

RÉSUMÉ DIGEST

ACT 455 (SB 171)

2015 Regular Session

Morrish

Prior law defined a self-insurance plan as any contract, plan, trust, arrangement, or other agreement which is established or maintained to offer or provide health care services, indemnification, or payment for health care services, or health and accident benefits to employees of two or more employers, but which is not fully insured. Provided that these contracts, plans, trusts, arrangements, or agreements shall be deemed "fully insured" only if the services, indemnification, payment, or benefits are guaranteed under a contract or policy of health insurance issued by an insurer authorized to transact business in this state.

New law provides for an association-sponsored self-insured trust, defined as an active trade or professional association which is either a tax exempt organization or a nonprofit corporation and which: (1) provides services to its membership so that the primary function of the trade or professional association is not the sponsorship, operation, or management of a fund, or related employee safety program, or other related activities; (2) has for at least 10 years held regular meetings of the board and produced a newsletter; (3) is chartered and domiciled in this state and has been in existence since 1950; and (4) is comprised of professionals that possess licenses issued by a state authority in order to conduct the business of the profession.

New law requires an association-sponsored self-insured trust to deposit with the commissioner of insurance a safekeeping or trust receipt from a bank or a savings and loan association doing business in this state indicating that the self-insurer has deposited cash or bonds issued by the national, state, or local governments of the par value of not less than the greater of either \$100,000 or 30% of the self-insurer's outstanding Louisiana-related reserve liabilities.

New law further requires an association-sponsored self-insured trust to: (1) maintain at all times during the first year of operations unimpaired net assets of not less than \$100,000; (2) have applications from not less than two employers and plan to provide similar benefits for not less than 100 participating employees; and (3) maintain contribution rates for participation under the arrangement that equal or exceed a funding level established by a report prepared by an actuarial firm.

New law provides that the employers in the self-insurance plan shall be members of an association, that each employer member participating in the association-sponsored self-insurance plan shall sign an indemnity agreement that is also signed by representatives of the association and the trust, and that the association sponsoring the trust shall be responsible for unpaid claims liability of the trust. Specifies that employer members participating in the self-insurance plan shall be in solido guarantors of liabilities of the trust not satisfied by the association. Further provides that a board of trustees shall serve as fund managers on behalf of participants, that they shall be plan participants, that they shall be elected by participating employers or by association members who are plan participants, and that they shall be bonded in an amount not less than \$100,000 from a licensed surety company. Also makes investment of plan funds subject to the same restrictions applicable to insurers.

New law provides that if an association-sponsored self-insured trust is insolvent, the Department of Insurance (DOI) shall require that the trust file in writing within 60 days a plan signed by the board of trustees. Defines an insolvency as the condition existing when the trust's liabilities before member distribution payable or dividend payable are greater than the trust's assets determined in accordance with generally accepted accounting principles as delineated in the trust's financial statement audited by an independent certified public accountant. Requires that the plan set forth the means by which the trust intends to eliminate the insolvency which may include payments by the association, assessments of the members participating in the trust's self-insurance plan, or a combination. Requires that DOI review the plan and notify the trust of the plan's approval or disapproval within 30 days. Gives DOI, should a trust fail to file a plan to eliminate an insolvency or should DOI notify a trust that such plan has been disapproved or that the trust is not properly implementing the plan, according to the plan, these following additional powers: (1) ordering the trust to immediately levy an assessment upon the association, the members of the trust, or both, sufficient to eliminate the insolvency; and (2) should the trust fail or refuse to levy such assessment, levying such assessment upon the association, the members of the trust, or both, sufficient to eliminate the insolvency.

New law provides that association-sponsored self-insured trusts are not members of either the Louisiana Insurance Guaranty Association or the Louisiana Life and Health Insurance Guaranty Association, nor shall either be liable for any claims or increments of claims made against any association-sponsored self-insured trust.

Prior law required a plan to submit its proposed excess or stop-loss insurance contract to the commissioner of insurance at least 30 days prior to the proposed self-insurance plan's effective date and at least 30 days subsequent to any renewal date.

New law requires a plan to submit its proposed excess or stop-loss insurance contract to the commissioner at least 30 days prior to the proposed self-insurance plan's effective date and at least 30 days prior to any subsequent renewal date.

New law defines "claims liability" as the total of all incurred and unpaid claims for allowable benefits under a self-insurance plan, including a multiple employer welfare arrangement, that are not reimbursed or reimbursable by excess of loss insurance, subrogation, or other sources.

New law defines "net assets" as the excess of the assets of a self-insurance plan, including a multiple employer welfare arrangement, minus the liabilities of the plan. Provides that liabilities of a self-insurance plan include the claims liability of the plan.

Effective August 1, 2015.

(Amends R.S. 22:459(A); adds R.S. 22:452(4) and (5) and 458.1)