

House Bill No. 639

An act relating to insurance guaranty associations; amending ss. 631.54 and 631.904, F.S.; revising the definition of covered claim; excluding certain claims rejected by another state's guaranty fund under certain circumstances; denying member insurers any right to indemnification or contribution sought through third parties; providing an effective date.

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

Section 1. Subsection (3) of section 631.54, Florida Statutes, is amended to read:

631.54 Definitions.—As used in this part:

(3) “Covered claim” means an unpaid claim, including one of unearned premiums, which arises out of, and is within the coverage, and not in excess of, the applicable limits of an insurance policy to which this part applies, issued by an insurer, if such insurer becomes an insolvent insurer ~~after October 1, 1970,~~ and the claimant or insured is a resident of this state at the time of the insured event or the property from which the claim arises is permanently located in this state. “Covered claim” shall not include:

(a) Any amount due any reinsurer, insurer, insurance pool, or underwriting association, sought directly or indirectly through a third party, as subrogation, contribution, indemnification, or otherwise; or

(b) Any claim that would otherwise be a covered claim under this part that has been rejected by any other state guaranty fund on the grounds that an insured's net worth is greater than that allowed under that state's guaranty law. Member insurers shall have no right of subrogation, contribution, indemnification, or otherwise, sought directly or indirectly through a third party, against the insured of any insolvent member.

Section 2. Subsection (2) of section 631.904, Florida Statutes, is amended to read:

631.904 Definitions.—As used in this part, the term:

(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” 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; any claim that would otherwise be a covered claim that has been rejected by any other state guaranty fund on the grounds that the insured's net worth is greater than that allowed under that

state's guaranty fund or liquidation law, except this exclusion from the definition of covered claim shall 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; or any return of premium resulting from a policy that was not in force on the date of the final order of liquidation. Member insurers have no right of subrogation against the insured of any insolvent insurer. This provision shall be applied 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.

Section 3. This act shall take effect upon becoming a law.

Approved by the Governor May 21, 2004.

Filed in Office Secretary of State May 21, 2004.