

By the Committee on Banking and Insurance; and Senator Lynn

597-2085-05

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31

A bill to be entitled

An act relating to community mental health or substance abuse providers; amending s. 624.462, F.S.; authorizing community mental health or substance abuse providers to form a commercial self-insurance fund; providing an effective date.

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

Section 1. Subsections (2) and (3) of section 624.462, Florida Statutes, are amended to read:

624.462 Commercial self-insurance funds.--

(2) As used in ss. 624.460-624.488, "commercial self-insurance fund" or "fund" means a group of members, operating individually and collectively through a trust or corporation, which ~~that~~ must be:

(a) Established by:

1. A not-for-profit trade association, industry association, or professional association of employers or professionals which has a constitution or bylaws, which is incorporated under the laws of this state, and which has been organized for purposes other than that of obtaining or providing insurance and operated in good faith for a continuous period of 1 year;

2. Any two or more nonprofit community mental health or substance abuse providers that are members in good standing of nonprofit statewide associations that have been in existence for at least 10 years and are comprised of at least 50 community-based mental health and substance abuse agencies that are primarily publicly funded and located in this state;

1           ~~3.2-~~ A self-insurance trust fund organized pursuant to  
2 s. 627.357 and maintained in good faith for a continuous  
3 period of 1 year for purposes other than that of obtaining or  
4 providing insurance pursuant to this section. Each member of  
5 a commercial self-insurance trust fund established pursuant to  
6 this subsection must maintain membership in the self-insurance  
7 trust fund organized pursuant to s. 627.357;

8           ~~4.3-~~ A group of 10 or more health care providers, as  
9 defined in s. 627.351(4)(h), for purposes of providing medical  
10 malpractice coverage; or

11           ~~5.4-~~ A not-for-profit group comprised of no less than  
12 10 condominium associations as defined in s. 718.103(2), which  
13 is incorporated under the laws of this state, which restricts  
14 its membership to condominium associations only, and which has  
15 been organized and maintained in good faith for a continuous  
16 period of 1 year for purposes other than that of obtaining or  
17 providing insurance.

18           (b)1. In the case of funds established pursuant to  
19 subparagraph~~(a)3.~~~~(a)2-~~ or subparagraph~~(a)5.~~~~(a)4-~~, operated  
20 pursuant to a trust agreement by a board of trustees which  
21 shall have complete fiscal control over the fund and which  
22 shall be responsible for all operations of the fund. The  
23 majority of the trustees shall be owners, partners, officers,  
24 directors, or employees of one or more members of the fund.  
25 The trustees shall have the authority to approve applications  
26 of members for participation in the fund and to contract with  
27 an authorized administrator or servicing company to administer  
28 the day-to-day affairs of the fund.

29           2. In the case of funds established pursuant to  
30 subparagraph (a)1., subparagraph (a)2., or subparagraph~~(a)4.~~  
31 ~~(a)3-~~, operated pursuant to a trust agreement by a board of

1 trustees or as a corporation by a board of directors which  
2 board shall:

3 a. Be responsible to members of the fund or  
4 beneficiaries of the trust or policyholders of the  
5 corporation;

6 b. Appoint independent certified public accountants,  
7 legal counsel, actuaries, and investment advisers as needed;

8 c. Approve payment of dividends to members;

9 d. Approve changes in corporate structure; and

10 e. Have the authority to contract with an  
11 administrator authorized under s. 626.88 to administer the  
12 day-to-day affairs of the fund including, but not limited to,  
13 marketing, underwriting, billing, collection, claims  
14 administration, safety and loss prevention, reinsurance,  
15 policy issuance, accounting, regulatory reporting, and general  
16 administration. The fees or compensation for services under  
17 such contract shall be comparable to the costs for similar  
18 services incurred by insurers writing the same lines of  
19 insurance, or where available such expenses as filed by  
20 boards, bureaus, and associations designated by insurers to  
21 file such data. A majority of the trustees or directors shall  
22 be owners, partners, officers, directors, or employees of one  
23 or more members of the fund.

24 (3) Each member of a commercial self-insurance trust  
25 fund established pursuant to this section, except a fund  
26 established pursuant to subparagraph (2)(a)4.~~(2)(a)3-~~, must  
27 maintain membership in the association or self-insurance trust  
28 fund established under s. 627.357. Membership in a  
29 not-for-profit trade association, industry association, or  
30 professional association of employers or professionals for the  
31 purpose of obtaining or providing insurance shall be in

1 | accordance with the constitution or bylaws of the association,  
2 | and the dues, fees, or other costs of membership shall not be  
3 | different for members obtaining insurance from the commercial  
4 | self-insurance fund. The association shall not be liable for  
5 | any actions of the fund nor shall it have any responsibility  
6 | for establishing or enforcing any policy of the commercial  
7 | self-insurance fund. Fees, services, and other aspects of the  
8 | relationship between the association and the fund shall be  
9 | subject to contractual agreement.

10 |           Section 2. This act shall take effect July 1, 2005.

11 |

12 |                   STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN  
13 |                   COMMITTEE SUBSTITUTE FOR  
14 |                   senate bill 2486

14 |

15 | The committee substitute provides the following changes:

16 | Replaces the bill's provisions with authority for any two or  
17 | more nonprofit community mental health or substance abuse  
18 | providers to form a commercial self-insurance fund licensed by  
19 | the Office of Insurance Regulation. Specifies that the  
20 | providers must be members of nonprofit statewide associations  
21 | that have been in existence for at least 10 years and are  
22 | comprised of at least 50 community-based mental health and  
23 | substance abuse agencies.

20 |

21 |

22 |

23 |

24 |

25 |

26 |

27 |

28 |

29 |

30 |

31 |