AN ACT

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

Be it enacted by the Legislature of Louisiana:

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

CHAPTER 15-B. LOCAL HOUSING AUTHORITY AFFILIATES AND SUBSIDIARIES SELF-INSURANCE ACT OF 2022

§5081. Definitions; terms define

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

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

(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 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, including the processing and defense of claims brought
against members of the organization.

(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 in order to do the
following:

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

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

(7) "Subsidiary" mean an entity as defined in R.S. 40:384.

§5082. Authority of the affiliate or subsidiary of local housing authority to
form, join and participate in risk management agency

A. Any two or more subsidiaries and affiliates of a 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, subject to the bylaws and requirements of the entity,
become a member and through participation in the organization may do any of
the following items:

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

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

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

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

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

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

B. Affiliates and subsidiaries of local housing authorities concluding an
agreement under the provisions of this Chapter shall by resolution duly adopted
by their governing body 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 condition
of the agreement by which the organization and any self-insurance fund or
funds have been established.

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

§5083. Governance of risk management organizations

The Louisiana Housing Council, Inc. is designated to administer a risk
management organization, the insurance committee of the Louisiana Housing
Council, Inc., shall constitute the board of trustees of the organization
established as provided in R.S. 33:5082 and shall be authorized to adopt bylaws
for the administration of the organization, subject to approval of the executive
committee of the Louisiana Housing Council, Inc.

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

A risk management organization is not an insurance company or an
insurer under the laws of this state and the development and administration by
the organization of a group self-insurance refund or funds established for one
or more risks shall not constitute doing business as an insurance company.

Agreements between affiliates and subsidiaries of housing authorities providing
for the creation and maintenance of a risk management organization shall not
be deemed to constitute insurance as defined by R.S. 22:46, nor shall the risk
management organization or the development of a group self-insurance fund be
subject to the provisions of Chapter 1 of title 22 of the Louisiana Revised
Statutes of 1950.

§5085. Minimum contributions before risk sharing

A self-insurance fund shall 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, plus or minus applicable experience credits or debits, of
not less than two hundred thousand dollars for each line of risk.

§5086. Limited liability of members

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

B. 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, including without limitation, loss
fund requirements, administrative expenses, and cost of insurance.

§5087. Authority of commissioner of insurance

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

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

§5088. Excess Insurance

A. 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 one million five hundred thousand
dollars for each risk underwritten. The trust fund for each risk underwritten
shall maintain a case reserve for each coverage year sufficient to cover payment
of the entire aggregate loss fund, as defined in the applicable excess insurance
policy or policies for that risk.

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

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

D. Nothing in this Section shall 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 under the provisions of this
Chapter.

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

F. 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.

§5089. Audit of Funds

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

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

DIGEST

SB 275 Original 2022 Regular Session Abraham

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.

Coding: Words which are struck through are deletions from existing law; words in boldface type and underscored are additions.
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.
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 will by resolution duly adopted by the governing body thereof 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 will 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 in the event the Louisiana Housing Council, Inc. is designated to administer a risk management organization, the insurance committee of the Louisiana Housing Council, Inc., will constitute the board of trustees of such organization established as provided in proposed law and will be authorized as such 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 will not constitute doing insurance business.

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 such fund will have 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 will not be liable to such risk management organization, to any other member, or to any claimant against the agency 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 will 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 will file with the commissioner of insurance 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 will become operative until issued a certificate of authority by the commissioner of insurance.

Proposed law provides that a risk management organization will 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 will 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 will apply only to self-insurance funds.

Proposed law provides that nothing will be construed to in any way reduce or limit a participating affiliate or subsidiary of a local housing authority member's rights or obligations with respect to he or her employees.

Proposed law provides that a risk management organization will 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 will have a current A.M. Best rating of A-VII as of the date of commencement of coverage.

Proposed law provides that the legislative auditor will have the authority to 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 will have the authority to cause 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)