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CHAMBER ACTION

Senate

House

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

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

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

4 Between line(s) 4174 and 4175,
5 insert:

6 Section 75. (1) Notwithstanding any other provisions of
7 law, any three or more condominium associations may form a self-
8 insurance fund for the purposes of pooling and spreading the
9 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



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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 must
44 be participating associations in the fund and the governing
45 body shall have all powers necessary to establish and
46 administer the fund as authorized by the participants in the



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47 | fund. All decisions of the fund shall be based upon a vote of
48 | the majority of the board. The board may contract with
49 | individual professionals to 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(s) 210, 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 and
90 contain certain provisions; requiring that a disclosure
91 be provided to an association before execution of such
92 contract; requiring that such disclosure contain certain
93 information; providing for the charging of contributions
94 for participation in the fund; requiring that the
95 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
105 pro rata basis; providing for a deductible for
106 participants in the fund; exempting such self-insurance



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