

2022 Regular Session

SENATE BILL NO. 275

BY SENATOR ABRAHAM

HOUSING. Provides relative to affiliates and subsidiaries of local housing authority members. (gov sig)

1 AN ACT

2 To enact Chapter 15-B of Title 33 of the Louisiana Revised Statutes of 1950, to be
3 comprised of R.S. 33:5081 through 5089, relative to affiliates and subsidiaries of
4 local housing authority members; to authorize the pooling of coverage risks; to
5 authorize the pooling of coverage risks that the board of the risk management
6 organization agency deems appropriate; to provide for definitions; and to provide for
7 related matters.

8 Be it enacted by the Legislature of Louisiana:

9 Section 1. Chapter 15-B of Title 33 of the Louisiana Revised Statutes of 1950, to be
10 comprised of R.S. 33:5081 through 5089 is hereby enacted to read as follows:

11 **CHAPTER 15-B. LOCAL HOUSING AUTHORITY AFFILIATES**

12 **AND SUBSIDIARIES SELF-INSURANCE ACT OF 2022**

13 **§5081. Definitions; terms define**

14 **The following words and terms shall have the meaning indicated unless**
15 **the context shall clearly indicates differently:**

16 **(1) "Affiliate" means an entity as defined in R.S. 40:384.**

17 **(2) "Governing body" means the body which exercises the functions of**

1 the affiliate or subsidiary of the local housing authority.

2 (3) "Risk management organization" means an association formed by
3 two or more affiliates and subsidiaries of local housing authorities by an
4 agreement for the development and administration of a risk management
5 program and one or more group self-insurance funds.

6 (4) "Risk management program" means a plan and activities carried out
7 under such plan by a risk management organization to reduce risk of loss,
8 including safety engineering and other loss prevention and control techniques,
9 and to administer one or more local self-insurance funds, each established for
10 one or more risks, including the processing and defense of claims brought
11 against members of the organization.

12 (5) "Local housing authority" mean any parish or municipal housing
13 authority.

14 (6) "Self-insurance fund" means a pool of monies established by a risk
15 management organization from contributions of its members in order to do the
16 following:

17 (a) Pool any one or more of the following risks: general liability,
18 workers' compensation, directors and officers liability, including employment
19 practices liability, property, or any other line of coverage approved by the
20 board of trustees of the risk management organization.

21 (b) Purchase insurance for risks of general liability, workers'
22 compensation , property coverage, or other lines of coverage approved by the
23 board of trustees of the risk management organization.

24 (7) "Subsidiary" mean an entity as defined in R.S. 40:384.
25 §5082. Authority of the affiliate or subsidiary of local housing authority to
26 form, join and participate in risk management agency

27 A. Any two or more subsidiaries and affiliates of a local housing
28 authority may make and execute an agreement between or among themselves
29 to form and become members of a risk management organization. After a risk

1 management organization has been formed, any affiliate or subsidiary of a local
2 housing authority may, subject to the bylaws and requirements of the entity,
3 become a member and through participation in the organization may do any of
4 the following items:

5 (1) Pool its general liability risks in whole or in part with those of other
6 affiliates and subsidiaries of local housing authorities.

7 (2) Pool its workers' compensation risks in whole or in part with those
8 of other affiliates and subsidiaries of local housing authorities.

9 (3) Pool its directors and officers liability risks, including employment
10 practices liability coverage, in whole or in part with those of other affiliates and
11 subsidiaries of local housing authority.

12 (4) Pool its property coverage risks in whole or in part with those of
13 other affiliates and subsidiaries of local housing authorities.

14 (5) Pool other coverage risks the board of trustees or the risk
15 management organization may determine to be appropriate in whole or in part
16 with those of other affiliates and subsidiaries of local housing authorities.

17 (6) Purchase insurance for risks of general liability, workers'
18 compensation, directors and officers liability, including employment practices
19 liability, property or other insurance for such other lines of coverage pooled by
20 the risk management organization with other affiliates and subsidiaries local
21 housing authorities participating in and belonging to the risk management
22 organization. The pooled risks of the participating affiliates and subsidiaries of
23 local housing authorities shall be described in a plan of coverages with the total
24 premium prorated among the participants.

25 B. Affiliates and subsidiaries of local housing authorities concluding an
26 agreement under the provisions of this Chapter shall by resolution duly adopted
27 by their governing body designate the Louisiana Housing Council, Inc. to
28 administer the risk management agency and any group self-insurance fund or
29 funds established by the organization and to administer the terms and condition

1 of the agreement by which the organization and any self-insurance fund or
2 funds have been established.

3 C. All arrangements and agreements made under the authority of this
4 Chapter shall be reduced to writing. Any affiliate and subsidiary of a local
5 housing authority may become a member of a risk management organization
6 by the resolution adopted by its governing body in the same manner as are
7 other proceedings of the governing body. The risk management organization
8 will operate under the name and style as provided in the agreement and shall
9 have the power to sue and be sued.

10 §5083. Governance of risk management organizations

11 The insurance committee of the Louisiana Housing Council, Inc., shall
12 constitute the board of trustees of the organization established as provided in
13 R.S. 33:5082 and shall be authorized to adopt bylaws for the administration of
14 the organization, subject to approval of the executive committee of the
15 Louisiana Housing Council, Inc.

16 §5084. Risk management organization not an insurance company or insurer

17 A. A risk management organization is not an insurance company or an
18 insurer under the laws of this state and the development and administration by
19 the organization of a group self-insurance refund or funds established for one
20 or more risks shall not constitute doing business as an insurance company.
21 Agreements between affiliates and subsidiaries of housing authorities providing
22 for the creation and maintenance of a risk management organization shall not
23 be deemed to constitute insurance as defined by R.S. 22:46, nor shall the risk
24 management organization or the development of a group self-insurance fund be
25 subject to the provisions of Chapter 1 of title 22 of the Louisiana Revised
26 Statutes of 1950.

27 B. Any declaration of coverages issued its members by the organization
28 shall have the following notice:

29 In the event of insolvency of the risk management organization, the

1 members of the organization are not covered by the Louisiana Insurance
2 Guaranty Association or the Louisiana Life and Health Insurance Guaranty
3 Association, which guarantees only specific types of policies issued by insurance
4 companies authorized to do business in Louisiana.

5 §5085. Minimum contributions before risk sharing

6 A self-insurance fund shall not function as a means of sharing risks of
7 loss among the members of a risk management organization until the risk
8 management organization administering the fund has received, for general
9 liability, property coverage, and any other pooled line of coverage risks, an
10 annual gross premium, calculated in accordance with the applicable manual
11 premium rate or rates, plus or minus applicable experience credits or debits, of
12 not less than two hundred thousand dollars for each line of risk.

13 §5086. Limited liability of members

14 A. An affiliate or subsidiary of a local housing authority shall not, by
15 reason of being a member of a risk management organization and contributing
16 to a self-insurance fund, be liable to the risk management organization, to any
17 other member, or to any claimant against the organization itself or another
18 member, except for payment of contributions provided in the agreement
19 between the affiliate or subsidiary of the local housing authority and the risk
20 management organization, and no more. No risk management organization
21 agreement shall provide for a donation, in whole or in part, of funds of one
22 affiliate or subsidiary of the local housing authority for the benefit of another.
23 Nothing in this Section shall be construed to reduce or limit a participating
24 member's rights or obligations with respect to its employees under the
25 provisions of Chapter 10 of Title 23 of the Louisiana Revised Statutes of 1950.

26 B. A risk management organization shall administer the assets of a self-
27 insurance fund to maintain appropriate levels of reserves and to ascertain full
28 and timely payment of all fund obligations, including without limitation, loss
29 fund requirements, administrative expenses, and cost of insurance.

1 **§5087. Authority of commissioner of insurance**

2 **A. Each risk management organization shall file with the commissioner**
3 **of insurance within six months of the end of the organization's fiscal year a**
4 **certified audited financial statement and a review of its operations and general**
5 **condition by a certified independent casualty actuary.**

6 **B. No risk management organization shall become operational until**
7 **issued a certificate of authority by the commissioner of insurance under such**
8 **rules and regulations as he may promulgate to assure compliance with the**
9 **provisions of this Chapter. The commissioner of insurance may examine the**
10 **books, records, and affairs of any risk management organization for the**
11 **purpose of determining compliance with this Subpart and may revoke the**
12 **certificate of authority of any organization determined to not be in compliance**
13 **with this Chapter.**

14 **§5088. Excess Insurance**

15 **A. A risk management organization shall establish and maintain an**
16 **aggregate loss fund or stop loss provision as part of the excess insurance policy**
17 **placements in an amount of not more than one million five hundred thousand**
18 **dollars for each risk underwritten. The trust fund for each risk underwritten**
19 **shall maintain a cash reserve for each coverage year sufficient to cover payment**
20 **of the entire aggregate loss fund, as defined in the applicable excess insurance**
21 **policy or policies for that risk.**

22 **B. Workers' compensation coverage shall provide statutory workers'**
23 **compensation benefits coverage, including employers' liability coverage with**
24 **minimum limits of one million dollars.**

25 **C. The provisions of this Section regarding excess insurance shall apply**
26 **only to self-insurance funds.**

27 **D. Nothing in this Section shall be construed to reduce or limit a**
28 **participating affiliate or subsidiary of a local housing authority member's rights**
29 **or obligations with respect to its employees under the provisions of this**

1 **Chapter.**

2 **E. A risk management organization shall maintain at all times a contract**
3 **or contracts of specific excess insurance of at least one million dollars per**
4 **occurrence and a contract of annual aggregate excess insurance of at least two**
5 **million dollars with respect to general liability claims.**

6 **F. Excess insurance carriers selected by the risk management**
7 **organization shall have a current A.M. Best rating of A-VII as of the date of**
8 **commencement of coverage.**

9 **G. The organization shall maintain at all times contracts of excess**
10 **insurance with respect to all lines of coverage as may be approved by the board**
11 **of trustees of the organization in such amounts as determined by the board of**
12 **trustees of the organization.**

13 **§5089. Audit of Funds**

14 **The legislative auditor may examine and audit the books and accounts**
15 **of any fund established under the provisions of this Chapter pursuant to the**
16 **provisions of R.S. 24:513. In addition, each participating affiliate or subsidiary**
17 **of a local housing authority member at its costs may cause an examination and**
18 **audit by its representatives of any self-insurance funds in which it participates**
19 **pursuant to this Chapter.**

20 Section 2. This Act shall become effective upon signature by the governor or, if not
21 signed by the governor, upon expiration of the time for bills to become law without signature
22 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
23 vetoed by the governor and subsequently approved by the legislature, this Act shall become
24 effective on the day following such approval.

The original instrument and the following digest, which constitutes no part
of the legislative instrument, were prepared by James Benton.

Proposed law provides that the following words and terms will have the meaning indicated
unless the context will clearly indicate a different meaning:

- (1) "Affiliate" means an entity as defined in present law.
- (2) "Governing body" means the body which exercises the functions of the affiliate or subsidiary of the local housing authority.
- (3) "Risk management organization" means an association formed by two or more affiliates and subsidiaries of local housing authorities by an agreement made pursuant to the provisions of proposed law, for the development and administration of a risk management program and one or more group self-insurance funds.
- (4) "Risk management program" means a plan and activities carried out under such plan by a risk management organization to reduce risk of loss, including safety engineering and other loss prevention and control techniques, and to administer one or more local self-insurance funds, each established for one or more risks.
- (5) "Local housing authority" mean any parish or municipal housing authority.
- (6) "Self-insurance fund" means a pool of monies established by a risk management organization from contributions of its members.

Proposed law provides that any two or more subsidiaries and affiliates of local housing authority may make and execute an agreement between or among themselves to form and become members of a risk management organization. After a risk management organization has been formed, any affiliate or subsidiary of a local housing authority may become a member and through participation in the organization may:

- (1) Pool its general liability risks.
- (2) Pool its workers' compensation risks.
- (3) Pool its directors and officers liability risks.
- (4) Pool its property coverage risks.
- (5) Pool other coverage risks the board of trustees or the risk management organization may determine to be appropriate.
- (6) Purchase insurance for risks of general liability, workers' compensation, directors and officers liability.

Proposed law provides that affiliates and subsidiaries of local housing authorities concluding an agreement under the provisions of proposed law shall by resolution duly adopted by the governing body there of designate the Louisiana Housing Council, Inc. to administer the risk management agency and any group self-insurance fund or funds established by the organization and to administer the terms and conditions of the agreement by which the organization and any self-insurance fund or funds have been established.

Proposed law provides that all arrangements and agreements made under the authority of proposed law shall be reduced to writing. Any affiliate and subsidiary of a local housing authority may become members of a risk management organization by the authority of resolution adopted by the governing body.

Proposed law provides that, the insurance committee of the Louisiana Housing Council, Inc., shall constitute the board of trustees of such organization established as provided in proposed law and shall be authorized to adopt bylaws.

Proposed law provides that a risk management organization is not an insurance company or an insurer under the laws of this state and the development and administration by such

organization of a group self-insurance refund or funds established for one or more risks shall not constitute doing insurance business.

Proposed law provides that any declaration of coverages issued to its members by the organization shall have a notice providing that in the event of insolvency of the risk management organization, the members of the organization are not covered by the Louisiana Insurance Guaranty Association (LIGA) or the Louisiana Life and Health Insurance Guaranty Association (LLHIGA), which guarantees only specific types of policies issued by insurance companies authorized to do business in Louisiana

Proposed law provides that a self-insurance fund will not function as a means of sharing risks of loss among the members of a risk management organization until the risk management organization administering the fund has received, for general liability, property coverage, and any other pooled line of coverage risks, an annual gross premium, calculated in accordance with the applicable manual premium rate or rates.

Proposed law provides that an affiliate or subsidiary of a local housing authority shall not be liable to such risk management organization, to any other member, or to any claimant against the organization itself or another member, except for payment of contributions provided for in the agreement between the affiliate or subsidiary of the local housing authority and the risk management organization.

Proposed law provides that a risk management organization shall administer the assets of a self-insurance fund to maintain appropriate levels of reserves and to ascertain full and timely payment of all fund obligations.

Proposed law provides that each risk management organization shall file with the commissioner of insurance within six months of the end of the organization fiscal year a certified audited financial statements and a review of its operations and general condition by a certified independent casualty actuary.

Proposed law provides that no risk management organization shall become operative until issued a certificate of authority by the commissioner of insurance.

Proposed law provides that a risk management organization shall establish and maintain an aggregate loss fund or stop loss provision as part of the excess insurance policy placements in an amount of not more than \$1,500,000 for each risk underwritten.

Proposed law provides that workers' compensation coverage shall provide statutory workers' compensation benefits coverage, including employers' liability coverage with limits of at least \$1,000,000.

Proposed law provides that the provisions of proposed law regarding excess insurance shall apply only to self-insurance funds.

Proposed law provides that the provisions of proposed law shall not be construed to reduce or limit a participating affiliate or subsidiary of a local housing authority member's rights or obligations with respect to its employees.

Proposed law provides that a risk management organization shall maintain at all times a contract or contracts of specific excess insurance of at least \$1,000,000 per occurrence and a contract of annual aggregate excess insurance of at least \$2,000,000 dollars with respect to general liability claims.

Proposed law provides that excess insurance carriers selected by the risk management organization shall have a current A.M. Best rating of A-VII as of the date of commencement of coverage.

Proposed law provides that the organization shall maintain at all times contracts of excess insurance with respect to all lines of coverage as may be approved by the board of trustees of the organization in such amounts as determined by the board of trustees of the organization.

Proposed law provides that the legislative auditor may examine and audit the books and accounts of any fund established under proposed law. In addition, each participating affiliate or subsidiary of a local housing authority member may request an examination and audit by its representatives of any self-insurance funds.

Effective upon signature of the governor or lapse of time for gubernatorial action.

(Adds R.S. 33:5081-5089)

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Local and Municipal Affairs to the original bill

1. Makes technical changes.
2. Provides for a notice in the event of insolvency of the risk management organization.
3. Requires excess insurance to be determined by the board of trustees of the organization.