

CHAPTER 2017-104

Committee Substitute for Committee Substitute for House Bill No. 421

An act relating to public housing authority insurance; amending s. 624.46226, F.S.; authorizing certain business entities to join self-insurance funds participated in by certain public housing authorities for a specified purpose; authorizing reinsurance companies to issue coverage directly to certain self-insuring entities organized by a public housing authority under certain circumstances; specifying that such entities are considered insurers under certain circumstances; requiring that reinsurance contracts issued to such entities receive the same tax treatment as contracts issued to insurance companies; revising construction; providing an effective date.

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

Section 1. Subsections (1) and (7) of section 624.46226, Florida Statutes, are amended to read:

624.46226 Public housing authorities self-insurance funds; exemption for taxation and assessments.—

(1) Notwithstanding any other provision of law, any two or more public housing authorities in the state as defined in chapter 421 may form a self-insurance fund for the purpose of pooling and spreading liabilities of its members as to any one or combination of casualty risk or real or personal property risk of every kind and every interest in such property against loss or damage from any hazard or cause and against any loss consequential to such loss or damage, provided the self-insurance fund that is created:

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

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

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

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

1. Purchase excess insurance from authorized insurance carriers or eligible surplus lines insurers.
2. Retain a per-loss occurrence that does not exceed \$350,000.

(e) Submits to the office annually an audited fiscal year-end financial statement by an independent certified public accountant within 6 months after the end of the fiscal year.

(f) Has a governing body which is comprised entirely of commissioners of public housing authorities that are members of the public housing authority self-insurance fund or persons appointed by the commissioners of public housing authorities that are members of the public housing authority self-insurance fund.

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

(h) Submits to the office copies of contracts used for its members that clearly establish the liability of each member for the obligations of the fund.

(i) Annually submits to the office a certification by the governing body of the fund that, to the best of its knowledge, the requirements of this section are met.

A for-profit or not-for-profit corporation, limited liability company, or other similar business entity in which a public housing authority holds an ownership interest or participates in its governance under s. 421.08(8) may join a self-insurance fund formed under this section in which such public housing authority participates. Such for-profit or not-for-profit corporation, limited liability company, or other similar business entity may join the self-insurance fund solely to insure risks related to public housing.

(7) Reinsurance companies complying with s. 624.610 may issue coverage directly to a public housing authority or an entity organized by a public housing authority under s. 421.08(8) if such public housing authority or entity self-insures ~~self-insuring~~ its liabilities under this section. A public housing authority purchasing reinsurance or an entity that is organized by a public housing authority under s. 421.08(8) and that is purchasing reinsurance shall be considered an insurer for the sole purpose of entering

into such reinsurance contracts. Contracts of reinsurance issued to public housing authorities self-insuring under this section or issued to entities that are organized by public housing authorities under s. 421.08(8) and that are self-insuring under this section shall receive the same tax treatment as reinsurance contracts issued to insurance companies. However, the purchase of reinsurance coverage by a public housing authority self-insuring under this section or by an entity that is organized by a public housing authority under s. 421.08(8) and that is self-insuring under this section shall not be construed as authorization to otherwise act as an insurer.

Section 2. This act shall take effect July 1, 2017.

Approved by the Governor June 14, 2017.

Filed in Office Secretary of State June 14, 2017.