

By the Committee on Banking and Insurance; and Senator Simmons

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1 A bill to be entitled

2 An act relating to the regulation of corporation not
3 for profit self-insurance funds; amending s. 624.4625,
4 F.S.; revising the requirements to form a corporation
5 not for profit self-insurance fund; limiting the
6 authorization to form such fund to corporations not
7 for profit located in and organized under the laws of
8 this state before a specified date; authorizing
9 certain publicly supported organizations to be a
10 participating member of a corporation not for profit
11 self-insurance fund; specifying requirements for such
12 members; requiring the Office of Insurance Regulation
13 to review and take specified action against funds that
14 do not meet certain requirements; requiring funds to
15 purchase excess insurance from specified entities that
16 have at least a certain rating; providing an effective
17 date.

18
19 Be It Enacted by the Legislature of the State of Florida:

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21 Section 1. Subsection (1) of section 624.4625, Florida
22 Statutes, is amended to read:

23 624.4625 Corporation not for profit self-insurance funds.—

24 (1) Notwithstanding any other provision of law, any two or
25 more corporations not for profit located in and organized under
26 the laws of this state before July 1, 2015, are authorized to
27 ~~may~~ form a self-insurance fund for the purpose of pooling and
28 spreading liabilities of its group members in any one or
29 combination of property or casualty risk, provided the

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30 corporation not for profit self-insurance fund that is created:

31 (a) Has annual normal premiums in excess of \$5 million.

32 (b) Requires for qualification that each participating
33 member receive at least 75 percent of its revenues from:

34 1. Local, state, or federal governmental sources or a
35 combination of such sources; or-

36 2. The public as evidenced on the organization's most
37 recent Internal Revenue Service Form 990 or Form 990-EX and
38 Schedule A. The fund must be a publicly supported organization
39 under s. 501(c)(3) of the Internal Revenue Code.

40 (c) Uses a qualified actuary to determine rates using
41 accepted actuarial principles and annually submits to the office
42 a certification by the actuary that the rates are actuarially
43 sound and are not inadequate, as defined in s. 627.062.

44 (d) Uses a qualified actuary to establish reserves for loss
45 and loss adjustment expenses and annually submits to the office
46 a certification by the actuary that the loss and loss adjustment
47 expense reserves are adequate. If the actuary determines that
48 reserves are not adequate, the fund shall file with the office a
49 remedial plan for increasing the reserves or otherwise
50 addressing the financial condition of the fund, subject to a
51 determination by the office that the fund will operate on an
52 actuarially sound basis and the fund does not pose a significant
53 risk of insolvency.

54 (e) 1.a. A fund with participating members permitted under
55 subparagraph (b)2. may only be authorized if the qualified
56 actuary required under paragraph (d) has first certified that
57 the fund is able to establish and maintain total assets solely
58 for the account authorized in subparagraph (b)2., in an amount

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59 at least equal to or greater than the loss and loss adjustment
60 expense reserves for such assets at the 80 percent confidence
61 level for the fund authorized in subparagraph (b)2. A fund may
62 not operate in accordance with subparagraph (b)2. until the
63 actuarial certification required under this paragraph is
64 submitted to the office.

65 b. A fund with participating members under subparagraph
66 (b)1. which does not maintain loss or loss adjustment expense
67 reserves at the 80 percent confidence level, as certified by a
68 qualified actuary, must file with the office a remedial plan for
69 increasing the fund's reserves or otherwise addressing the
70 financial condition of the fund. Beginning on the date the
71 remedial plan is received by the office, the fund shall, within
72 5 years, submit a filing with the office which is certified by a
73 qualified actuary under paragraph (d) indicating that the fund
74 has loss or loss adjustment expense reserves at the 80 percent
75 confidence level. The remedial filing required by paragraph (b)
76 shall be subject to a determination by the office that the fund
77 is operating on an actuarially sound basis and does not pose a
78 significant risk of insolvency. The office may issue a cease and
79 desist order to a fund that maintains total assets in an amount
80 less than the loss and loss adjustment expense reserves at the
81 70 percent confidence level as of the end of the fiscal year as
82 determined by the qualified actuary required under paragraph
83 (d).

84 2. A fund must prohibit the inclusion of participating
85 members under subparagraph (b)2. until it is in compliance with
86 this paragraph.

87 3. Notwithstanding subparagraph (e)1., the office may at

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88 any time order remedial action and issue a cease and desist
89 order to a fund if the office finds that the fund is not
90 operating on an actuarially sound basis and poses a significant
91 risk of insolvency.

92 (f) Maintains a continuing program of excess insurance
93 coverage and reserve evaluation to protect the financial
94 stability of the fund in an amount and manner determined by a
95 qualified actuary. At a minimum, this program must:

96 1. Purchase excess insurance from an authorized insurance
97 carrier ~~carriers~~ or eligible surplus lines insurer ~~insurers~~ or
98 reinsurer that is rated A- or higher by a rating agency that is
99 approved by the office ~~reinsurers~~.

100 2. Retain a per-loss occurrence that does not exceed
101 \$350,000.

102 (g) ~~(f)~~ Submit to the office annually an audited fiscal
103 year-end financial statement by an independent certified public
104 accountant within 6 months after the end of the fiscal year.

105 (h) ~~(g)~~ Have a governing body that is comprised entirely of
106 officials from corporations not for profit that are members of
107 the corporation not for profit self-insurance fund.

108 (i) ~~(h)~~ Use knowledgeable persons or business entities to
109 administer or service the fund in the areas of claims
110 administration, claims adjusting, underwriting, risk management,
111 loss control, policy administration, financial audit, and legal
112 areas. Such persons must meet all applicable requirements of law
113 for state licensure and must have at least 5 years' experience
114 with commercial self-insurance funds formed under s. 624.462,
115 self-insurance funds formed under s. 624.4622, or domestic
116 insurers.

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117 (j)~~(i)~~ Submit to the office copies of contracts used for
118 its members that clearly establish the liability of each member
119 for the obligations of the fund.

120 (k)~~(j)~~ Annually submit to the office a certification by the
121 governing body of the fund that, to the best of its knowledge,
122 the requirements of this section are met.

123 Section 2. This act shall take effect July 1, 2015.