



LOUISIANA DEPARTMENT OF INSURANCE
JAMES J. DONELON
COMMISSIONER

February 9, 2023

The Honorable Patrick Page Cortez
President, Louisiana State Senate
P.O. Box 94183
Baton Rouge, LA 70804

ELECTRONIC TRANSMISSION
apa.senatepresident@legis.la.gov

The Honorable Clay Schexnayder
Speaker, Louisiana House of Representatives
P.O. Box 94062
Baton Rouge, LA 70804

ELECTRONIC TRANSMISSION
apa.housespeaker@legis.la.gov

The Honorable Kirk Talbot
Chairman of the Senate Insurance Committee
P.O. Box 94183
Baton Rouge, LA 70804

ELECTRONIC TRANSMISSION
apa.s-ins@legis.la.gov

The Honorable Mike Huval
Chairman of the House Insurance Committee
P.O. Box 94062
Baton Rouge, LA 70804

ELECTRONIC TRANSMISSION
apa.h-ins@legis.la.gov

RE: Notice of Intent to Promulgate Regulation 128—Louisiana Timber and Agriculture
Transportation Group Self-Insurance Funds

Dear President Cortez, Speaker Schexnayder, Senator Talbot, and Representative
Huval:

The Department of Insurance, pursuant to the authority of the Louisiana Insurance Code, R.S. 22:1 et seq., and in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., gives notice of its intent to promulgate Regulation 128—Louisiana Timber and Agriculture Transportation Group Self-Insurance Funds. Regulation 128 is being promulgated 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.

Enclosure: Notice of Intent to Promulgate Regulation 128—Louisiana Timber and
Agriculture Transportation Group Self-Insurance Funds

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.

FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES

Person
Preparing
Statement: Anita R. Robert Department: Louisiana Department
of Insurance

Phone: (225) 219-0609 Office: Management & Finance

Return Address: P. O. Box 94214 Rule Title: Louisiana Timber and
Baton Rouge, LA
70804-9214 Agriculture Transportation

Effective Date: Upon Publication

SUMMARY

(Use Complete Sentences)

In accordance with Section 953 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a fiscal and economic impact statement on the rule proposed for adoption, repeal or amendment. THE FOLLOWING STATEMENTS SUMMARIZE ATTACHED WORKSHEETS, I THROUGH IV AND WILL BE PUBLISHED IN THE LOUISIANA REGISTER WITH THE PROPOSED AGENCY RULE.

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

The proposed rule is not anticipated to result in implementation costs or savings to the state or local governmental units. The proposed rule is being promulgated to establish rules and regulations of the Louisiana Timber and Agriculture Transportation Group Self-Insurance Funds which was enacted with Acts 598 of the 2022 Regular Louisiana Legislative Session. These Self-Insurance Funds (SIF) are created for the purpose of providing auto insurance for vehicles which transport timber and agriculture products.

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

The proposed rule will have no impact on state or local governmental revenues.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS, SMALL BUSINESSES, OR NON-GOVERNMENTAL GROUPS. (Summary)

The proposed rule will create the Louisiana Timber and Agriculture Transportation Group Self-Insurance Funds for the purpose of providing auto insurance for vehicles which transport timber and agriculture products. The proposed rule may have indeterminable economic benefit to timber and agriculture companies that pool their liabilities to self-insure automobile coverage.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT. (Summary)

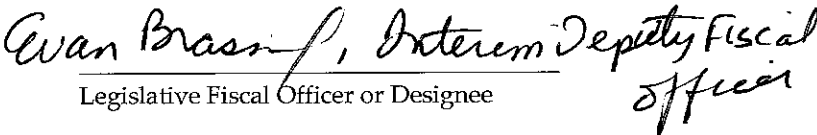
The proposed rule does not effect competition and employment in the state.



Denise Gardner, Chief of Staff
La. Department of Insurance

2/7/2023

Date of Signature


Legislative Fiscal Officer or Designee

2/8/23

Date of Signature

FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES

The following information is required in order to assist the Legislative Fiscal Office in its review of the fiscal and economic impact statement and to assist the appropriated legislative oversight subcommittee in its deliberations on the proposed rule.

- A. Provide a brief summary of the content of the rule (if proposed for adoption or repeal) or a brief summary of the change in the rule (if proposed for amendment). Attach a copy of the notice of intent and a copy of the rule proposed for initial adoption or repeal (or, in the case of a rule change, copies of the current and proposed rules with amended portions indicated).

The proposed rule is not anticipated to result in implementation costs or savings to the state or local governmental units. The proposed rule is being promulgated to establish rules and regulations of the Louisiana Timber and Agriculture Transportation Group Self-Insurance Funds which was enacted with Acts 598 of the 2022 Regular Louisiana Legislative Session. These SIF Funds are created for the purpose of providing auto insurance for vehicles which transport timber and agriculture products.

- B. Summarize the circumstances which require this action. If the action is required by federal regulations, attach a copy of the applicable regulation.

The Louisiana Department of Insurance (LDI) is tasked with administering the Insurance Code, which regulates the business of insurance in all of its phases. The proposed rule is being promulgated to establish the rules and regulations of the Louisiana Timber and Agriculture Transportation Group Self-Insurance Funds which was enacted with Acts 598 of the 2022 Regular Louisiana Legislative Session.

- C. Compliance with Act 11 of the 1986 First Extraordinary Session:

- (1) Will the proposed rule change result in any increase in expenditure of funds? If so, specify the amount and source of funding.

No increase in expenditure of funds is anticipated as a result of the proposed rule.

- (2) If the answer to (1) above is yes, has the Legislature specifically appropriated the funds necessary for the associated expenditure increase?

____ Yes. If yes, provide documentation.

____ No. If no, provide justification as to why this rule change should be published at this time.

FISCAL AND ECONOMIC IMPACT STATEMENT
WORKSHEET

I. A. COSTS OR SAVINGS TO STATE AGENCIES RESULTING FROM ACTION PROPOSED.

1. What is the anticipated increase (decrease) in costs to implement the proposed action?

LDI does not anticipate any implementation costs (savings) as a result of the proposed rule.

COSTS	FY 23	FY 24	FY 25
Personal Services	0	0	0
Operating Expenses	0	0	0
Professional Services	0	0	0
Other Charges	0	0	0
Equipment	0	0	0
Major Repairs & Constr.	0	0	0
TOTAL	0	0	0
POSITIONS (#)			

2. Provide a narrative explanation of the costs or savings shown in "A.1" above, including the increase or reduction in workload or additional paperwork (number of new forms, additional documentation, etc.) anticipated as a result of the implementation of the proposed action. Describe all data, assumptions, and methods used in calculating these costs.

The proposed rule will have no impact on state or local governmental expenditures.

3. Sources of funding for implementing the proposed rule or rule change.

SOURCE	FY 23	FY 24	FY 25
STATE GENERAL FUND	0	0	0
AGENCY SELF-GENERATED	0	0	0
DEDICATED	0	0	0
FEDERAL FUNDS	0	0	0
OTHER (SPECIFY)	0	0	0
TOTAL	0	0	0

4. Does your agency currently have sufficient funds to implement the proposed action? If not, how and when do you anticipate obtaining such funds?

No additional funding is necessary as a result of the proposed rule.

B. COSTS OR SAVINGS TO LOCAL GOVERNMENTAL UNITS RESULTING FROM THE ACTION PROPOSED.

1. Provide an estimate of the anticipated impact of the proposed action on local governmental units, including adjustments in workload and paperwork requirements. Describe all data, assumptions and methods used in calculating this impact.

There is no impact on local governmental units as a result of the proposed rule.

2. Indicate the sources of funding of local governmental unit(s) which will be affected by these cost or savings.

Not applicable.

FISCAL AND ECONOMIC IMPACT STATEMENT
WORKSHEET
(Continued)

II. EFFECT ON REVENUE COLLECTIONS OF STATE AND LOCAL GOVERNMENTAL UNITS

A. What increase (decrease) in revenues can be anticipated from the proposed action?

The proposed rule will have no impact on state or local governmental revenues.

REVENUE INCREASE/DECREASE	FY 23	FY 24	FY 25
STATE GENERAL FUND	0	0	0
AGENCY SELF-GENERATED	0	0	0
DEDICATED FUNDS*	0	0	0
FEDERAL FUNDS	0	0	0
LOCAL FUNDS	0	0	0
TOTAL	0	0	0

*Specify the particular fund being impacted.

B. Provide a narrative explanation of each increase or decrease in revenues shown in "A".
Describe all data, assumptions and methods used in calculating these increases or decreases.

The proposed rule will have no impact on state or local governmental revenues.

III. COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS, SMALL BUSINESSES, OR NON-GOVERNMENTAL GROUPS

A. What persons, small businesses, or non-governmental groups would be directly affected by the proposed action? For each, provide an estimate and a narrative description of any effect on costs, including workload adjustments and additional paperwork (number of new forms, additional documentation, etc.) they may have to incur as a result of the proposed action.

The proposed rule will create the Louisiana Timber and Agriculture Transportation Group Self-Insurance Funds for the purpose of providing auto insurance for vehicles which transport timber and agriculture products. The proposed rule may have indeterminable economic benefit to timber and agriculture companies that pool their liabilities to self-insure automobile coverage.

B. Also provide an estimate and a narrative description of any impact on receipts and/or income resulting from this rule or rule change to these groups.

The proposed rule is not anticipated to impact on receipts or income of directly affected persons, small businesses, or non-governmental groups.

IV. EFFECTS ON COMPETITION AND EMPLOYMENT

Identify and provide estimates of the impact of the proposed action on competition and employment in the public and private sectors. Include a summary of any data, assumptions and methods used in making these estimates.

The proposed rule does not effect competition and employment in the state.