

NOTICE OF INTENT

**Department of Insurance
Office of the Commissioner**

Regulation 128—Louisiana Timber and Agriculture Transportation
Group Self-Insurance Funds (LAC 37:XIII.Chapter 193)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, and through the authority granted under R.S. 22:1 et seq., and specifically R.S. 22:11, the Department of Insurance hereby gives notice of its intent to promulgate Regulation 128—Louisiana Timber and Agriculture Transportation Group Self-Insurance Funds. The Department of Insurance is promulgating Regulation 128 to comply with Acts 2022, No. 598, § 1, of the Regular Session of the Louisiana Legislature, that enacted R.S. 3:4351.1 through 4351.16, authorizing the creation of the timber and agriculture transportation group self-insurance fund and giving the Department of Insurance regulatory authority over such fund.

Title 37

INSURANCE

Part XIII. Regulations

Chapter 193. Regulation Number 128— Louisiana Timber and Agriculture Transportation Group Self-Insurance Funds

§19301. Definitions

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

Contingent Liability—the amount that a group self-insurance fund may be obligated to pay in excess of a given fund year’s normal premium collected or on hand.

Department—the Louisiana Department of Insurance.

Group Self-Insurance Fund or Fund—employers who enter into agreements to pool their automobile liabilities for timber transportation vehicles, agriculture transportation vehicles, or a combination of both types of vehicles in accordance with Louisiana Revised Statutes 3:4351.2.

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. 3:4351.9(D).

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR ____:____ (_____).

§19303. Excess Insurance or Reinsurance

A. All funds shall maintain specific excess insurance or reinsurance in the amount of at least \$2,000,000 per occurrence and aggregate excess insurance or reinsurance of at least \$2,000,000.

B. The maximum retention allowed for a fund's specific excess policy shall be approved by the department.

1. A fund shall submit a feasibility study prepared by a qualified actuary which analyzes the impact the specific retention on the fund.

2. No fund shall secure a retention which in the commissioner's opinion is not actuarially sound.

3. The commissioner shall deny the use of a retention if he finds that the higher retention will have a significant adverse effect on the financial condition of the fund.

C. The fund shall secure an aggregate limit of at least 20 percent of the annual 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.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4351.3.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR ____:____ (_____).

§19305. Financial and Actuarial Reports

A. Each fund shall submit a current audited 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 \$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. An audited 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 an audited financial statement 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 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.

C. Actuarial reviews shall be made by a qualified actuary. Actuarial reports shall be due and filed at the same time as the fund's annual financial statement, except as otherwise provided by the commissioner.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4351.3.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR ____:_____
(_____).

§19307. Insolvencies

A. Pursuant to R. S. 3:4351.9(D)(1), a fund subject to delinquency proceedings shall be governed by the applicable provisions of R. S. 22:731, et seq., pertaining to administrative supervisions, or the applicable provisions of R. S. 22:2001, et seq., pertaining to receivership, that are not inconsistent with the provisions of R. S. 3:4351.1, et seq.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4351.9.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR ____:_____
(_____).

§19309. Cease and Desist Orders and Other Penalties

A.1. After notice and opportunity for a hearing, the commissioner may issue an order requiring a person or group to cease and desist from engaging in an act or practice found to be not in compliance with R.S. 3:4351, et. seq. or with any rule promulgated by the Department pursuant to the Administrative Procedure Act or order or directive issued by the department. Any cease and desist order issued under this Section may include a prohibition against the fund writing any new or renewal business.

2. After notice and opportunity for a hearing, the commissioner may suspend or revoke the certificate of authority of the fund found to be not in compliance with R.S. 3:4351, et. seq. or with any rule promulgated by the Department pursuant to the Administrative Procedure Act or order or directive issued by the department.

B. Upon the determination that a fund failed to comply with any provision of R.S. 3:4351 et seq., any rule or regulation promulgated by the Department, or orders or directives issued by the commissioner, the department may levy a fine of up to two thousand dollars (\$2,000.00) for each violation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4351.5.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR ____:_____
(_____).

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4351.9(D).

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR ____:_____
(_____).

§19311. Examinations

A. The commissioner shall examine, not less frequently than once every five years, and at any other time when an examination is necessary in the opinion of the commissioner, all group self-insurance funds established pursuant to R.S. 3:4351 et seq. The reasonable expenses of such examinations shall be paid by the fund being examined.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4351.5.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR ____:_____
(_____).

Family Impact Statement

1. Describe the Effect of the Proposed Regulation on the Stability of the Family. The proposed regulation should have no measurable impact upon the stability of the family.

2. Describe the Effect of the Proposed Regulation on the Authority and Rights of Parents Regarding the Education and Supervision of their Children. The proposed regulation should have no impact upon the rights and authority of parents regarding the education and supervision of their children.

3. Describe the Effect of the Proposed Regulation on the Functioning of the Family. The proposed regulation should have no direct impact upon the functioning of the family.

4. Describe the Effect of the Proposed Regulation on Family Earnings and Budget. The proposed regulation should have no direct impact upon family earnings and budget.

5. Describe the Effect of the Proposed Regulation on the Behavior and Personal Responsibility of Children. The proposed regulation should have no impact upon the behavior and personal responsibility of children.

5. Describe the Effect of the Proposed Regulation on the Ability of the Family or a Local Government to Perform the Function as Contained in the Rule. The proposed regulation should have no impact upon the ability of the family or a local governmental unit to perform the function as contained in the rule.

Small Business Analysis

The impact of the proposed regulation on small businesses as defined in the Regulatory Flexibility Act has been considered. It is estimated that the proposed action is not expected to have a significant adverse impact on small businesses. The agency, consistent with health, safety, environmental and economic welfare factors has considered and, where possible, utilized regulatory methods in the drafting of the proposed regulation that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed regulation on small businesses.

1. Identification and Estimate of the Number of the Small Businesses Subject to the Proposed Rule. The proposed regulation should have no measurable impact upon small businesses.

2. The Projected Reporting, Record Keeping, and Other Administrative Costs Required for Compliance with the Proposed Rule, Including the Type of Professional Skills Necessary for Preparation of the Report or Record. The proposed regulation should have no measurable impact upon small businesses.

3. A Statement of the Probable Effect on Impacted Small Businesses. The proposed regulation should have no measurable impact upon small businesses.

4. Describe any Less Intrusive or Less Costly Alternative Methods of Achieving the Purpose of the Proposed Rule. The proposed regulation should have no measurable impact on small businesses; therefore, will have no less intrusive or less cost alternative methods.

Poverty Impact Statement

1. Describe the Effect on Household Income, Assets, and Financial Security. The proposed regulation should have no effect on household income assets and financial security.

2. Describe the Effect on Early Childhood Development and Preschool through Postsecondary Education Development. The proposed regulation should have no effect on early childhood development and preschool through postsecondary education development.

3. Describe the Effect on Employment and Workforce Development. The proposed regulation should have no effect on employment and workforce development.

4. Describe the Effect on Taxes and Tax Credits. The proposed regulation should have no effect on taxes and tax credits.

5. Describe the Effect on Child and Dependent Care, Housing, Health Care, Nutrition, Transportation and Utilities Assistance. The proposed regulation should have no effect on child and dependent care, housing, health care, nutrition, transportation and utilities assistance.

Provider Impact Statement

1. Describe the Effect on the Staffing Level Requirements or Qualifications Required to Provide the Same Level of Service. The proposed regulation will have no effect.

2. The Total Direct and Indirect Effect on the Cost to the Provider to Provide the Same Level of Service. The proposed regulation will have no effect.

3. The Overall Effect on the Ability of the Provider to Provide the Same Level of Service. The proposed regulation will have no effect.

Public Comments

Interested persons who wish to make comments may do so by writing to Lisa Henson, Staff Attorney, Louisiana Department of Insurance, P.O. Box 94214, Baton Rouge, LA 70804-9214, by faxing comments to (225) 342-1632, or electronically at regulations@ldi.la.gov. Comments will be accepted through the close of business, 4:30 p.m., March 13, 2023.

James J. Donelon
Commissioner

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Regulation 128—Louisiana Timber and Agriculture Transportation

Group Self-Insurance Funds

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule changes will not result in additional costs or savings for state or local governmental units. The rule promulgates Regulation 128 to comply with Acts 2022, No. 598, § 1, of the Regular Session of the Louisiana Legislature, that enacted R.S. 3:4351.1 through 4351.16, authorizing the creation of the timber and agriculture transportation group self-insurance fund and giving the Department of Insurance regulatory authority over such fund.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule changes will not affect revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule change will not result in any costs and/or economic benefits to directly affected persons or non-governmental groups. The rule promulgates Regulation 128 to comply with Acts 2022, No. 598, § 1, of the Regular Session of the Louisiana Legislature, that enacted R.S. 3:4351.1 through 4351.16, authorizing the creation of the timber and agriculture transportation group self-insurance fund and giving the Department of Insurance regulatory authority over such fund.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule changes will not affect competition or employment.