

**POTPOURRI**

**Department of Insurance  
Office of the Commissioner**

Regulation 42—Group Self-Insurance Funds  
(LAC 37:XIII.Chapter 11)

The Department of Insurance published a Notice of Intent to amend its rule, Regulation 42, in the January 20, 2019, Volume 45, No. 01 edition of the *Louisiana Register*. The Department of Insurance proposes the following changes: to amend Section 1101 of the current notice of intent of Regulation 42 by removing the definition of *surplus* and inserting the definition of *insolvency*; to amend Section 1107 by changing \$500,000 to \$1,000,000, by replacing “a certified annual audit report” with “an annual financial statement audited by an independent certified public accountant,” and by adding language regarding when the filing of member financial statements is required; to amend Section 1117(A) by providing for telephone audits and/or virtual audits and by removing “contracted audit personnel or firms” and replacing it with “either an independent payroll audit firm or by the fund.” Since these are substantive changes, the Louisiana Department of Insurance is giving the public an opportunity for a hearing as published in this potpourri.

**Title 37**

**INSURANCE**

**Part XIII. Regulations**

**Chapter 11. Regulation Number 42—Group Self-Insurance Funds**

**§1101. Definitions**

A. When used in this regulation, the following words or terms shall have the following meaning.

\* \* \*

*Insolvency*—the condition existing when the fund’s liabilities before member distribution payable or dividend payable are greater than the fund’s assets determined in accordance with generally accepted accounting principles as delineated in the fund’s financial statement audited by an independent certified public accountant. For the purposes of determining insolvency, assets will not include intangible property, such as patents, trade names, or goodwill.

\* \* \*

~~*Surplus*—assets of a group self insurance fund in excess of loss reserves, actual and contingent liabilities and loss development reserves in all fund years.~~

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1200.1.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 18:1403 (December 1992), amended LR 47:52 (January 2021), LR \_\_\_\_\_ (\_\_\_\_\_ 2022).

**§1107. Financial and Actuarial Reports for Group Self-Insurance Funds**

A. Each fund shall submit a current financial statement, audited by an independent certified public accountant, of at least two members showing, at the inception of the fund, a combined net worth of a minimum of ~~\$500,000~~\$1,000,000, current financial statements of all other members, a combined ratio of current assets to current liabilities of more than one to one, a combined working capital of an amount establishing financial strength and liquidity of the members to pay normal compensation claims promptly, and showing evidence of the financial ability of the group to meet its obligations.~~A certified audit~~An annual financial statement audited by an independent certified public accountant or a financial statement properly certified by an officer, owner, or partner for all members joining the fund after the inception date shall be submitted to the commissioner until such time as~~a certified annual audit report~~an annual financial statement audited by an independent certified public accountant is available for the fund as a whole.Thereafter, the filing of member financial statements with the Department is no longer required. In no event shall

the cumulative net worth or ratio of the current assets to current liabilities of all members be less than that required in this Subsection.

B. An annual financial statement audited by an independent certified public accountant ~~The report of financial condition~~ shall be due annually within six months of the close of the fiscal year of the fund, unless an extension is granted by the commissioner, on a form acceptable to the commissioner.

C. . . .

D. Repealed. ~~Each fund shall file an estimated breakdown of expenses on a form acceptable to the commissioner, within 60 days after the beginning of each fiscal year.~~

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1200.1.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 18:1403 (December 1992), amended LR \_\_\_\_\_ (\_\_\_\_\_ 2022).

### **§1109. Excess Insurance Requirements for Group Self-Insurance Funds**

A.– B. . . .

C. Repealed. ~~The maximum retention allowed for a fund's specific excess policy shall be in accordance with the following schedule unless a waiver is granted pursuant to §1109.D, E, F, and G:~~

~~1. for funds with a loss fund less than \$50,000,000, the maximum retention shall be three percent of the fund's loss fund, or \$250,000, whichever is greater;~~

~~2. for funds with a loss fund greater than or equal to \$50,000,000 and less than \$100,000,000, the maximum retention shall be 3.5 percent of the fund's loss fund;~~

~~3. for funds with a loss fund greater than or equal to \$100,000,000, the maximum retention shall be 4 percent of the fund's loss fund;~~

~~4. regardless of any maximum contained in §1109.C, no fund shall secure a retention which in the commissioner's opinion is not actuarially sound.~~

D. Repealed. ~~If a fund wishes to secure a specific excess policy with a retention greater than the maximum allowed by §1109.C, then the fund shall comply with the procedure described in §1109.E, F, and G.~~

E. Repealed. ~~Funds which have been in operation at least 30 months may request permission to secure a retention higher than that authorized by §1109.C. A fund shall submit a feasibility study prepared by a qualified actuary which analyzes the impact on the fund of the higher retention.~~

~~C.F.~~ The commissioner shall deny the use of a higher retention requested by a fund if he finds:

1. . . .

2.a. – 2.c. . . .

G. . . .

H. Repealed. ~~Subject to the minimum stated in §1109.A, the fund shall secure an aggregate limit of at least 20 percent of the annual standard premium of the fund for the term of the policy. The retention of the aggregate policy shall be subject to the approval of the commissioner.~~

I. – L. . . .

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1200.1.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 18:1403 (December 1992), amended LR \_\_\_\_\_ (\_\_\_\_\_ 2022).

### **§1117. Premium Audit**

A. All self-insurance funds shall determine the normal premium due from each member in each policy year based on actual audited payroll. Audits shall consist of physical on-site audits, ~~or~~ mail self-audits, telephone audits, or virtual audits. The

requirements set forth herein shall apply to the fund and its present or former members. Funds shall be responsible for compliance with this Subsection by ~~contracted audit personnel or firms~~ either an independent payroll audit firm or by the fund.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1200.1.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 18:1403 (December 1992), amended LR \_\_\_\_\_ (\_\_\_\_\_ 2022).

### **PUBLIC HEARING**

A public hearing on the proposed substantive changes will be held by the Louisiana Department of Insurance on September 21, 2022, at 10:00 a.m. in the Poydras Hearing Room, Poydras Building, 1702 North Third Street, Baton Rouge, LA . Interested persons who wish to make comments may do so at the public hearing or by writing to Lisa Henson, Louisiana Department of Insurance, P.O. Box 94214, Baton Rouge, LA 70804-9214. Comments will be accepted no later than September 20, 2022 by close of business, 4:30 p.m.