



195742

CHAMBER ACTION

Senate

House

.
. .
. .
. .

Floor: 1c/AD/2R
5/2/2008 2:50 PM

1 Senator Posey moved the following **amendment to amendment**
2 **(074374)** :

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

5 Between line(s) 1292 and 1293

6 insert:

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

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



195742

17 (b) The fund is implemented through contracts among the
18 participating associations, or through contracts between the
19 participating associations and another legal entity established
20 for and limited to establishing and implementing the program.

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

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

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



195742

46 (f) All members of the governing board of the fund must
47 be participating associations in the fund and the governing
48 body shall have all powers necessary to establish and
49 administer the fund as authorized by the participants in the
50 fund. All decisions of the fund shall be based upon a vote of
51 the majority of the board. The board may contract with
52 individual professionals to administer the fund.

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

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

67 (i) The fund is audited by an independent auditor no less
68 frequently than every 2 years.

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

73 (3) Participants in the fund must have a deductible
74 no greater than as provided in s. 627.701(8), Florida
75 Statutes. Self-insurance funds or pools established



195742

76 pursuant to this section are not subject to licensure
77 requirements or regulation pursuant to the Florida
78 Insurance Code except for part IX of chapter 626,
79 Florida Statutes, which may be enforced by the
80 Office of Insurance Regulation or the Department of
81 Financial Services, as applicable, and are not
82 subject to any fees, taxes, or assessments related to
83 the writing or transaction of insurance in this state.

84
85 ===== T I T L E A M E N D M E N T =====

86 And the title is amended as follows:

87 On line(s) 1354, after the semicolon,
88 insert:

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



195742

106 | prohibiting the fund from taking certain actions
107 | when selecting such agent; requiring that the
108 | fund be independently audited at specified
109 | intervals; authorizing the fund to accumulate funds
110 | or distribute excess funds to participants on a pro
111 | rata basis; providing for a deductible for
112 | participants in the fund; exempting such self-
113 | insurance funds from certain requirements, regulations,
114 | fees, taxes, and assessments;