

RÉSUMÉ DIGEST

ACT 259 (SB 147)

2023 Regular Session

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New law creates the La. Churches and Nonprofit Religious Organizations Self-Insured Fund to allow churches and religious organizations to self-insure by allowing churches, religious organizations, and religious denominations to band together and self-insure to increase availability of property insurance for local churches and religious buildings, increasing competition on insurance rates, and reducing the volume of business written by the La. Citizens Property Insurance Corp.

New law authorizes two or more churches or nonprofit religious organizations or one or more religious denominations to pool their liabilities for the purposes of providing property coverage for their buildings and properties, so long as they have a positive net worth, are financially solvent, and capable of assuming the obligations.

New law defines "church", "department", "fund", "hazardous financial condition", "insolvency", "nonprofit religious organization", and "property coverage", which includes coverage for damage or loss of a structure or building and may include any or all of the following:

- (1) Premises liability coverage.
- (2) Contents coverage for furniture or equipment.
- (3) Wind and hail coverage.
- (4) Loss of use coverage.
- (5) Medical payments coverage.

New law provides that arrangements to pool liabilities are not deemed insurance and are not subject to the La. Insurance Code. New law further provides that such arrangements are not member insurers of the La. Insurance Guaranty Association (LIGA) and LIGA is not liable for any claims against an arrangement.

New law provides for establishment of a trust fund to serve as the group self-insurance fund governed by a board of trustees.

New law requires that two or more members of the fund maintain a minimum combined net worth of \$1,000,000 with a ratio of current assets to liabilities of at least one-to-one. Provides that once the fund has been in operation for three years and has a total surplus of \$3,000,000, the Department of Insurance (department) may waive the \$1,000,000 requirement.

New law provides for audit of financial statements or the department may require submission of necessary financial documents in a form and manner approved by the department.

New law provides for written application to the department to form a self-insurance fund.

New law requires that applications contain the following items:

- (1) The properly completed indemnity agreement in a form acceptable to the department.
- (2) Security as required by law.
- (3) Copies of acceptable excess insurance or reinsurance as required by law.
- (4) A bond covering each third-party administrator as provided by law. If the fund employs its own administrator, the fund is required to purchase a bond, errors and omissions insurance, directors' and officers' liability insurance, or other security approved by the department for the administration of the fund.
- (5) A certification from a designated depository attesting to the amount of monies on hand.

- (6) Copies of fund bylaws and any trust agreement or other governance documents.
- (7) Individual application of each member of the fund applying for membership in the fund and copies of each member's executed indemnity agreement.
- (8) Evidence of financial strength and liquidity of the members dated as of the date of the filing of the application.
- (9) Proof that the fund is required to have the minimum annual earned normal premium prescribed in new law.
- (10) The current annual report or financial statement of any casualty insurance company providing excess or reinsurance coverage for the fund meeting the requirements of new law.
- (11) The name, address, and telephone number of each attorney representing the fund, each qualified actuary for the fund, and each certified public accountant who will be auditing the annual financial statements of the fund, as well as evidence of appointment of each by the fund.
- (12) The domicile address in this state where the books and records of the fund will be maintained, and the state from which the fund will be administered.
- (13) Proof of advance payment to the fund by each initial member of the fund of not less than 25% of that member's first year estimated annually earned normal premiums.
- (14) A feasibility study or other analysis prepared by a qualified actuary utilizing actual loss history of the initial members of the fund.
- (15) Pro forma financial statements projecting the first three years of operations of the fund based upon a feasibility study or other analysis prepared by a qualified actuary including a pro forma balance sheet, income statement, and statement of cash flow, each prepared in accordance with generally accepted accounting principles.
- (16) A copy of the fund's premium billing policy indicating whether the premium payments to the fund will be paid by members annually, monthly, quarterly, or any combination.

New law establishes certain requirements for the fund; provides for excess insurance; administrative and service companies; liability of the fund; and refunds. New law provides that the fund is not to be considered a partnership under state law. New law further requires fund members to be solidarily liable for liabilities incurred by the fund after the inception of the fund year in which the member becomes part of the fund, to the extent required in new law.

New law provides that monies in excess of that necessary to pay all obligations of the fund may be declared as refundable to the members of the fund by the board of trustees.

New law provides for investments by the fund and that securities or other investments be interest-bearing, interest-accruing, dividend-paying, or income-paying but prohibits investment in rental assets.

New law delineates the authority of the department in the self-insurance fund. Provides that new law does not prohibit the legislative auditor from reviewing records and conducting a lawful audit.

New law requires licensing of persons soliciting membership except that no employee of the fund, religious denomination, or association of nonprofit religious organizations is required to be licensed as an agent if the solicitation of membership for the fund is not the primary duty of the employee.

New law requires the fund to file rates on an actuarially justified basis with the department and to use the rates 90 days after filing, unless disapproved by the department within the 90-day period.

New law provides for actions when the fund has three years of consecutive net losses on the audited financial statements of the fund, or two years of consecutive net losses on the audited financial statements of the fund in excess of \$500,000 or five percent of the premium of the latest audited financial statement, whichever is greater.

New law provides for insolvencies involving the fund and for the department to conduct examination of the fund at least once every five years and that the examination include the affairs, transactions, accounts, records, documents, and assets of the authorized group self-insurance fund. New law further requires all expenses incurred by the department in conducting the examination or investigation, including the expenses and fees of examiners, auditors, accountants, actuaries, attorneys, or clerical or other assistants who are employed by the department to be paid by the group self-insurance fund.

New law provides for response to issues related in the examination by the fund.

New law provides for procedures in which the fund chooses to dissolve and for approval or disapproval by the department. New law prohibits dissolution of the fund without authorization. New law further provides that application to dissolve be granted if either of the following conditions is met:

- (1) The fund has no outstanding liabilities including incurred but not reported liabilities.
- (2) The fund is covered by an irrevocable commitment from a licensed insurer which provides for payment of all outstanding liabilities and for providing all related services, including payment of claims, preparation of reports, and administration of transactions associated with the period during which the plan provided coverage.

New law grants exclusive jurisdiction over any proceeding instituted under new law to the Nineteenth Judicial District Court.

New law creates exceptions for certain documents and records to the Public Records Law.

Effective on June 12, 2023.

(Amends R.S. 44:4.1(B)(11); Adds R.S. 22:472.1 – 472.20)