

NOTICE OF INTENT

Department of Insurance Office of the Commissioner

Rule 4—Interlocal Risk Management Agency (LAC 37:XIII.Chapter 3)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, and through the authority granted under R.S. 22:11 et seq., the Department of Insurance hereby gives notice of its intent to amend Rule 4 for the purpose to comport with current law and implement the provisions of La. R.S. 33:2955.

Title 37

INSURANCE

Part XIII. Regulations

Chapter 3. Rule 4—Interlocal Risk Management Agency

§301. Purpose

A. The purpose of this amendment to Rule 4 is to provide for the expansion of the types of investments in which an Interlocal Risk Management Agency could invest to include selected investments permitted under La. R.S. 33:2955 and to adopt provisions and uniform guidelines for their interpretation as authorized specifically by Act 462 of the 1979 Session of the Legislature. This rule is designed to facilitate and implement the provisions of that Act. It is intended to supplement, not alter in any manner, the provisions of the Act.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, Title 22, Section 2 of 1950 and Act 462 of the 1979 Session of the Louisiana Legislature, R.S. 33:2955 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 16:621 (July 1990), LR

§303. Applicability

A. These provisions shall be applicable to any and all entities which may be defined an *interlocal risk management agency* by Act 462 of the 1979 Session of the Louisiana Legislature.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, Title 22, Section 2 of 1950 and Act 462 of the 1979 Session of the Louisiana Legislature, R.S. 33:2955 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 16:621 (July 1990), LR

§305. Authority

A. Rule 4 is promulgated by the commissioner pursuant to the authority granted under the Louisiana Insurance Code, R.S. 22:11, Title 22, Section 2 of 1950 and Act 462 of the 1979 Session of the Louisiana Legislature, R.S. 33:2955 and the Administrative Procedure Act, R.S. 49:950 et seq.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, Title 22, Section 2 of 1950 and Act 462 of the 1979 Session of the Louisiana Legislature, R.S. 33:2955 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 16:621 (July 1990), LR

§313. Solvency or Risk Management Agencies; Trustee Responsibilities

A. ...

1. ...

2. ...

3. ...

4. the board of trustees or its fiscal agent or administrator shall not utilize any of the monies collected as premiums for any purpose unrelated to workmen's compensation or public liability purposes. Further, it shall not borrow any monies from the fund, or in the name of the fund, without advising the Department of Insurance of the nature and purpose of the loan and obtaining approval. The board of trustees may, at its discretion, invest any surplus monies not needed for current obligations, but such investments shall be limited to:

(a) Direct United States Treasury obligations, the principal and interest of which are fully guaranteed by the government of the United States.

(b) Bonds, debentures, notes, or other evidence of the indebtedness issued or guaranteed by federal agencies and provided such obligations are backed by the full faith and credit of the United States of America, which obligations include but are not limited to:

- (i) U.S. Export-Import Bank
- (ii) Farmers Home Administration.
- (iii) Federal Financing Bank.
- (iv) Federal Housing Administration Debentures.
- (v) General Services Administration.
- (vi) Government National Mortgage Association – guaranteed mortgage-backed bonds and guaranteed pass-through obligations.
- (vii) U.S. Maritime Administration – guaranteed Title XI financing.
- (viii) U.S. Department of Housing and Urban Development.

(c) Bonds, debentures, notes, or other evidence of the indebtedness issued or guaranteed by U.S. government instrumentalities, which are federally sponsored, and such obligations include but are not limited to:

- (i) Federal Home Loan Bank System.
- (ii) Federal Home Loan Mortgage Corporation.
- (iii) Federal National Mortgage Association
- (iv) Student Loan Marketing Association
- (v) Resolution Funding Corporation

(d) In no instance shall a interlocal risk management agency invest in obligations in Items (b) and (c) of this Paragraph which are collateralized mortgage obligations that have been stripped into interest only or principal only obligations, inverse floaters, or structured notes. For the purposes of this Item “structured notes” shall mean securities of U.S. government agencies, instrumentalities, or government-sponsored enterprises which have been restructured, modified, and/or reissued by private entities.

(e) Bonds, debentures, notes, or other evidence of indebtedness issued by the state of Louisiana or any of its political subdivisions provided that the indebtedness shall have a long-term rating of Baa or higher by Moody’s Investors Service, a long-term rating of BBB- or higher by Standard & Poor’s or a long-term rating of BBB- or higher by Fitch, Inc. or a short-term rating of MIGI or VMIGI by Moody’s Investors Service, a short-term rating of A-1 or A-1+ by Standard & Poor’s, or a short-term rating of F1 or F1+ by Fitch, Inc.

(f) Direct security repurchase agreements of any federal book entry only securities enumerated in Subparagraphs (a), (b) and (c). “Direct security repurchase agreement” means an agreement under which political subdivision buys, holds for a specified time, and then sells back those securities and obligations enumerated in Subparagraphs (a), (b) and (c).

(g) Time certificates of deposit of any bank domiciled or having a branch office in the state of Louisiana, savings accounts or shares of savings and loan associations and savings band, as defined by R.S. 6:703(160 or (17), or share accounts and share certificate accounts of federally or state-chartered credit unions issuing time certificates of deposit. Funds invested herein shall not exceed at any time the amount insured by the Federal Deposit Insurance Corporation in any one banking institution, or in any one savings and loan association, or National Credit Union Administration.

(h) Deposits in savings and loan associations and commercial banks shall be limited in this state, except in those instances where higher interest rates paid on deposits by such institutions in other states will provide better investment income and such deposits shall not exceed the federally insured amount in any one account, except that the federally insured amount on any one account may be exceeded if the amount involved in such an account does not exceed the greater of either of the two factors;

(i) five percent of the combination of surplus and undivided profits and reserves, as currently reported for each bank in this state of in the banking division annual report of the Financial Institution Office of the Department of Commerce (banking control) or financial reports filed with the Office of the Comptroller of the Currency, the Federal Deposit Insurance Corporation, and the Federal Reserve Bank of Atlanta;

(ii) \$500,000 per institution.

(i) Mutual or trust fund institutions which are registered with the Securities and Exchange Commission under the Securities Act of 1933 and the Investment Act of 1940, and which have underlying investments consisting solely of and limited to securities of the United States government or its agencies. Investment of funds in such mutual or trust fund institutions shall be limited to twenty-five percent of the monies considered available for investment as provided by this Section.

(j) Guaranteed investment contracts issued by a bank, financial institution, insurance company, or other entity having one of the two highest short-term rating categories of either Standard & Poor's Corporation or Moody's Investors Service, provided that no such investment may be made except in connection with a financing program for political subdivisions which financing program is approved by the state Bond Commission and offered by a public trust having the state as its beneficiary, provided further that no such investment shall be for a term longer than eighteen months, and provided further that any such guaranteed investment contract shall contain a provision providing that in the event the issuer of the guaranteed investment contract is at any time no longer rated in either of the two highest short-term rating categories of Standard & Poor's Corporation or Moody's Investors Service, the investing unit of local government may either be released from the guaranteed investment contract without penalty, or be entitled to require that the guaranteed investment provider collateralize the guaranteed investment contract with any bonds or other obligations which as to principal and interest constitute direct general obligations of, or are unconditionally guaranteed by, the United States of America, including obligations set forth in Subparagraphs (a) and (b) to the extent unconditionally guaranteed by the United States of America.

(k) Investment grade commercial paper issued in the United States, traded in the United States markets, denominated in United States dollars, with a short-term rating of at least A-1 by Standard & Poor's Financial Services LLC or P-1 by Moody's Investor Service, Inc. or the equivalent rating by a Nationally Recognized Statistical Rating Organization (NRSRO).

(l) Pre-approved first mortgage loans on commercial real estate owned by the fund administrator, located with the state of Louisiana, and occupied by the Fund or its trustees, administrator, or third party administrator.

(m) Bonds, debentures, notes, or other indebtedness issued by a state of the United States of America other than Louisiana or any such state's political subdivisions provided that all of the following conditions are met:

(i) The indebtedness shall have a long-term rating of A3 or higher by Moody's Investors Service, a long-term rating of A- or higher by Standard & Poor's or a long-term rating of A- or higher by Fitch, Inc., or a short-term rating of MIG1 or VMIG1 by Moody's Investor's Service, a short-term rating of A-1 or A-1+ by Standard & Poor's, or a short-term rating of F1 or F1+ by Fitch, Inc.

(ii) Prior to purchase of any such indebtedness and at all times during which such indebtedness is owned, the purchasing interlocal risk management agency retains the services of an investment advisor registered with the United States Securities and Exchange Commission; a trust department of an institution that is insured by the Federal Deposit Insurance Corporation, that exercised trust powers in Louisiana, and that has a main office or a bank branch in Louisiana; or a trust company that has offices in Louisiana, that is regulated by the Office of Financial Institutions or the applicable federal agency, and that owes a fiduciary duty to act solely in the best interest of the political subdivision.

(n) Bonds, debentures, notes or other indebtedness issued by domestic United States corporations provided that all of the following conditions are met:

(i) The indebtedness shall have a long-term rating of Aa3 or higher by Moody's Investors Service, a long-term rating of AA- or higher by Standard & Poor's, or a long-term rating of AA- or higher by Fitch Ratings, Inc.

(ii) Prior to purchase of any such indebtedness and at all times during which such indebtedness is owned, the purchasing interlocal risk management agency retains the services of an investment advisor registered with the United States Securities and Exchange Commission; a trust department of an institution that is insured by the Federal Deposit Insurance Corporation, that exercised trust powers in Louisiana, and that has a main office or a bank branch in Louisiana; or a trust company that has offices in Louisiana, that is regulated by the Office of Financial Institutions or the applicable federal agency, and that owes a fiduciary duty to act solely in the best interest of the political subdivision.

(o) All interlocal risk management agencies shall develop and adopt an investment policy that details and clarifies investment objectives and the procedures and constraints necessary to reach those objectives. All such investment policies should:

(i) Reflect the mandate to manage funds prudently.

(ii) Place appropriate emphasis on the goals of safety of principal first, liquidity second, and yield third.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, Title 22, Section 2 of 1950 and Act 462 of the 1979 Session of the Louisiana Legislature, R.S. 33:2955 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 16:621 (July 1990), LR

Public Comments

All interested persons are invited to submit written comments on the proposed rule. Such comments must be received no later than Monday, May 11, 2020, by close of business or by 4:30 p.m. and should be addressed to Lisa Henson, Louisiana Department of Insurance, and may be mailed to P.O. Box 94214, Baton Rouge, LA 70804-9214, or emailed to lhenson@ldi.la.gov. If comments are to be shipped or hand-delivered, please deliver to Poydras Building, 1702 North Third Street, Baton Rouge, LA 70802.

James J. Donelon
Commissioner of Insurance

FAMILY IMPACT STATEMENT

Attachment to Rule 4

INTERLOCAL RISK MANAGEMENT AGENCY

I. Describe the effect of the proposed regulation on the stability of the family.

The proposed amended rule should have no measurable impact upon the stability of the family.

II. Describe the effect of the proposed regulation on the authority and rights of parents regarding the education and supervision of their children

The proposed amended rule should have no impact upon the rights and authority of parents regarding the education and supervision of their children.

III. Describe the effect of the proposed regulation on the functioning of the family.

The proposed amended rule should have no direct impact upon the functioning of the family.

IV. Describe the effect of the proposed regulation on family earnings and budget.

The proposed amended rule should have no direct impact upon family earnings and budget.

V. Describe the effect of the proposed regulation on the behavior and personal responsibility of children.

The proposed amended rule should have no impact upon the behavior and personal responsibility of children.

VI. 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 amended rule should have no impact upon the ability of the family or a local governmental unit to perform the function as contained in the rule.

POVERTY IMPACT STATEMENT

Attachment to Rule 4

INTERLOCAL RISK MANAGEMENT AGENCY

I. Describe the effect on household income, assets, and financial security.

The proposed amended rule should have no effect on household income assets and financial security.

II. Describe the effect on early childhood development and preschool through postsecondary education development.

The proposed amended rule should have no effect on early childhood development and preschool through postsecondary education development.

III. Describe the effect on employment and workforce development.

The proposed amended rule should have no effect on employment and workforce development.

IV. Describe the effect on taxes and tax credits.

The proposed amended rule should have no effect on taxes and tax credits.

V. Describe the effect on child and dependent care, housing, health care, nutrition, transportation and utilities assistance.

The proposed amended rule should have no effect on child and dependent care, housing, health care, nutrition, transportation and utilities assistance.

SMALL BUSINESS STATEMENT

Attachment to Rule 4

INTERLOCAL RISK MANAGEMENT AGENCY

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.

I. Identification and estimate of the number of the small businesses subject to the proposed rule.

The proposed amended rule should have no measurable impact upon small businesses.

II. 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 amended rule should have no measurable impact upon small businesses.

III. A statement of the probable effect on impacted small businesses.

The proposed amended rule should have no measurable impact upon small businesses.

IV. Describe any less intrusive or less costly alternative methods of achieving the purpose of the proposed rule.

The proposed amended rule should have no measurable impact on small businesses; therefore, will have no less intrusive or less cost alternative methods.

PROVIDER IMPACT STATEMENT

Attachment to Rule 4

INTERLOCAL RISK MANAGEMENT AGENCY

I. Describe the effect on the staffing level requirements or qualifications required to provide the same level of service.

The proposed amended rule will have no effect.

II. The total direct and indirect effect on the cost to the provider to provide the same level of service.

The proposed amended rule will have no effect.

III. The overall effect on the ability of the provider to provide the same level of service.

The proposed amended rule will have no effect.

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

Person

Preparing

Statement: Anita Robert Dept.: Louisiana Department of Insurance

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

Return Rule

Address: P. O. Box 94214 Title: Interlocal Risk Management Agency

Baton Rouge, LA Date Rule

70804-9214 Takes Effect: Upon Publication

SUMMARY

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 changes will not result in additional costs or savings for state or local governmental units. The proposed rule changes include the expansion of the types of investments in which an Interlocal Risk Management Agency could invest to include selected investments permitted under La. R.S. 33:2955 and adopts provisions and uniform guidelines for their interpretation as authorized specifically by Act 462 of 1979. The proposed rule change also repeals sections of the administrative rules associated with administration of Interlocal Risk Management Self-Insurance Funds and service agents for Interlocal Risk Management Agencies that are outdated and no longer applicable to the LA Dept. of Insurance's operations.

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

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

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

The proposed rule changes will have no costs to directly affected persons or non-governmental groups. The proposed rule change benefits Interlocal Risk Management Agencies, as it provides for the expansion of the types of investments in which they may invest to include selected investments permitted under La. R.S. 33:2955 and adopts provisions and uniform guidelines for their interpretation as authorized specially by Act 462 of 1979.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule changes will not affect competition or employment

Denise Brignac, Chief of Staff
Louisiana Department of Insurance

Legislative Fiscal Officer or Designee

Date of Signature

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 appropriate legislative oversight subcommittee in its deliberation 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 both the current and proposed rules with amended portions indicated).

The proposed rule provides for the expansion of the types of investments in which an Interlocal Risk Management Agency could invest to include selected investments permitted under La. R.S. 33:2955 and adopts provisions and uniform guidelines for their interpretation as authorized specifically by Act 462 of the 1979 Louisiana Legislative Session.

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

The Department of Insurance is tasked with administering the Insurance Code, which regulates the business of Insurance in all of its phases. The proposed amendment to Rule 4 provides for the expansion of the types of investments in which an Interlocal Risk Management Agency could invest to include selected investments permitted under La. R.S. 33:2955 and adopts provisions and uniform guidelines for their interpretation as authorized specifically by Act 462 of the 1979 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 the expenditure of funds? If so, specify amount and source of funding.

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

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

(a) _____ Yes. If yes, attach documentation.

(b) _____ 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 THE 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 20	FY 21	FY 22
Personal Services			
Operating Expenses			
Professional Services			
Other Charges			
Equipment			
Major Repairs & Constr.			
TOTAL			
POSITIONS (#)			

2. Provide a narrative explanation of the costs or savings shown in "A. 1.", 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.

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

SOURCE	FY 20	FY 21	FY 22
State General Fund			
Agency Self-Generated			
Dedicated			
Federal Funds			
Other (Specify)			
TOTAL			

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 to implement the proposed regulation.

B. COST 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.

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

2. Indicate the sources of funding of the local governmental unit, which will be affected by these costs or savings.

No source of funding is necessary; there is no impact on local government units as a result of the proposed rule.

**FISCAL AND ECONOMIC IMPACT STATEMENT
WORKSHEET**

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 not affect revenue collections for state or local governmental units.

REVENUE INCREASE/DECREASE	FY 20	FY 21	FY 22
State General Fund			
Agency Self-Generated			
Dedicated Funds*			
Federal Funds			
Local Funds			
TOTAL			

*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.

III. COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS, SMALL BUSINESSES, OR NONGOVERNMENTAL 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 changes will have no costs to directly affected persons or non-governmental groups. The proposed rule change benefits Interlocal Risk Management Agencies, as it provides for the expansion of the types of investments in which they may invest to include selected investments permitted under La. R.S. 33:2955 and adopts provisions and uniform guidelines for their interpretation as authorized specially by Act 462 of 1979.

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.

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 rules will not affect competition or employment