

SENATE BILL NO. 607

BY SENATOR LONG

1 AN ACT

2 To amend and reenact R.S. 22:46(9)(a) and (10), 47(5), 48(A)(15), 451(A), and 452(1)(b),  
3 R.S. 23:1168(A), 1195(A)(1), 1197(C) and the introductory paragraph of R.S.  
4 23:1197(F), and R.S. 23:1200, and R.S. 44:4.1(B)(11), to enact R.S. 23:1197(G) and  
5 1200.6 through 1200.17, and to repeal R.S. 22:461(J) and 1982, relative to workers'  
6 compensation group self-insurance funds; to provide that such funds are not insurers  
7 nor to be deemed insurance; to provide for compliance examinations of group self-  
8 insurance workers' compensation funds by the commissioner of insurance; to provide  
9 for hearings of matters as a result of such examinations; and to provide for related  
10 matters.

11 Be it enacted by the Legislature of Louisiana:

12 Section 1. R.S. 22:46(9)(a) and (10), 47(5), 48(A)(15), 451(A) and 452(1)(b) are  
13 hereby amended and reenacted to read as follows:

14 §46. General definitions

15 In this Code, unless the context otherwise requires, the following definitions  
16 shall be applicable:

17 \* \* \*

18 (9)(a) "Insurance" is a contract whereby one undertakes to indemnify another  
19 or pay a specified amount upon determinable contingencies. It shall include any trust,  
20 plan or agreement, popularly known as employee benefit trusts, not specifically  
21 exempted from state regulation under Public Law 93-406, except collectively  
22 bargained union welfare plans, single employer plans or plans of the state or political  
23 subdivisions. **The term "insurance" shall not include any arrangement or trust**  
24 **formed under Subpart J of Part I of Chapter 10 of Title 23 of the Louisiana**  
25 **Revised Statutes of 1950.**

26 \* \* \*

27 (10) "Insurer" includes every person engaged in the business of making

1 contracts of insurance, other than a fraternal benefit society. A reciprocal, an inter-  
 2 insurance exchange, insurance exchange syndicate, or a Lloyds organization is an  
 3 "insurer". Any person who provides an employee benefit trust as specified in  
 4 Subparagraph (9)(a) of this Section is an insurer. A health maintenance organization  
 5 is an insurer but only for the purposes enumerated in R.S. 22:242(7). **The term**  
 6 **"insurer" shall not include any arrangement or trust formed under Subpart J**  
 7 **of Part I of Chapter 10 of Title 23 of the Louisiana Revised Statutes of 1950, nor**  
 8 **shall such arrangement or trust be deemed an insurer.**

9 \* \* \*

10 §47. Kinds of insurance

11 Insurance shall be classified as follows:

12 \* \* \*

13 (5) Workers' compensation. Insurance of the obligations accepted by,  
 14 imposed upon, or assumed by employers under law for workers' compensation,  
 15 which may include employers' liability. **Any arrangement or trust formed under**  
 16 **Subpart J of Part I of Chapter 10 of Title 23 of the Louisiana Revised Statutes**  
 17 **of 1950, is not insurance nor shall such arrangement or trust be deemed to be**  
 18 **insurance.**

19 \* \* \*

20 §48. Types of insurers and other risk bearing entities

21 A. The following entities are regulated by specific provisions in the Louisiana  
 22 Insurance Code:

23 \* \* \*

24 (15) Group self insurers, **provided that any arrangement or trust formed**  
 25 **under Subpart J of Part I of Chapter 10 of Title 23 of the Louisiana Revised**  
 26 **Statutes of 1950, shall not be regulated under the Louisiana Insurance Code.**

27 \* \* \*

28 §451. Scope of provisions

29 A. This Subpart shall be applicable to and shall regulate self-insurers and  
 30 self-insurance plans, as defined in this Subpart, which are subject to jurisdiction of

1 the commissioner of insurance under this Title. This Subpart shall not be applicable  
 2 to any workers' compensation plan, except as otherwise provided in this Subpart.  
 3 **This Subpart shall not apply to any arrangement or trust formed under**  
 4 **Subpart J of Part I of Chapter 10 of Title 23 of the Louisiana Revised Statutes**  
 5 **of 1950.**

\* \* \*

7 §452. Definitions

8 For purposes of this Subpart, unless the context clearly indicates otherwise,  
 9 the following terms shall have the meanings ascribed to them:

10 (1)(a) \* \* \*

11 (b) The term "self-insurance plan" shall not include **any arrangement or**  
 12 **trust formed under Subpart J of Part I of Chapter 10 of Title 23 of the**  
 13 **Louisiana Revised Statutes of 1950, or** single employer plans, plans exempt from  
 14 the state insurance laws under the provisions of the Employee Retirement Income  
 15 Security Act of 1974 (29 U.S.C. §1001 et seq.), except as provided in R.S. 22:463,  
 16 the Office of Group Benefits, plans of political subdivisions, health maintenance  
 17 organizations regulated under the Health Maintenance Organization Act, R.S. 22:241  
 18 et seq., plans regulated under R.S. 33:1342, 1343, 1346, or 1349, and plans otherwise  
 19 regulated as insured plans under this Title. A plan of a fraternal benefit society or a  
 20 labor organization shall not be considered a self-insurance plan for the purposes of  
 21 this Subpart to the extent that such plan provides health and accident benefits to its  
 22 members and any of their dependents that are supplemental to those of an employer-  
 23 provided plan.

24 \* \* \*

25 Section 2. R.S. 23:1168(A), 1195(A)(1), 1197(C) and the introductory paragraph of  
 26 R.S. 23:1197(F), and R.S. 23:1200 are hereby amended and reenacted and R.S. 23:1197(G)  
 27 and 1200.6 through 1200.17 are hereby enacted to read as follows:

28 §1168. Ways of securing compensation to employees

29 A. An employer shall secure compensation to his employees in one of the  
 30 following ways:

1 (1) By insuring and keeping insured the payment of such compensation with  
 2 any stock corporation, mutual association, or other concern authorized to transact the  
 3 business of workers' compensation insurance in this state, ~~including group self-~~  
 4 ~~insurance as authorized in R.S. 23:1195 et seq. or R.S. 33:1341 et seq.~~ When an  
 5 insurer issues a policy to provide workers' compensation benefits pursuant to the  
 6 provisions of the Workers' Compensation Act, the insurer shall file, or cause to be  
 7 filed, with the director a notice in such form and detail as the director may prescribe  
 8 by rule and regulation. The notice shall contain the name, address, and principal  
 9 occupation of the employer, the number, effective date, and expiration date of the  
 10 policy, and such other information as may be required by the director. The notice  
 11 shall be filed by the insurer within thirty days after the effective date of the policy.

12 **(2) By entering into an agreement with a group self-insurance fund as**  
 13 **provided for in R.S. 23:1191 et seq.**

14 **(3) By entering into an agreement with an interlocal risk management**  
 15 **agency as provided for in R.S. 33:1341 et seq.**

16 ~~(2)(a)~~**(4)** By using any combination of life, accident, health, property,  
 17 casualty or other insurance policies offered:

18 ~~(i)~~**(a)** By any stock corporation, mutual association or other concern  
 19 authorized to transact the business of insurance in this state;

20 ~~(ii)~~**(b)** By any group of individual, unincorporated alien insurers with assets  
 21 held in trust for the benefit of its United States policyholders in a sum not less than  
 22 one hundred million dollars and which is authorized to transact insurance in at least  
 23 one state; or

24 ~~(iii)~~**(c)** By any other insurer which has been approved by the commissioner  
 25 of insurance, and has capital and surplus, or the equivalent thereof, of at least ten  
 26 million dollars and its financial condition, as evidenced by its most recent annual  
 27 statement, conforms substantially to the same standards of solvency which would be  
 28 required if such insurer were licensed in this state.

29 ~~(3)~~**(5)** By furnishing satisfactory proof to the director of the employer's  
 30 financial ability to pay such compensation. The director, pursuant to rules adopted

1 by the office for an individual self-insured or own risk carrier, including but not  
2 limited to rules relative to security and excess coverage, shall require that an  
3 employer:

4 (a) Deposit with the director securities or a surety bond in an amount  
5 determined by the director which would be at least an average of the yearly claims  
6 for the last three years.

7 (b) Provide proof of excess coverage with such terms and conditions as is  
8 commensurate with their ability to pay the benefits required by the provisions of the  
9 Workers' Compensation Act.

10 \* \* \*

11 §1195. Authorization; trade or professional association; initial financial  
12 requirements

13 A.(1) Any five or more Louisiana employers who are not public entities, each  
14 of whom has a positive net worth, is financially solvent, and is capable of assuming  
15 the obligations set forth under this Chapter, and who are all members of the same  
16 bona fide trade or professional association may agree to pool their liabilities to their  
17 employees on account of personal injury and occupational disease arising out of or  
18 incurred during the course and scope of the employment relationship. This  
19 arrangement shall not be an insurer, shall not be deemed to be insurance and shall  
20 not be subject to the ~~provisions of Chapter 1 of Title 22 of the Louisiana Revised~~  
21 ~~Statutes of 1950~~ Louisiana Insurance Code. The member employers of the  
22 arrangement likewise shall not be insurers or be subject to the Louisiana  
23 Insurance Code.

24 \* \* \*

25 §1197. Authority of Department of Insurance

26 \* \* \*

27 C.(1) The department shall have the authority to examine the affairs, books,  
28 transactions, workpapers, files, accounts, records, assets, and liabilities of a fund to  
29 determine compliance with this Subpart and with any rules and regulations  
30 promulgated by the department or orders and directives issued by the commissioner.

1 In addition, to the extent necessary and material to the examination of a fund, the  
 2 department shall have the authority to examine the affairs, books, transactions,  
 3 workpapers, files, accounts, and records of any fund's administrator, service  
 4 company, certified public accountant, and actuary generated in the course of  
 5 transacting business on behalf of the group self-insured fund being examined. ~~Such~~  
 6 ~~examination work shall be conducted by employees of the department, or~~  
 7 ~~independent certified public accounting firms in business for a minimum of five~~  
 8 ~~years and contracted with the department for this purpose.~~ **All examinations shall**  
 9 **be conducted in accordance with provisions of this Subpart.** The reasonable  
 10 expenses of the examinations shall be paid by the fund being examined.

11 **(2) Upon the request of the commissioner of insurance, each group self-**  
 12 **insurance fund established pursuant to this Subpart shall cause a rate review**  
 13 **to be conducted by a national independent actuarial firm, provided that the**  
 14 **commissioner shall not make more than two requests in any calendar year for**  
 15 **a rate review under the provisions of this Subsection. Such firm shall report its**  
 16 **findings to the commissioner of insurance.**

17 **(3) All work papers, recorded information, documents, information,**  
 18 **and copies thereof produced by, obtained by, or disclosed to the commissioner**  
 19 **or any other person, pursuant to the authority of the commissioner under this**  
 20 **Subpart, shall be given confidential treatment and shall not be subject to**  
 21 **subpoena and may not be made a part of the response to any public records**  
 22 **request, except in the following circumstances:**

23 **(a) Information has been provided pursuant to R.S. 23:1200.6(C) or R.S.**  
 24 **23:1200.7(I).**

25 **(b) Documents are audited financial statements which have been filed**  
 26 **with the Department of Insurance.**

27 \* \* \*

28 F. The department shall conduct a hearing pursuant to ~~Part XXIX~~ of the  
 29 Louisiana Insurance Code **in accordance with the provisions of this Subpart:**

30 **G. Nothing in this Section shall prohibit the legislative auditor from**

1 reviewing records and conducting an audit in accordance with R.S. 24:513.

2 \* \* \*

3 §1200. Review of rate determination

4 Any fund shall provide a reasonable procedure for any member aggrieved by  
 5 the fund to request in written form a review of the application of the rating system  
 6 for the coverage afforded by the fund. The fund shall have thirty days from receipt  
 7 to grant or deny the request in written form. If the fund rejects the request or fails to  
 8 grant or reject the request within the thirty-day period, the member may, within thirty  
 9 days of the expiration of the thirty-day period, appeal to the department for a hearing.  
 10 The hearing before the department shall be **conducted** in accordance with ~~Part XXIX~~  
 11 ~~of the Louisiana Insurance Code~~ **the provisions of this Subpart**, and the  
 12 department, after the hearing, may affirm, modify, or reverse the action taken by the  
 13 fund.

14 \* \* \*

15 **§1200.6. Examination of group self-insurance fund for workers' compensation**  
 16 **program**

17 **A. The commissioner of insurance shall make an examination, not less**  
 18 **frequently than once every five years, of all group self-insurance funds**  
 19 **established pursuant to this Subpart doing business in this state and at any**  
 20 **other time when in the opinion of the commissioner it is necessary for such an**  
 21 **examination to be made.**

22 **B. Upon determining that an examination should be conducted, the**  
 23 **commissioner shall appoint one or more examiners to perform the examination**  
 24 **and instruct them as to the scope of the examination. In conducting the**  
 25 **examination, the examiner or examiners shall observe those guidelines and**  
 26 **procedures as the commissioner may deem appropriate.**

27 **C. Nothing contained in this Part shall be construed to limit the**  
 28 **commissioner's authority to use any final or preliminary examination report,**  
 29 **any examiner or fund work papers or other documents, or any other**  
 30 **information discovered or developed during the course of any examination in**

1 the furtherance of any legal or regulatory action which the commissioner may,  
2 in his sole discretion, deem appropriate.

3 D. Nothing contained in this Part shall be construed to limit the authority  
4 of the commissioner to terminate or suspend any examination in order to  
5 pursue other legal or regulatory action pursuant to the applicable laws of this  
6 state. Findings of fact and conclusions made pursuant to any examination shall  
7 be prima facie evidence in any legal or regulatory action.

8 §1200.7. Examination reports

9 A. All examination reports shall be comprised only of facts appearing  
10 upon the books, records, or other documents of the group self-insurance fund  
11 or as ascertained from the testimony of its officers or agents or other persons  
12 examined concerning its affairs, and such conclusions and recommendations as  
13 the examiners find reasonably warranted from the facts.

14 B. Not later than sixty days following completion of the examination, the  
15 examiner in charge shall file with the Department of Insurance a verified  
16 written report of examination under oath. Upon receipt of the verified report,  
17 the Department of Insurance shall transmit the report to the fund examined,  
18 together with a notice, which shall afford the fund examined a reasonable  
19 opportunity, of not more than thirty days, to make a written submission or  
20 rebuttal with respect to any matters contained in the examination report.

21 C. Within thirty days of the end of the period allowed for the receipt of  
22 written submissions or rebuttals, the commissioner shall fully consider and  
23 review the report, together with any written submissions or rebuttals and any  
24 relevant portions of the examiner's work papers and enter an order for one of  
25 the following:

26 (1) Adopt the examination report as filed, or with modification or  
27 corrections. If the examination report reveals that the group self-insurance fund  
28 is operating in violation of any law, rule, regulation, or prior order or directive  
29 of the commissioner, the commissioner may order the fund to take any action  
30 the commissioner considers necessary and appropriate to cure such violation.



1           (2) Reject the examination report with direction to the examiners to  
2           reopen the examination for purposes of obtaining additional documentation,  
3           data, information, and testimony.

4           D. Within thirty days of rejection by the commissioner of an examination  
5           report in accordance with Paragraph (C)(2) of this Section, unless the  
6           commissioner extends such time for reasonable cause, the examiner in charge  
7           shall refile with the Department of Insurance a verified written report of  
8           examination, as may be modified or corrected, under oath. Upon receipt of the  
9           refiled verified report, the Department of Insurance shall transmit the refiled  
10           report to the fund examined, together with a notice similar to the notice  
11           provided for in Subsection B of this Section, except that the notice shall indicate  
12           that the report is a refiled report.

13           E. Within thirty days of the end of the period allowed for the receipt of  
14           written submissions or rebuttals, as provided for in Subsections B and D of this  
15           Section, the commissioner shall fully consider and review the refiled report,  
16           together with any written submissions or rebuttals and any relevant portions  
17           of the work papers of the examiner and enter an order for one of the following:

18           (1) Adopt the examination report as refiled or with modification or  
19           corrections. If the refiled examination report reveals that the group self-  
20           insurance fund is operating in violation of any law, rule, regulation, or prior  
21           order or directive of the commissioner, the commissioner may order the fund  
22           to take any action the commissioner considers necessary and appropriate to  
23           cure such violations.

24           (2) Reject the examination report and order a hearing in accordance  
25           with the provisions of this Subpart, for purposes of obtaining additional  
26           documentation, data, information, and testimony.

27           F. All orders entered pursuant to Paragraph (C)(1) or (E)(1) of this  
28           Section shall be accompanied by findings and conclusions resulting from  
29           consideration by the commissioner and review of the examination report,  
30           relevant examiner work papers, and any written submissions or rebuttals. Any

1 order shall be served upon the company by certified mail, together with a copy  
2 of the adopted examination report. Within thirty days of the issuance of the  
3 adopted report, the group self-insurance fund shall file affidavits executed by  
4 each of its trustees stating, under oath, that they have received a copy of the  
5 adopted report and related orders.

6 G. Within thirty days of receipt of notification of the order of the  
7 commissioner to the group self-insurance fund made pursuant to Subsection F  
8 of this Section, the fund may make written demand for a hearing in accordance  
9 with the provisions of this Subpart.

10 H.(1) The hearing provided for under Paragraph (E)(2) or Subsection G  
11 both of this Section shall be a confidential proceeding. At the conclusion of the  
12 hearing, the commissioner shall enter an order adopting the examination report  
13 as filed or refiled, or with modification or corrections, and may order the fund  
14 to take any action the commissioner considers necessary and appropriate to  
15 cure any violation of any law, regulation, or prior order of the commissioner.

16 (2) The commissioner shall issue such order within thirty days after the  
17 termination of a hearing and shall, subject to Subsection E of this Section, give  
18 a copy of the order to each person to whom notice of the hearing was given or  
19 required to be given.

20 I.(1) Upon the adoption of the examination report under either  
21 Paragraph (C)(1), or (E)(1), or Subsection H all of this Section, the  
22 commissioner shall continue to hold the content of the examination report as  
23 private and confidential information for a period not to exceed thirty  
24 consecutive days, except to the extent provided in R.S. 23:1200.6(C) and  
25 Subsection B of this Section. Thereafter, the commissioner may open the report  
26 for public inspection provided no court of competent jurisdiction has stayed its  
27 publication.

28 (2) Notwithstanding any provision to the contrary, nothing shall  
29 prevent, or be construed as prohibiting, the commissioner from disclosing the  
30 content of an examination report, preliminary examination report or results, or

1 any matter relating thereto, to the insurance department of this or any other  
2 state or country, or to law enforcement officials of this or any other state or  
3 agency of the federal government at any time, provided such agency or office  
4 receiving the report or matters relating thereto agrees, in writing, to hold it  
5 confidential and in a manner consistent with this Subpart.

6 (3) If the commissioner determines that regulatory action is appropriate  
7 as a result of any examination, he may initiate any proceedings or actions as  
8 provided by law.

9 J. All work papers, recorded information, documents, and copies  
10 thereof produced by, obtained by, or disclosed to the commissioner, or any  
11 other person, in the course of an examination made under this Subpart, or  
12 pursuant to the authority of the commissioner under this Subpart, shall be given  
13 confidential treatment and are not subject to subpoena and may not be made  
14 public by the commissioner or any other person, except to the extent provided  
15 in R.S. 22:1200.6(C) and Subsection I of this Section. The parties shall agree, in  
16 writing prior to receiving the information, to provide to it the same confidential  
17 treatment as required by this Section, unless the prior written consent of the  
18 fund to which it pertains has been obtained.

19 K.(1) No examiner may be appointed by the commissioner if such  
20 examiner, either directly or indirectly, has a conflict of interest or is affiliated  
21 with the management of or owns a pecuniary interest in any person or entity  
22 subject to examination under this Subpart.

23 (2) Notwithstanding the requirements of this Section, the commissioner  
24 may retain from time to time, on an individual basis, qualified actuaries,  
25 certified public accountants, or other similar individuals who are independently  
26 practicing their professions, even though said persons may from time to time be  
27 similarly employed or retained by persons subject to examination under this  
28 Subpart.

29 L.(1) No cause of action shall arise nor shall any liability be imposed  
30 against the commissioner, the authorized representatives of the commissioner,

1 or any examiner appointed by the commissioner, for any statements made or  
2 conduct performed in good faith while carrying out the provisions of this  
3 Subpart.

4 (2) No cause of action shall arise, nor shall any liability be imposed,  
5 against any person for the act of communicating or delivering information or  
6 data to the commissioner, or the authorized representative of the commissioner,  
7 or examiner, pursuant to an examination made under this Subpart, if such act  
8 of communication or delivery was performed in good faith and without  
9 fraudulent intent or the intent to deceive.

10 M.(1) In addition to those examinations performed by the commissioner  
11 of insurance pursuant to R.S. 23:1200.6, the commissioner of insurance shall  
12 conduct financial reviews of all group self-insurance funds authorized to do  
13 business in this state. Such reviews shall include the audited financial statements  
14 of the group self-insurance fund rendered pursuant to good and acceptable  
15 accounting practices, results of prior examinations and office reviews,  
16 management changes, consumer complaints, and such other relevant  
17 information as from time to time may be required by the commissioner.

18 (2) Failure by a group self-insurance fund to supply information  
19 requested by the Department of Insurance during the course of a financial  
20 review shall subject the group self-insurance fund to revocation or suspension  
21 of its license or, in lieu thereof, a fine not to exceed ten thousand dollars per  
22 occurrence.

23 (3) All work papers, recorded information, documents and copies  
24 thereof produced by, obtained by, or disclosed to the commissioner, or any  
25 other person in the course of conducting a financial review shall be given  
26 confidential treatment and are not subject to subpoena and may not be made  
27 public by the commissioner or any other person, except that any access may be  
28 granted to insurance departments of other states, international, federal or state  
29 law enforcement agencies or international, federal or state regulatory agencies  
30 with statutory oversight over the financial services industry, if the recipient

1 agrees to maintain the confidentiality of those documents which are confidential  
2 under the laws of this state.

3 (4) In conducting financial reviews, the examiner or examiners shall  
4 observe those guidelines and procedures as the commissioner may deem  
5 appropriate.

6 (5) Nothing contained in this Part shall be construed to limit the  
7 commissioner's authority to use any final or preliminary analysis findings, any  
8 Department of Insurance or fund work papers or other documents, or any  
9 other information discovered or developed during the course of any analysis in  
10 the furtherance of any legal or regulatory action which the commissioner may,  
11 in his sole discretion, deem appropriate.

12 (6) Any group self-insurance fund against whom a fine has been levied  
13 shall be given ten days notice of such action. Upon receipt of this notice, this  
14 aggrieved party may apply for and shall be entitled to a hearing pursuant to this  
15 Subpart.

16 N. Nothing in this Section shall prohibit the legislative auditor from  
17 reviewing records and conducting an audit in accordance with R.S. 24:513.

18 §1200.8. Review and examination expense; how paid

19 A. Whenever the commissioner of insurance makes an examination or  
20 investigation pursuant to this Subpart, all expenses incurred by the  
21 commissioner of insurance in conducting such examination or investigation,  
22 including the expenses and fees of examiners, auditors, accountants, actuaries,  
23 attorneys, or clerical or other assistants who are employed by the commissioner  
24 of insurance to make the examination, shall be paid by the group self-insurance  
25 fund.

26 B. The commissioner of insurance may recover all expenses incurred  
27 from the examination or investigation of any person or entity acting as an  
28 administrator or third-party administrator in this state for any group self-  
29 insurance fund not authorized to transact business in this state.

30 §1200.9. Authority to employ examiners and other assistants

1           A. The commissioner of insurance shall employ such examiners,  
2           auditors, accountants, actuaries, attorneys, and clerical or other assistants as  
3           are necessary to conduct the examination and to compile and prepare a report  
4           thereon, and the compensation for such examination shall be fixed according to  
5           the time actually devoted to the work of conducting the examination and  
6           compiling the report thereon as now required by law. Such compensation shall  
7           always be reasonable and commensurate with the value of the services  
8           performed.

9           B. Upon completion of the examination of any group self-insurance fund  
10          or at stated periods during such examinations, the commissioner of insurance  
11          shall forward to the group self-insurance fund a statement showing the amount  
12          of expenses incurred in such examination to the date of such statement.  
13          Whereupon, the group self-insurance fund shall pay the amount so shown to the  
14          commissioner of insurance. Upon receipt of such payment the commissioner of  
15          insurance shall deposit same in an account styled "commissioner of insurance,  
16          revolving fund account", and withdrawals from said account shall be made by  
17          the commissioner of insurance for the purpose of payment to examiners,  
18          auditors, accountants, actuaries, attorneys, and clerical or other assistants of  
19          their salaries and necessary expenses incurred in the conduction of such  
20          examination.

21          **§1200.10. Group self-insurance fund's right to contest expense**

22          If the group self-insurance fund deems the amount of expenses billed to  
23          it unreasonable or contrary to the provisions of this Subpart, it may within  
24          fifteen days after the receipt of such billing, file a rule in a court of competent  
25          jurisdiction upon the commissioner of insurance to test the reasonableness and  
26          legality under this Subpart of the amount of expenses billed to it by the  
27          commissioner of insurance which rule shall be tried by preference, and upon  
28          appeal, shall be given preference in the appellate court, as provided by the laws  
29          of this state for other state cases.

30          **§1200.11. Failure to pay expenses; penalty**

1           If any group self-insurance fund fails or refuses to pay the expenses of  
2           examination as billed by the commissioner of insurance after fifteen days upon  
3           receipt of such billing or after final judgment where a rule has been filed as  
4           provided in this Part, then the commissioner of insurance may revoke the  
5           certificate of authority of such group self-insurance fund to do business in this  
6           state until the full amount of the bill is paid.

7           §1200.12. Scope of examination

8           In conducting such an examination, the commissioner of insurance shall  
9           examine the affairs, transactions, accounts, records, documents and assets of  
10           each authorized group self-insurance fund. For the purpose of ascertaining its  
11           condition or compliance with this Subpart, the commissioner of insurance may  
12           as often as he deems advisable, examine the accounts, records, documents and  
13           transactions of (a) any insurance agent, solicitor or broker, but only insofar as  
14           such accounts, records, documents and transactions relate to group self-  
15           insurance funds, or of (b) any person having a contract under which he enjoys,  
16           in fact, the exclusive or dominant right to manage or control a group self-  
17           insurance fund.

18           §1200.13. Production of books and records

19           Every group self-insurance fund being examined, its officers, trustees,  
20           employees, administrators and representatives, shall produce and make freely  
21           accessible to the commissioner of insurance the accounts, records, documents  
22           and files in its possession or control relating to the subject of the examination,  
23           and shall otherwise facilitate the examination.

24           §1200.14. Power to examine under oath; subpoena witnesses

25           The commissioner of insurance may take depositions, subpoena witnesses  
26           or documentary evidence, administer oaths and examine under oath any  
27           individual relative to the affairs of any group self-insurance fund being  
28           examined. Any person who testifies falsely or makes any false affidavit during  
29           the course of such an examination shall be guilty of perjury.

30           §1200.15. Commissioner of insurance authorized to employ investigators

1           The commissioner of insurance shall have authority to employ  
2           investigators to investigate complaints received against group self-insurance  
3           funds authorized to do business in this state and against any unauthorized  
4           group self-insurance funds who are reported to be operating in this state.

5           §1200.16. Disclosure

6           A. It shall be unlawful for any person who is an officer, trustee,  
7           employee, administrator, agent, or representative of a group self-insurance  
8           fund; or any person, partnership, corporation, banking corporation, or any  
9           other legal entity which performs any service for a group self-insurance fund,  
10           or prepares any report, audit, financial statement or report for, or makes any  
11           representation on behalf of, for, or with regard to a group self-insurance fund,  
12           in connection with any hearing, investigation, or examination authorized by this  
13           Subpart, to act with the specific intent to do any of the following items:

14           (1) Represent falsely, directly or indirectly, to the Department of  
15           Insurance or any employee, trustee or administrator thereof, that an asset of  
16           such group self-insurance fund is unencumbered, or to misrepresent any other  
17           material fact pertaining to the status of any asset or liability of a group self-  
18           insurance fund.

19           (2) Materially misrepresent to the Department of Insurance, or any  
20           employee, trustee or administrator thereof, the value of any asset or the amount  
21           of any liability of such group self-insurance fund, or any affiliate, subsidiary, or  
22           holding fund associated therewith; provided that with regard to a material  
23           misrepresentation of the value of any asset or liability, any deviation from the  
24           actual value of such asset or liability which results from utilization of and  
25           compliance with generally accepted insurance accounting and reporting  
26           procedures shall not be deemed a violation of this Section.

27           (3) Fail to disclose to the Department of Insurance the existence of any  
28           liability of a group self-insurance fund, or affiliate, subsidiary, or holding  
29           company associated therewith when such disclosure is properly requested or  
30           required in writing by an examiner or administrator of the Department of



1 Insurance.

2 (4) Materially misrepresent, withhold, deny access to, or otherwise  
3 preclude the obtainment of any information properly requested in writing and  
4 in accordance with provisions of law affecting dissemination or disclosure of  
5 information by specific institutions by an examiner or administrator of the  
6 Department of Insurance, which is material and relevant to an examination  
7 properly conducted by the Department of Insurance and examiners and  
8 administrators of the Department of Insurance.

9 B. Whoever violates any provision of this Section, upon conviction, shall  
10 be fined not more than fifty thousand dollars, or imprisoned with or without  
11 hard labor for not more than five years, or both.

12 §1200.17. Departmental complaint directives; failure to comply; fines; hearing

13 A. Any person subject to the regulatory authority of this department  
14 who fails to comply with any directive issued by the commissioner in connection  
15 with a consumer complaint shall be fined an amount not to exceed two hundred  
16 fifty dollars for each occurrence.

17 B. Any person against whom a fine has been levied shall be given ten  
18 days notice of such action. Upon receipt of this notice, the person aggrieved may  
19 apply for and shall be entitled to a hearing conducted in accordance with the  
20 provisions of this Subpart.

21 Section 3. R.S. 44:4.1(B)(11) is hereby amended and reenacted to read as follows:

22 §4.1. Exceptions

23 \* \* \*

24 B. The legislature further recognizes that there exist exceptions,  
25 exemptions, and limitations to the laws pertaining to public records  
26 throughout the revised statutes and codes of this state. Therefore, the  
27 following exceptions, exemptions, and limitations are hereby continued in  
28 effect by incorporation into this Chapter by citation:

29 \* \* \*

30 (11) R.S. 23:1177, 1197, 1200.7, 1291, 1292, 1293, 1306, 1660, 1671

1

\* \* \*

2

Section 4.. R.S. 22:461(J) and 1982 are hereby repealed.

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PRESIDENT OF THE SENATE

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SPEAKER OF THE HOUSE OF REPRESENTATIVES

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GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: \_\_\_\_\_