed from the assets of the corporation for actual and reasonable out-of-pocket expenses incurred by them as members of the board of directors; however, members of the board may not otherwise be compensated by the corporation for their services.
3. Any board member who is employed by, or has a material relationship with, an insurer in receivership shall be terminated as a board member, effective as of the date of the entry of the order of receivership.
4. Board members are subject to the code of ethics under part III of chapter 112, including, but not limited to, the code of ethics and public disclosure and reporting of financial interests, pursuant to [s. 112.3145](https://www.westlaw.com/Link/Document/FullText?findType=L&pubNum=1000006&cite=FLSTS112.3145&originatingDoc=N8511F400FF7B11ED968FB667C355346F&refType=LQ&originationContext=document&vr=3.0&rs=cblt1.0&transitionType=DocumentItem&contextData=(sc.Default)). For purposes of applying part III of chapter 112 to activities of members of the board of directors, those persons are considered public officers and the corporation is considered their agency. Notwithstanding [s. 112.3143(2)](https://www.westlaw.com/Link/Document/FullText?findType=L&pubNum=1000006&cite=FLSTS112.3143&originatingDoc=N8511F400FF7B11ED968FB667C355346F&refType=SP&originationContext=document&vr=3.0&rs=cblt1.0&transitionType=DocumentItem&contextData=(sc.Default)#co_pp_58730000872b1), a board member may not vote on any measure that he or she knows would inure to his or her special private gain or loss; that he or she knows would inure to the special private gain or loss of any principal by which he or she is retained, other than an agency as defined in [s. 112.312](https://www.westlaw.com/Link/Document/FullText?findType=L&pubNum=1000006&cite=FLSTS112.312&originatingDoc=N8511F400FF7B11ED968FB667C355346F&refType=LQ&originationContext=document&vr=3.0&rs=cblt1.0&transitionType=DocumentItem&contextData=(sc.Default)); or that he or she knows would inure to the special private gain or loss of a relative or business associate of the public officer. Before the vote is taken, such member shall publicly state to the board the nature of his or her interest in the matter from which he or she is abstaining from voting and, within 15 days after the vote occurs, disclose the nature of his or her interest as a public record in a memorandum filed with the person responsible for recording the minutes of the meeting, who shall incorporate the memorandum in the minutes.
5. Notwithstanding [s. 112.3148](https://www.westlaw.com/Link/Document/FullText?findType=L&pubNum=1000006&cite=FLSTS112.3148&originatingDoc=N8511F400FF7B11ED968FB667C355346F&refType=LQ&originationContext=document&vr=3.0&rs=cblt1.0&transitionType=DocumentItem&contextData=(sc.Default)), [s. 112.3149](https://www.westlaw.com/Link/Document/FullText?findType=L&pubNum=1000006&cite=FLSTS112.3149&originatingDoc=N8511F400FF7B11ED968FB667C355346F&refType=LQ&originationContext=document&vr=3.0&rs=cblt1.0&transitionType=DocumentItem&contextData=(sc.Default)), or any other law, a board member may not knowingly accept, directly or indirectly, any gift or expenditure from a person or entity, or an employee or representative of such person or entity, which has a contractual relationship with the corporation or which is under consideration for a contract.
6. A board member who fails to comply with subsection (4) or subsection (5) is subject to the penalties provided under [ss. 112.317](https://www.westlaw.com/Link/Document/FullText?findType=L&pubNum=1000006&cite=FLSTS112.317&originatingDoc=N8511F400FF7B11ED968FB667C355346F&refType=LQ&originationContext=document&vr=3.0&rs=cblt1.0&transitionType=DocumentItem&contextData=(sc.Default)) and [112.3173](https://www.westlaw.com/Link/Document/FullText?findType=L&pubNum=1000006&cite=FLSTS112.3173&originatingDoc=N8511F400FF7B11ED968FB667C355346F&refType=LQ&originationContext=document&vr=3.0&rs=cblt1.0&transitionType=DocumentItem&contextData=(sc.Default)).

**History:** Added by Laws 1997, c. 97-262, § 20, eff. 5-30-97; Amended by Laws 2003, c. 2003-261, § 1373, eff. June 26, 2003; Laws 2011, c. 2011-226, §11, eff. July 1, 2011, Laws 2014, c. 2014-103, § 10, eff. July 1, 2014; [Laws 2020, c. 2020-54, § 6, eff. July 1, 2020](https://www.westlaw.com/Link/Document/FullText?findType=l&pubNum=1077005&cite=UUID(I4CB12E906A-B011EA9251B-9775F20F8D6)&originatingDoc=N8511F400FF7B11ED968FB667C355346F&refType=SL&originationContext=document&vr=3.0&rs=cblt1.0&transitionType=DocumentItem&contextData=(sc.Default)); [Laws 2023, c. 2023-144, § 43, eff. May 25, 2023](https://www.westlaw.com/Link/Document/FullText?findType=l&pubNum=1077005&cite=UUID(I2955C320EB-5411EDB1848-C00A3136E00)&originatingDoc=N8511F400FF7B11ED968FB667C355346F&refType=SL&originationContext=document&vr=3.0&rs=cblt1.0&transitionType=DocumentItem&contextData=(sc.Default))

**§ 631-913 Powers and duties of the corporation**

1. The corporation is obligated to the extent of the full amount of the covered claims:
2. Existing before the adjudication of insolvency and arising within 30 days after the determination of insolvency;
3. Existing before the policy expiration date if less than 30 days after the determination of insolvency; or
4. Existing before the insured replaces the policy or causes its cancellation, if the insured does so within 30 days after the determination of insolvency.

Notwithstanding such criteria, the corporation's obligation for a covered claim for the return of unearned premium shall not exceed $50,000 per policy. In addition, the corporation is not obligated to a policyholder or claimant in an amount in excess of the obligation of the insolvent insurer under the policy from which the claim arises.

1. The corporation is considered to be the insurer to the extent of its obligation on the covered claims, and, to such extent, has all rights, duties, and obligations of the insolvent insurer as if the insurer had not become insolvent. The corporation is not liable for any penalties or interest.
2. The corporation may:
3. Employ or retain such persons as are necessary to handle claims and perform other duties of the corporation.
4. Borrow funds necessary to effect the purposes of this part in accordance with the plan of operation.
5. Sue or be sued. Service of process in such legal actions must be made upon the person registered with the department as agent for the receipt of service of process.
6. Enter into such contracts as are necessary to carry out the purpose of this part.
7. The corporation may assist and advise the department, when appropriate, concerning rehabilitation, payment of claims, continuance of coverage, or the performance of other contractual obligations of any impaired or insolvent insurer. The corporation may also assist and advise departments of insurance of other states; other guaranty associations; and conservators, rehabilitators, and receivers appointed or acting in regard to any member insured wherever located, for the purpose of developing plans to coordinate protection of policyholders. Costs of such activities may be charged against the Florida Workers' Compensation Insurance Guaranty Association Account at the discretion of the board of directors, notwithstanding any other provision of this act.
8. The corporation shall have standing to appear before any court in this state which has jurisdiction over an impaired or insolvent insurer to which the corporation is or may become obligated under this act. Such standing shall extend to all matters germane to the powers and duties of the corporation, including but not limited to, proposals for reinsuring or guaranteeing the covered policies of the impaired or insolvent insurer and the determination of the covered policies and contractual obligations.
9. State funds may not be allocated or paid to the corporation.

**History:** Added by Laws 1997, c. 97-262, § 20, eff. 5-30-97; Amended by Laws 2003, c. 2003-267, § 5, eff. June 26, 2003.

**§ 631.914 Assessments**

(1)(a) To the extent necessary to secure the funds for the payment of covered claims, and also to pay the reasonable costs to administer the same, the Office of Insurance Regulation, upon certification by the board, shall levy assessments on each insurer. Assessments levied against insurers and self-insurance funds pursuant to this paragraph must be computed and levied on the basis of the direct written premium amount as set forth in the state for workers’ compensation insurance. An insurer’s direct written premium calculated for the purposes of determining the insurer’s assessment or policy surcharge may not be reduced by any discount or credit for deductibles in a policy or by any premium adjustment to a retrospectively rated policy. Insurers and self-insurance funds must report premiums in compliance with this paragraph, and the association may audit the reports. Assessments shall be remitted to and administered by the board of directors in the manner specified by the approved plan of operation and paragraph (d).

Assessments levied against insurers and self-insurance funds shall not exceed in any calendar year more than 2 percent of that insurer's direct written premiums in this state for workers' compensation insurance.

1. If assessments otherwise authorized in paragraph (a) are insufficient to make all payments on reimbursements then owing to claimants in a calendar year, then upon certification by the board, the office shall levy additional assessments of up to 1.5 percent of the insurer’s direct written premiums in this state.
2. The office shall levy the uniform surcharge percentage on all policies of the same kind or line as were considered by the office in determining the assessment liability of the insurer. Member insurers shall collect policy surcharges at a uniform percentage rate on new and renewal policies issued and effective during the assessment year beginning on January 1, April 1, July 1, or October 1, whichever is the first day of the following calendar quarter as specified in an order issued by the office. The policy surcharge may not begin until 90 days after the board of directors certifies the assessment.
3. The association may use pass-through method to require the insurer to remit the policy surcharge as collected or may require the insurer to remit the assessment to the association before collecting the policy surcharge.
4. If the association elects to use the pass-through method, the office may, in the order levying the assessment on insurers, specify that the policy surcharge is due and payable quarterly as collected throughout the assessment year. Insurers shall collect policy surcharges at a uniform percentage rate specified by order as described in paragraph (c). Insurers are not required to advance funds if the association and the office elect to use the pass-through option. Assessments levied under this subparagraph are paid after policy surcharges are collected, and the recognition of assets is based on actual policy surcharges collected offset by the obligation to the association.
5. If the association elects to require insurers to remit the assessment before surcharging the policy, the following shall apply:
	1. On or before the date specified in the order of the office, insurers shall make an initial advance payment to the association of the percentage specified in the order multiplied by the insurer’s direct written premiums received in this state for the preceding calendar year for the kinds of insurance included within such account before the beginning of the assessment year. The board may authorize an insurer to pay an assessment in a single payment or on a quarterly basis, based on cash-flow needs.
	2. The levy order shall provide each insurer so assessed at least 30 days’ written notice of the date the initial assessment payment is due and payable by the insurer.
	3. Insurers shall collect policy surcharges at a uniform percentage rate specified by the order, as described in paragraph (c).
	4. Assessments levied under this subparagraph and paid by an insurer constitute advances of funds from the insurer to the association and result in a receivable for policy surcharges to be billed in the future. The amount of billed policy surcharges, to the extent it is likely that it will be realized, meets the definition of an admissible asset as specified in the National Association of Insurance Commissioners’ Statement of Statutory Accounting Principles No. 4. The asset shall be established and recorded separately from the liability. If an insurer is unable to fully recoup the amount of the assessment, the amount recorded as an asset shall be reduced to the amount reasonably expected to be recouped.
6. Insurers must submit a reconciliation report to the association within 120 days after the end of the 12-month assessment year and annually thereafter for a period of 2 years. The report must indicate the amount of the initial payment or installment payments made to the association and the amount of policy surcharges collected for the assessment year. If the insurer’s reconciled obligation is more than the amount paid to the association, the insurer shall pay the excess policy surcharges collected to the association. If the insurer’s reconciled obligation is less than the initial amount paid to the association, the association shall return the overpayment to the insurer.

(2) Policy surcharges collected under this section are not premium and are not subject to any premium tax, fees, or commissions. Insurers shall treat the failure of an insured to pay policy surcharges as a failure to pay premium. An insurer is not liable for any uncollectible policy surcharges levied pursuant to this section.

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

(4)(a) The board may exempt any insurer from an assessment if, in the opinion of the office, an assessment would result in such insurer's financial statement reflecting an amount of capital or surplus less than the minimum amount required by any jurisdiction in which the insurer is authorized to transact insurance.

1. The board may temporarily defer, in whole or in part, assessments against an insurer if, in the opinion of the office, payment of the assessment would endanger the ability of the insurer to fulfill its contractual obligations. In the case of a self-insurance fund, the trustees of the fund determined to be endangered must immediately levy an assessment upon the members of that self-insurance fund in an amount sufficient to pay the assessments to the corporation.

**History:** Added by Laws 1997, c. 97-262, § 20, eff. 5-30-97; Amended by Laws 1999, c. 99-3, § 48, eff. 6-29-99; Amended by Laws 2003, c. 2003-267, § 6, eff. June 26, 2003; [Laws 2016, c. 2016-170, § 1, eff. July 1, 2016](https://1.next.westlaw.com/Link/Document/FullText?findType=l&pubNum=1077005&cite=UUID(I0150F7B0E6-6F11E589DB8-9BE66688165)&originatingDoc=NC75983F02E2C11E6B0E897393DF36488&refType=SL&originationContext=document&transitionType=DocumentItem&contextData=(sc.Category)).

**§ 631.915 Repealed. Laws 1997, c. 97-262, § 30, eff. 5-30-97**

**§ 631.916 Plan of operation**

The board of directors shall prepare and submit to the department a plan of operation and any amendments to the plan which are necessary or suitable to assure the fair, reasonable, and equitable administration of the corporation. The plan of operation and any amendments to the plan shall become effective unless disapproved in writing by the department within 30 days after receipt. If the corporation fails to submit a plan of operation within 90 days after the appointment of the new board, the department shall implement a plan of operation which will be effective until the board submits a plan of operation. The plan of operation prepared by the board is subject to periodic review by the department. All member insurers shall comply with the approved plan of operation. The plan of operation must, in addition to the requirements enumerated elsewhere in this part:

1. Establish procedures for handling the assets of the corporation.
2. Establish regular places and times for meetings of the board of directors.
3. Establish procedures for keeping records of all financial transactions of the corporation, its agents, and the board of directors.
4. Establish procedures for levying and collecting assessments and deficiency surcharges.
5. Establish procedures to allow injured workers to make claims and to adjust and pay such claims.
6. Establish additional provisions necessary or proper for executing the powers and duties of the association.

**History:** Added by Laws 1997, c. 97-262, § 20, eff. 5-30-97.

**§ 631.917 Prevention of insolvencies**

To aid in the detection and prevention of insolvencies or impairments:

(1)(a) The board may make reasonable and lawful investigation into the practices of any third-party administrator or service company for a self-insurance fund declared insolvent by the court.

1. If the results of an investigation reasonably lead to a finding that certain actions taken or not taken by those handling, processing, or preparing covered claims for payment or other benefit pursuant to any workers' compensation insurance policycontributed to the insolvency of an insurer, such information may, in the discretion of the board, be provided to the department or office in an expedited manner.
2. The board of directors may make reports and recommendations to the department or office upon any matter germane to the solvency, liquidation, rehabilitation, or conservation of any member insurer or germane to the solvency of any insurer seeking to do insurance business in this state.
3. The board of directors, in its discretion, may notify the office of any information indicating that any member insurer may be in an impaired or insolvent insurer.
4. The board of directors, in its discretion, may request that the office order an examination of any member insurer which the board in good faith believes may be an impaired or insolvent insurer. Within 30 days after receipt of such a request, the office shall begin such an examination. The examination may be conducted as a National Association of Insurance Commissioners examination or may be conducted by such persons as the office designates. The cost of such examination shall be paid by the corporation and the examination report shall be treated in a manner similar to other examination reports pursuant to § 624.319. In no event may such examination report be released to the board of directors before its release to the public, but this requirement does not preclude the office from complying with § 631.398(2). The office shall notify the board of directors when the examination is completed. The request for an examination shall be kept on file by the office.
5. The board is authorized to assist and aid the department or office, in any manner consistent with existing laws and this chapter, in the department's or office’s investigation or referral for prosecution of those whose action or inaction may have contributed to the impairment or insolvency of the insurer.
6. The board may make recommendations to the office for the detection and prevention of insurer insolvencies.

**History:** Added by Laws 1997, c. 97-262, § 20, eff. 5-30-97; Laws 2003, c. 2003-261, § 1374, eff. June 26, 2003.

**§ 631.918 Immunity**

There is no liability on the part of, and a cause of action may not arise against, the corporation, its agents or employees, or members of its board of directors, the Chief Financial Officer, or the department or office or their agents or employees, for any action taken by them in the performance of their powers and duties under this section, unless such action is found to be a violation of antitrust laws, was in bad faith, or was undertaken with malicious purpose or in a manner exhibiting wanton and willful disregard of human rights, safety, or property.

**History:** Added by Laws 1997, c. 97-262, § 20, eff. 5-30-97; Laws 2003, c. 2006-261, § 1375, eff. June 26, 2003.

**§ 631.919 Prohibited advertisement of solicitation**

A person may not make publish, disseminate, advertise, circulate, or place before the public, or cause, directly or indirectly, to be made, published, disseminated, circulated, or placed before the public, in any print, television, or broadcast media, or in any circular, letter, pamphlet, or publication of any kind, a statement or announcement that uses the existence of the Florida Workers' Compensation Insurance Guaranty Association, Incorporated, to induce an employer to purchase membership in or insurance from a member insurer.

**History:** Added by Laws 1997, c. 97-262, § 20, eff. 5-30-97.

**§ 631.92 Repealed. Laws 1997, ch. 97-262, § 30, eff. 5-30-97**

**§ 631.921 Department powers**

The corporation shall be subject to examination by the department. By March 1 of each year, the board of directors shall cause a financial report to be filed with the department for the immediately preceding calendar year in a form approved by the department.

**History:** Added by Laws 1997, c. 97-262, § 20, eff. 5-30-97.

**§ 631.922 Liability of members of an impaired self-insurance fund for unpaid claims**

This act may not be construed to reduce the liability of a member of an impaired self-insurance fund for the member's liability under § 624.4621 or 624.476.

**History:** Added by Laws 1997, c. 97-262, § 20, eff. 5-30-97.

**§ 631.923 Effect of paid claims**

1. Any person who recovers under this part is considered to have assigned his or her rights under the policy to the corporation to the extent of his or her recovery from the corporation. Every insured or claimant seeking the protection of this part shall cooperate with the corporation to the same extent as the insured or claimant would have been required to cooperate with the insolvent insurer. The corporation has no cause of action against the insured of the insolvent insurer for any sums the insured has paid out except such causes of action as the insolvent insurer would have had if the sums had been paid by the insolvent insurer.
2. The receiver, liquidator, or statutory successor of an insolvent insurer is bound by settlements of covered claims by the corporation. The court having jurisdiction shall grant such claims priority equal to that to which the claimant would have been entitled, in the absence of this part, against the assets of the insolvent insurer. The expenses of the association or similar organization in handling claims must be accorded the same priority as the liquidator's expenses.
3. The corporation shall periodically file with the receiver or liquidator of the insolvent insurer statements of the covered claims paid by the corporation and estimates of anticipated claims on the corporation, which shall preserve the rights of the corporation against the assets of the insolvent insurer.
4. Any release of the corporation and its insured must clearly state whether or not any claim filed with the receiver in excess of the liability of the corporation under § 631.57 is waived.

**History:** Added by Laws 1997, c. 97-262, § 20, eff. 5-30-97.

**§ 631.924 Stay of proceedings; reopening of default judgments**

All proceedings in which the insolvent insurer or self-insurance fund is a party or is obligated to defend a party in any court or before any quasi-judicial body or administrative board in this state must be stayed for 6 months, or such additional period from the date the insolvency is adjudicated, by a court of competent jurisdiction to allow proper defense by the association of all pending causes of action as to any covered claims. The stay may be extended for a period of time greater than 6 months upon proper application to a court of competent jurisdiction. The association, either on its own behalf or on behalf of the insured, may apply to have any judgment, order, decision, verdict or finding based on the default of the insolvent insurer or self-insurance fund or its failure to defend an insured set aside by the same court or administrator that made the judgment, order, decision, verdict or finding and may defend against the claim on the merits. If the association so requests, the stay of proceedings may be shortened or waived.

**History:** Added by Laws 1997, c. 97-262, § 20, eff. 5-30-97; Amended by Laws 2003, c. 2003-267, § 7, eff. June 26, 2003.

**§ 631.925 Repealed. Laws 1997, c. 97-262, § 30 e**

**§ 631.926 Repealed by Laws 2023, c. 2023-15, § 25, eff. March 24, 2023**

**§ 631.927 Assumption of liability**

Notwithstanding § 631.913, the corporation shall assume the liability for the payment of the workers' compensation indemnity and medical benefits that are due to claimants covered by the Certified Pulpwood Dealers Self-Insurers Fund. The corporation shall assess the former members of the Certified Pulpwood Dealers Self-Insurers Fund pursuant to the provisions of this act.

**History:** Added by Laws 1997, c. 97-262, § 20, eff. 5-30-97.

**§ 631.928 Florida Workers’ Compensation Insurance Guaranty Association Account**

Notwithstanding the provisions of § 215.3207, the Florida Workers' Compensation Insurance Guaranty Association Account is hereby created, to be managed by the Florida Workers' Compensation Insurance Guaranty Association. Funds shall be credited to the fund as provided in chapter 93-415, Laws of Florida, or similar legislation, to be used for the purposes set forth therein.

**History:** Laws 1993, c. 93-424, § 1; renumbered from § 631.996, Laws 1997 c. 97-262, § 23, eff. 5-30-97.

**§ 631.929 Election of remedies**

An injured worker who has a date of accident which occurred before January 1, 1994, and is not receiving benefits due under chapter 440 due to the insolvency of a self-insurance fund or its successors, regardless of the date declared insolvent by the court, may elect to seek medical care, treatment, and attendance, and compensation required under ss. 440.15 and 440.16 from the corporation and forego the remedy to seek benefits from his or her employer or the insolvent self-insurance fund. An employee who so elects may be required to obtain medical care, treatment, and attendance through a managed care plan comporting with the requirement of § 440.134 if the plan of operation so provides. An injured worker has 60 days to seek benefits from the corporation upon ratification by the corporation of his or her right to elect a remedy under this part. If the injured worker elects to pursue his or her remedy under the provisions of this part, the corporation may, with the agreement of the injured employee, pay a lump-sum payment in exchange for the corporation's and employer's release from liability for future medical and compensation expenses, as well as any other benefit provided under chapter 440. However, there shall be no entitlement to attorney's fees, penalties, interest or costs to be paid on any claim presented to the corporation under this part. This section shall not create any cause of action against any employer who purchased workers' compensation insurance coverage pursuant to s. 440.38.

**History:** Added by Laws 1997, c. 97-262, § 24, eff. 5-30-97; Amended by Laws 1999, c. 99-7, § 45, eff. 6-29-99.

**§ 631.93 Repealed. Laws 1997, c. 97-262, § 30**

**§ 631.931 Reports and recommendations by board; public records exemption**

Reports and recommendations made by the Board of Directors of the Florida Workers' Compensation Insurance Guaranty Association under s. 631.917 upon any matter germane to the solvency, liquidation, rehabilitation, or conservation of any member insurer are confidential and exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I of the State Constitution until the termination of a delinquency proceeding.

**History:** Laws 1993, c. 93-423, § 1; Laws 1996, c. 96-406, § 389; renumbered from § 631.997, Laws 1997, c. 97-262, §§ 25, 27, eff. 5-30-97; Laws 2003, c. 2003-261, § 1376, eff. June 26, 2003.

**§ 631.932 Negotiations; public meetings and records exemptions**

Negotiations held between an insurer and the Florida Workers' Compensation Insurance Guaranty Association are exempt from the provisions of s. 286.011 and s. 24(b), Art. I of the State Constitution. Documents related to such negotiations that reveal identifiable payroll and loss and individual claim information are confidential and exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

**History:** Laws 1993, c. 93-423, § 2; Laws 1996, c. 96-406, § 390; renumbered from § 631.998, Laws 1997, c. 97-262, §§ 26, 27, eff. 5-30-97.

**§§ 631.935 to 631.995 Repealed. Laws 1997, c. 97-262, § 30**

**§ 631.996 Renumbered as § 631.928. Laws 1997, c. 97-262, § 23, eff. 5-30-1997**

**§ 631.997 Renumbered as § 631.931. Laws 1997, ch. 97-262, § 25, eff. 5-30-1997**

**§ 631.998 Renumbered as § 631.932. Laws 1997, ch. 97-262, § 26, eff. 5-30-1997**