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CHAMBER ACTION

Senate

House

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5/2/2008 2:47 PM

1 Senator Posey moved the following **amendment**:

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3 **Senate Amendment (with title amendment)**

4 Between lines 1346 and 1347,
5 insert:

6 Section 12. (1) Notwithstanding any other provisions of
7 law, any three or more condominium associations may form a
8 self-insurance fund for the purposes of pooling and spreading
9 the liabilities of its participant associations arising from the
10 deductible provisions of the commercial lines residential
11 property insurance policies of the participants applicable to
12 hurricane losses, if:

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

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



825202

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

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

44 (f) All members of the governing board of the fund must
45 be participating associations in the fund and the governing
46 body shall have all powers necessary to establish and



825202

47 | administer the fund as authorized by the participants in the
48 | fund. All decisions of the fund shall be based upon a vote of
49 | the majority of the board. The board may contract with
50 | individual professionals to administer the fund.

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

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

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

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

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



825202

77 Florida Statutes, which may be enforced by the
78 Office of Insurance Regulation or the Department of
79 Financial Services, as applicable, and are not
80 subject to any fees, taxes, or assessments related to
81 the writing or transaction of insurance in this state.

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

84 And the title is amended as follows:

85 On line 56, after the semicolon,
86 insert:

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



825202

107 | or distribute excess funds to participants on a pro
108 | rata basis; providing for a deductible for
109 | participants in the fund; exempting such self-
110 | insurance funds from certain requirements, regulations,
111 | fees, taxes, and assessments;