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CHAMBER ACTION

Senate

House

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Floor: WD/2R
5/1/2008 3:39 PM



Senator Bennett moved the following amendment:

Senate Amendment (with title amendment)

Between lines 4092 and 4093,

insert:

Section 74. (1) Notwithstanding any other provision of law, any three or more condominium associations may form a self-insurance fund for the purposes of pooling and spreading the liabilities of its participant associations arising from the deductible provisions of the commercial lines residential property insurance policies of the participants applicable to hurricane losses, if:

(a) Such fund is a not-for-profit corporation pursuant to chapter 617, Florida Statutes.

(b) The fund is implemented through contracts among the participating associations, or through contracts between the



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17 participating associations and another legal entity established  
18 for and limited to establishing and implementing the program.

19 (c) The liability of the fund for claims is limited to  
20 funds available for the payment of claims.

21 (d) The contract provided to a participating association  
22 clearly discloses the obligations of the participants in the  
23 fund and the obligations of the fund, including the limited  
24 liability of the fund as defined in paragraph (c). The contract  
25 must specify a reasonable date for the payment of claims which  
26 provides the fund with adequate time to verify and account for  
27 all claims for a given year so that claims payments can be  
28 properly calculated after consideration of the funds available.  
29 Before execution of the contract, the association or its  
30 representative must be provided a separate disclosure form  
31 specifying the limited liability of the fund and all  
32 administrative fees and estimated expenses, and provide  
33 examples of the manner in which available funds will be  
34 allocated among claimants if claims exceed the funds available  
35 for the payment thereof. Such disclosure must be signed by a  
36 representative of the participating association before or at  
37 the time of execution of the contract.

38 (e) The contributions charged for participating in the  
39 fund are established by the fund and calculated as a percentage  
40 of the participant's hurricane deductible dollar amount. The  
41 fund may determine the method and timing of payment of  
42 contributions.

43 (f) All members of the governing board of the fund are  
44 participating associations in the fund and the governing body  
45 has all powers necessary to establish and administer the fund  
46 as authorized by the participants in the fund. All decisions of



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47 | the fund are based upon a vote of the majority of the board.  
48 | The board may contract with individual professionals to  
49 | administer the fund.

50 | (g) The fund uses and contracts with knowledgeable persons  
51 | or business entities to administer and service the fund,  
52 | including marketing, policy, contract administration, claims  
53 | administration, accounting services, and legal services.

54 | (h) The fund uses a properly licensed general lines  
55 | insurance agent who is a Florida resident for solicitation  
56 | of participation in the fund and does not prevent, impede,  
57 | or restrict any applicant or participant in the fund from  
58 | maintaining or selecting an agent of choice. The fund may  
59 | not favor one or more agents over another agent. The  
60 | organizational documents, the contract and notices of  
61 | disclosure must be filed with the Office of Insurance  
62 | Regulation not less than 45 days prior to solicitation by  
63 | the fund.

64 | (i) The fund is audited by an independent auditor no less  
65 | frequently than every 2 years.

66 | (2) The fund may accumulate funds or periodically  
67 | distribute excess funds to its participants on a pro rata  
68 | basis, reflecting loss experience of individual participants  
69 | and proportionate contributions paid by participants.

70 | (3) Participants in the fund must have a deductible  
71 | no greater than as provided in s. 627.701(8), Florida  
72 | Statutes. Self-insurance funds or pools established  
73 | pursuant to this section are not subject to licensure  
74 | requirements or regulation pursuant to the Florida  
75 | Insurance Code except for part IX of chapter 626, Florida  
76 | Statutes, which may be enforced by the Office of Insurance



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77 Regulation or the Department of Financial Services, as  
 78 applicable, and are not subject to any fees, taxes, or  
 79 assessments related to the writing or transaction of  
 80 insurance in this state.

81  
 82 ===== T I T L E A M E N D M E N T =====

83 And the title is amended as follows:

84 On line 218, after the semicolon,  
 85 insert:

86 providing that any three or more condominium associations  
 87 may form a self-insurance fund for certain purposes under  
 88 certain conditions; requiring that the contract for  
 89 participating in the fund disclose certain information  
 90 and contain certain provisions; requiring that a  
 91 disclosure be provided to an association before execution  
 92 of such contract; requiring that such disclosure contain  
 93 certain information; providing for the charging of  
 94 contributions for participation in the fund; requiring  
 95 that the majority of the governing board of the fund be  
 96 participants in the fund; providing powers of the  
 97 governing board; authorizing the fund to enter into  
 98 certain contracts; requiring that the fund use a general  
 99 lines agent meeting certain criteria when soliciting  
 100 participation in the fund; prohibiting the fund from  
 101 taking certain actions when selecting such agent;  
 102 requiring that the fund be independently audited at  
 103 specified intervals; authorizing the fund to accumulate  
 104 funds or distribute excess funds to participants on a pro  
 105 rata basis; providing for a deductible for participants  
 106 in the fund; exempting such self-insurance funds from

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107 | certain requirements, regulations, fees, taxes, and  
108 | assessments;