
The original instrument was prepared by Carla S. Roberts. The following digest, which does not constitute a part of the legislative instrument, was prepared by Thomas L. Tyler.

SB 147 Engrossed

DIGEST
2023 Regular Session

Robert Mills

Proposed law authorizes the creation of a self-insurance fund to provide property coverage for churches and nonprofit religious organizations. Creates the Louisiana 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 ban 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 Louisiana Citizens Property Insurance Corporation.

Proposed 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.

Proposed law defines "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.

Proposed law provides that agreements to pool liabilities are not to be deemed insurance and are not subject to the Louisiana Insurance Code nor shall it be insured by the La. Insurance Guaranty Association nor shall the Association be liable for any claims under the agreement.

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

Proposed law requires that two or more members of the fund maintain a minimum combined net worth of one million dollars 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 three million

dollars, the Department of Insurance may waive the one million dollar requirement.

Proposed 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 of Insurance.

Proposed law provides for written application to the Department of Insurance to form a self-insurance fund. 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 shall purchase a bond, errors-and-omission insurance, directors-and-officers 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 shall have the minimum annual earned normal premium required by 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 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 which shall include a pro forma balance sheet, income statement, and statement of cash flow, each of which shall be 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 thereof.

Proposed law sets forth certain requirements for the fund; provides for excess insurance; administrative and service companies; liability of the fund; and refunds. Provides that the fund is not to be considered a partnership under state law; that fund members shall be solidarily liable for liabilities of the fund incurred by the fund after the inception of the fund year in which the operator becomes a member of the fund, to the extent required by law.

Proposed 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.

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

Proposed law delineates the authority of the Department of Insurance in the self-insurance fund. Provides that nothing shall prohibit the legislative auditor from reviewing records and conducting an audit in accordance with law.

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

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

Proposed 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 five hundred thousand dollars or five percent of the premium of the latest audited financial statement, whichever is greater.

Proposed law provides for insolvencies involving the fund and for the department to conduct examination of the fund at least once every five years. Provides that the examination include the affairs, transactions, accounts, records, documents, and assets of the authorized group self-insurance

fund. Provides that 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, shall be paid by the group self-insurance fund.

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

Proposed law provides for instances procedures in which the fund chooses to dissolve and for approval or disapproval by the department. Prohibits dissolution of the fund without authorization. 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.

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

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

(Adds R.S. 22:472.1 through 472.20)

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Insurance to the original bill

1. Adds comprehensive provisions regarding the obligations, operations, and responsibilities of the self-insurance fund.
2. Adds provisions for financial audits of the fund.
3. Adds provisions as to requirements for application of the self-insurance fund.
4. Adds provisions for excess insurance; administrative and service companies; and for fund members to be solidarily liable for liabilities of the fund.
5. Adds provisions for investments by the fund.
6. Adds provisions as to fund audits by the Department of Insurance.
7. Adds provisions regarding records of the fund.