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## DIGEST

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HB 280 Engrossed

2016 Regular Session

Broadwater

**Abstract:** Provides for the authority of the commissioner of insurance to establish and institute plans relative to certain workers' compensation group self-insurance funds.

Present law provides for the establishment and necessary requirements to form a workers' compensation group self-insurance fund.

Present law requires a minimum net-worth and asset-to-liability ratio at all times to maintain a solvent fund.

Present law provides for admissible investment opportunities.

Proposed law defines "hazardous financial condition" to mean that although a fund is not yet insolvent, it is unable to meet obligations in the normal course of business or for existing or reasonably anticipated claims.

Present law provides that although workers' compensation group self-insurance funds are not insurance and not subject to the La. Insurance Code, that the Dept. of Insurance has the authority to examine the affairs, books, transactions, work papers, files, accounts, records, assets, and liabilities to confirm compliance with present law.

Present law further gives the dept. the authority to issue cease and desist orders or suspend or revoke the certificate of authority of any fund not in compliance. Proposed law retains present law and also allows the cease and desist order to include a prohibition on the fund from writing or incurring any new business or renewing prior business.

Proposed law retains present law and further allows the dept. to levy a fine of up to \$4,000 for issues for which a fine was previously levied.

Present law provides that the procedure for noncompliance will be addressed in accordance with the Administrative Procedure Act.

Proposed law allows the fund to submit a corrective action plan to the commissioner for his approval which includes standards, time frames, and other parameters acceptable to the commissioner. Proposed law provides that information from the fund is confidential and not subject to the Public Records Law.

Proposed law gives the dept. the authority to order a group self-insurance fund on a corrective action plan to deal with any compliance or financial issues.

Proposed law allows the commissioner to impose fines, penalties, or revocation of certificate of authority, placement of the fund into administrative supervision, or placement of the fund into conservation, rehabilitation, or liquidation for noncompliance with the corrective action plan.

Present law provides for procedures in the instance of the insolvency of a fund.

Proposed law provides procedures for delinquency proceedings in instances in which a fund is insolvent, operating in a hazardous financial condition, or is in violation of present law.

Proposed law further provides for penalties for noncompliance and insolvency including supervision, conservation, rehabilitation, or liquidation.

Proposed law gives the 19<sup>th</sup> JDC exclusive jurisdiction to hear any delinquency proceeding against a fund for failure to comply with the corrective action plan.

Proposed law allows the court to issue an injunction to prevent the fund from conducting business, interfering with the ability of the commissioner to conduct business, or to protect any assets in the control of the commissioner.

Proposed law provides for the procedure and requirements for dissolution of a fund. In order to dissolve, a fund must apply for the authority to do so and have no outstanding liabilities or be covered by an irrevocable commitment from a licensed insurer that will provide payment of outstanding liabilities.

Proposed law provides that after the dissolution of the fund and the payment of any liability and indebtedness, the assets shall be distributed to the participants.

Proposed law sets forth an order of priority of receipt of the assets of the fund as follows:

- (1) Costs of administration to the commissioner.
- (2) Amounts payable to the Second Injury Fund.
- (3) Payment of claims of injured workers, beneficiaries, and other insureds to whom the fund owes payment, up to the policy limits.
- (4) Payment of claims by the federal government.
- (5) Payment of compensation owed to employees of the fund, excluding officers.
- (6) Payment of claims for unearned premiums, premium refunds, and claims of creditors.
- (7) Payment of all other claims.

(Amends R.S. 23:1197(D) and (E); Adds R.S. 23:1191(3), 1197(H), 1200.5(D) and (E), and 1200.18)

### Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Labor and Industrial Relations to the original bill:

1. Change the provision that authorizes the commission to place a fund on a corrective action plan to the requirement that the fund submit a corrective action plan to the commissioner for his approval.
2. Specify that any information submitted by a fund regarding the corrective action plan is confidential and not subject to public records requests.
3. Provide that in addition to fines, penalties, and the revocation of certification allowed by proposed law when a fund is not in compliance with the corrective action plan, proposed law allows the commissioner to place the fund into confidential administrative supervision or into conservation, rehabilitation, or liquidation.
4. Provide that exclusive jurisdiction to hear any delinquency proceeding against a fund for failure to comply with the corrective action plan lies in the 19<sup>th</sup> JDC. Suits may be brought by the commissioner when a fund fails to comply with the corrective action plan in place. The court may issue an injunction to enjoin the fund from conducting any further business, from interfering with the ability of the commissioner to conduct business, or to protect fund assets that are in the commissioner's control.
5. Outline the priority of the payment of fund assets after dissolution.