

By: Oliverson, Lalani, Cunningham, Manuel,
et al.

H.B. No. 3320

A BILL TO BE ENTITLED

AN ACT

relating to a property and casualty self-insurance pool for certain religious institutions; authorizing fees; providing administrative penalties.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subtitle G, Title 10, Insurance Code, is amended by adding Chapter 2214 to read as follows:

CHAPTER 2214. RELIGIOUS INSTITUTIONS SELF-INSURANCE POOL

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 2214.001. DEFINITIONS. In this chapter:

(1) "Board" means the board of trustees of the pool.

(2) "Church" means a nonprofit religious organization consisting of a group of religious believers.

(3) "Fund" means a trust fund established under Section 2214.052.

(4) "Member" means a church, nonprofit religious organization, or religious denomination entitled to pool coverage and obligated for pool liabilities under a pool coverage agreement.

(5) "Nonprofit religious organization" means an active corporation or other entity organized under Section 501(c)(3), Internal Revenue Code of 1986, as a nonprofit organization defined as any one of the following:

(A) a church or religious house of worship;

(B) an organization formed for religious

1 purposes;

2 (C) a nonprofit institution affiliated with a
3 faith-based organization; or

4 (D) an integrated auxiliary organization of a
5 church.

6 (6) "Organizing party" means a church, nonprofit
7 religious organization, or religious denomination that has entered
8 into a pool creation agreement.

9 (7) "Person" means an individual, corporation, trust,
10 partnership, association, or any other legal entity.

11 (8) "Pool" means the Religious Institutions
12 Self-Insurance Pool authorized under this chapter.

13 (9) "Pool coverage" means the self-insured coverage
14 provided by the pool in accordance with this chapter.

15 (10) "Pool coverage agreement" means an indemnity
16 agreement under which a church, nonprofit religious organization,
17 or religious denomination is entitled to pool coverage in exchange
18 for the payment of premiums to the pool and is obligated for pool
19 liabilities.

20 (11) "Pool creation agreement" means an agreement
21 entered into under Section 2214.051.

22 (12) "Religious denomination" means a group of
23 individual churches or houses of worship that are identified using
24 the same terms and have a particular set of beliefs or spiritual or
25 religious values.

26 Sec. 2214.002. POOL NOT INSURANCE; APPLICABILITY OF
27 INSURANCE LAWS. The pool is not an insurer and pool coverage is not

1 insurance for purposes of this code. Except as provided by this
2 chapter, the pool is not subject to a provision of this code other
3 than this chapter.

4 Sec. 2214.003. PARTNERSHIP NOT CREATED. Notwithstanding
5 any other law, the pool is not a partnership under the laws of this
6 state.

7 Sec. 2214.004. POOL NOT COVERED BY GUARANTY ASSOCIATION.
8 The pool is not a member insurer of the Texas Property and Casualty
9 Insurance Guaranty Association.

10 Sec. 2214.005. RULES. The commissioner may adopt rules
11 necessary to implement this chapter.

12 SUBCHAPTER B. CREATION OF POOL

13 Sec. 2214.051. POOL CREATION AGREEMENT. (a) The pool may
14 be created by two or more churches or nonprofit religious
15 organizations or one or more religious denominations that enter
16 into an agreement described by Subsection (b).

17 (b) An agreement under Subsection (a) must be in the form of
18 an indemnity agreement signed by each organizing party
19 acknowledging and agreeing to the assumption of the obligations of
20 the pool under this chapter.

21 (c) Each organizing party that enters into the agreement
22 must have a positive net worth, be financially solvent, and be
23 capable of assuming the obligations of the pool.

24 Sec. 2214.052. TRUST FUND. The organizing parties shall
25 establish a trust fund to serve as the group self-insurance account
26 for the members.

27 Sec. 2214.053. SELECTION OF TEMPORARY BOARD. At the time

the organizing parties enter into the pool creation agreement, the organizing parties shall select nine individuals to:

(1) serve as the temporary board; and

(2) draft a plan of operation for the pool.

Sec. 2214.054. POWERS OF TEMPORARY BOARD. The temporary board may:

(1) solicit applications from prospective members to participate in the pool on the date the pool begins providing pool coverage;

(2) accept payment of premiums for the prospective pool coverage; and

(3) take any other action necessary to complete and submit an application for a certificate of authority under Subchapter C.

Sec. 2214.055. DOMICILE. The pool must be domiciled in this state.

SUBCHAPTER C. CERTIFICATE OF AUTHORITY

Sec. 2214.101. CERTIFICATE OF AUTHORITY. (a) The pool may not provide pool coverage before the department issues a certificate of authority to the pool.

(b) A certificate of authority issued under this subchapter is continuous until:

(1) revoked or suspended by the commissioner; or

(2) the board voluntarily surrenders the certificate in connection with the pool's dissolution under Section 2214.451.

(c) The temporary board appointed by the organizing parties under Section 2214.053 shall submit to the department a written

application, in the form and manner prescribed by the commissioner,
for a certificate of authority.

Sec. 2214.102. APPLICATION CONTENTS. (a) An application
for a certificate of authority under this chapter must include:

(1) the pool creation agreement;
(2) the plan of operation; and
(3) evidence of the financial strength and liquidity
of the organizing parties to pay claims promptly and support the
pool's financial ability to satisfy the pool's obligations.

(b) The evidence described by Subsection (a)(3) must be in
the form of:

(1) either:
(A) financial statements, dated not later than
one year before the date the temporary board submits the
application and audited by an independent certified public
accountant, showing a combined net worth of the organizing parties
of at least \$1 million; or

(B) financial documents, in the form and manner
prescribed by the commissioner, sufficient to verify the combined
net worth of the organizing parties is at least \$1 million;

(2) current financial documents of each prospective
member that has applied to participate in the pool dated not later
than one year before the date the board submits the application;

(3) schedules of all prospective members showing:
(A) the ratio of current assets to current
liabilities of all prospective members combined to be greater than
one-to-one;

1 (B) the working capital of all prospective
2 members combined to be an amount establishing the financial
3 strength and liquidity of the pool to pay claims promptly; and

4 (C) the net worth of all prospective members
5 combined to be at least \$1 million; and

6 (4) other financial information and documents as
7 required by the commissioner.

8 (c) The following items must be included with the
9 application:

10 (1) security as required by Section 2214.351(d);

11 (2) copies of excess insurance or reinsurance that
12 meets the requirements of Section 2214.355 and the commissioner;

13 (3) a bond covering each third-party administrator as
14 required by Section 2214.152;

15 (4) a certification from a designated depository
16 attesting to the amount of money on hand in the trust fund
17 established under Section 2214.052;

18 (5) copies of pool bylaws and any trust agreement or
19 other governance documents;

20 (6) an individual application, in the form and manner
21 prescribed by the commissioner, of each prospective member applying
22 to participate in the pool that includes a copy of the prospective
23 member's executed indemnity agreement;

24 (7) evidence of financial strength and liquidity of
25 the prospective members on the date the application is submitted to
26 satisfy the financial strength and liquidity requirements of this
27 chapter;

1 (8) proof that the pool will have the minimum annual
2 earned premium required by Section 2214.351 when the pool begins
3 operation;

4 (9) the current annual report or financial statement
5 of any casualty insurance company providing excess or reinsurance
6 coverage for the pool, if the statement is not already on file with
7 the department;

8 (10) the name, address, and telephone number of each
9 attorney representing the pool, each qualified actuary for the
10 pool, and each certified public accountant who will be auditing the
11 annual financial statements of the pool, as well as evidence of the
12 appointment of each by the board;

13 (11) the domicile address in this state where the
14 pool's books and records are maintained and the state from which the
15 pool's fund will be administered;

16 (12) proof of advance payment into the fund by each
17 prospective member of not less than 25 percent of the prospective
18 member's first year estimated annually earned premiums;

19 (13) a feasibility study or other analysis prepared by
20 a qualified actuary using actual loss history of the prospective
21 members;

22 (14) pro forma financial statements projecting the
23 first three years of operations of the pool based on a feasibility
24 study or other analysis prepared by a qualified actuary that
25 include a pro forma balance sheet, income statement, and statement
26 of cash flow, each of which are prepared in accordance with
27 generally accepted accounting principles; and

1 (15) a copy of the pool's premium billing policy
2 indicating whether the premium payments to the pool are to be paid
3 by members annually, monthly, quarterly, or any combination of
4 those periods.

5 (d) The application must be sworn to and subscribed before a
6 notary public.

7 Sec. 2214.103. APPLICATION APPROVAL. (a) The commissioner
8 shall approve an application for a certificate of authority if the
9 application and the proposed pool satisfy the requirements of this
10 subchapter and rules adopted under this chapter.

11 (b) The commissioner may deny without review an application
12 for a certificate of authority under this chapter that does not meet
13 the requirements of this subchapter.

14 Sec. 2214.104. FEES. (a) The commissioner may impose a fee
15 for an application for a certificate of authority under this
16 chapter in an amount necessary to cover the department's expenses
17 in reviewing the application.

18 (b) The commissioner may impose other fees in amounts
19 reasonable and necessary to defray the costs of administering this
20 chapter.

21 SUBCHAPTER D. OPERATION OF POOL

22 Sec. 2214.151. GOVERNANCE OF POOL; BOARD OF TRUSTEES. (a)
23 The pool is governed by a board of trustees composed of nine members
24 selected as provided by the plan of operation.

25 (b) Not later than the 15th day after the date the
26 commissioner approves the temporary board's application for a
27 certificate of authority, the initial regular board must be

1 selected as provided by the plan of operation. The members of the
2 initial regular board shall take office not later than the 30th day
3 after the date the application for the certificate of authority is
4 approved.

5 Sec. 2214.152. POOL ADMINISTRATION. (a) The board may
6 administer the pool by employing an administrator or contracting
7 with a third-party administrator.

8 (b) If the board employs an administrator to administer the
9 pool, the pool must purchase a bond, errors and omissions
10 insurance, directors' and officers' liability insurance, or another
11 security approved by the commissioner for the administration of the
12 pool.

13 (c) A third-party administrator contracted by the board and
14 whose acts are not covered by the pool's bond, errors and omissions
15 insurance, directors' and officers' liability insurance, or other
16 security approved by the commissioner and any person contracting
17 either directly or indirectly with the pool to provide claims
18 adjusting, underwriting, safety engineering, loss control,
19 marketing, investment advisory, or administrative services to the
20 pool or the members, other than bookkeeping, auditing, or claims
21 investigation services, shall:

22 (1) submit to the department:

23 (A) a safekeeping receipt or trust receipt from a
24 bank or savings and loan association doing business in this state
25 indicating the deposit and pledge to secure the performance of the
26 administrator's or person's obligations under the contract and this
27 chapter of:

1 (i) \$50,000; or
2 (ii) bonds of the United States, this
3 state, or any political subdivision of this state having a par value
4 of \$50,000; or

5 (B) a surety bond issued by a corporate surety
6 authorized to engage in business in this state of not less than
7 \$50,000; and

8 (2) place all contractual terms, including fee
9 arrangements, in a written agreement that constitutes the entire
10 agreement between the parties and is signed by the administrator or
11 person and the pool.

12 SUBCHAPTER E. POOL COVERAGE

13 Sec. 2214.201. COVERAGE AUTHORIZED. (a) The pool's
14 certificate of authority authorizes the pool to provide coverage to
15 churches, nonprofit religious organizations, and religious
16 denominations on a self-insured basis for damage to or loss of a
17 structure or building.

18 (b) In addition to coverage authorized by Subsection (a),
19 pool coverage may include:

- 20 (1) premises liability coverage;
21 (2) contents coverage for furniture or equipment;
22 (3) wind and hail coverage;
23 (3) loss of use coverage; or
24 (4) medical payments coverage.

25 (c) Pool coverage is provided in the form of an indemnity
26 agreement entered into by the member under which the member is
27 entitled to pool coverage in exchange for the payment of premiums to

1 the pool and is obligated for pool liabilities as provided by
2 Section 2214.202.

3 Sec. 2214.202. MEMBER LIABILITY. To the extent required by
4 this chapter, each member is jointly and severally liable for
5 liabilities incurred by the pool for each fiscal year in which the
6 member is entitled to pool coverage.

7 Sec. 2214.203. RATES; APPEAL. (a) The board shall set
8 rates for pool coverage. The rates must be actuarially justified.

9 (b) The board shall file proposed rates with the department
10 and may use the rates beginning on the 90th day after the date of the
11 filing, unless the commissioner disapproves the use of the rates
12 within the 90-day period.

13 (c) The board shall prescribe a reasonable procedure for any
14 member aggrieved by the rates to request in writing a review of the
15 rating system for pool coverage. The board shall grant or deny the
16 request in writing not later than the 30th day after the date the
17 board receives the request.

18 (d) If the board rejects a request for review under
19 Subsection (c) or fails to grant or reject the request within the
20 30-day period described by that subsection, the party requesting
21 the review may appeal to the commissioner for a hearing not later
22 than the 30th day after the expiration of the 30-day period. After
23 the hearing, the commissioner may affirm, modify, or reverse an
24 action taken by the board with respect to rates.

25 Sec. 2214.204. RATE REVIEW. On the request of the
26 commissioner, the pool shall obtain a rate review conducted by a
27 national independent actuarial firm, provided that the

1 commissioner may not make more than two requests in any calendar
2 year for a rate review under this section. The firm shall report
3 its findings to the commissioner.

4 Sec. 2214.205. UNDERWRITING GUIDELINES; MEMBERSHIP
5 APPLICATION. (a) The board in the plan of operation shall
6 prescribe:

7 (1) underwriting guidelines and procedures for
8 evaluating risks; and

9 (2) procedures for eligible persons to apply to become
10 members.

11 (b) The board shall provide written notice to an applicant
12 for pool membership that the pool is not a member insurer covered by
13 the Texas Property and Casualty Insurance Guaranty Association.

14 SUBCHAPTER F. SOLICITATION OF POOL MEMBERSHIP

15 Sec. 2214.251. USE OF INSURANCE AGENT REQUIRED. Any person
16 soliciting applications for pool membership must hold a general
17 property and casualty agent license under Chapter 4051. A pool
18 employee or employee of a religious denomination or association of
19 nonprofit religious organizations is not required to hold an
20 agent's license if the solicitation of applications for pool
21 membership is not the employee's primary duty.

22 Sec. 2214.252. LIABILITY OF AGENT. An insurance agent or
23 other person involved in the soliciting or processing of
24 applications for pool membership is not liable for claims arising
25 out of the insolvency of the pool or the inability of the pool to pay
26 claims as they become due unless the claimant first exhausts all
27 remedies available to the claimant against the members as provided

1 by this chapter.

2 Sec. 2214.253. USE OF APPLICATION INFORMATION. (a) Except
3 as otherwise provided by this section, for purposes of soliciting,
4 selling, or negotiating the renewal or sale of group self-insurance
5 coverage, insurance products, or insurance services, an insurance
6 agent has the exclusive use of expirations, records, or other
7 written or electronic information directly related to an
8 application for pool coverage submitted to the agent or to a pool
9 coverage agreement arranged through the agent.

10 (b) The pool may not use expirations, records, or other
11 written or electronic information related to applications for pool
12 coverage to solicit, sell, or negotiate the renewal or sale of
13 insurance coverage, insurance products, or insurance services to
14 members, either directly or by providing the information to others,
15 without the express written consent of an insurance agent.

16 (c) The pool may use the expirations, records, or other
17 written or electronic information related to an application for
18 pool coverage to review the application, to issue a pool coverage
19 agreement, or for any other purpose necessary for arranging pool
20 coverage through an insurance agent. The pool may also use the
21 agent's expirations, records, or other written or electronic
22 information for any other purpose that does not involve the
23 soliciting, selling, or negotiating the renewal or sale of group
24 self-insurance coverage, insurance products, or insurance
25 services.

26 Sec. 2214.254. AGENT LOST COMMISSION CLAIMS. (a) An
27 insurance agent's claim for lost commissions shall be resolved in

1 accordance with dispute resolution terms in the applicable agent
2 contract. In the absence of any dispute resolution terms, the
3 parties shall attempt to resolve the dispute through mediation.

4 (b) If the claim is not resolved through mediation, the
5 parties may agree to submit the claim to binding arbitration. In
6 the absence of an agreement to resolve the claim through binding
7 arbitration, an insurance agent may bring an action against the
8 pool for the claim.

9 Sec. 2214.255. OTHER AGREEMENTS AUTHORIZED. The board or
10 pool administrator and an insurance agent may, in a written
11 agreement separate from the agency contract, mutually agree to
12 terms different from the provisions provided by this subchapter.

13 Sec. 2214.256. EXEMPTIONS FROM SUBCHAPTER. This subchapter
14 does not apply to:

15 (1) a pool coverage agreement provided by the pool on
16 request, individually or through a pool administrator;

17 (2) an insurance agent contract for the insurance
18 agent's exclusive representation of one pool member or prospective
19 pool member or a group of affiliated members or prospective
20 members, in which case the rights of the agent are determined by the
21 terms of the contract;

22 (3) a default by an insurance agent for nonpayment of
23 premiums under the insurance agent's contract with the pool; or

24 (4) a terminated insurance agent contract if the pool
25 is required by law to continue coverage for the member, in which
26 case the pool shall continue to pay the insurance agent commission
27 on the pool coverage agreements issued under that contract that the

pool is required to renew during the 36-month period following the effective date of the termination, provided that the commission is paid at the pool's prevailing commission rates in effect on the date of renewal for that class or line of coverage in effect on the date of renewal for agents whose contracts are not terminated.

SUBCHAPTER G. RECORDS

Sec. 2214.301. DEFINITIONS. In this subchapter:

(1) "Copy" includes a photograph or reproduction.

(2) "Record" means a book, record, document, account, or voucher.

Sec. 2214.302. MAINTENANCE AND AVAILABILITY OF POOL RECORDS. (a) The pool shall maintain and make available to the department all pool records to allow the commissioner to determine that the pool's financial condition, affairs, and operations are in compliance with this chapter.

(b) Except as provided by Subsection (c), the pool shall maintain in this state the original or a copy of a record for the purpose of commissioner examination until the earlier of:

(1) the date the commissioner approves disposal of the record; or

(2) the later of:

(A) the first day of the examination period following the examination period in which the record is examined by the commissioner; or

(B) the fifth anniversary of the creation of the record.

(c) The pool shall permanently maintain an original or

certified copy of a record in which a member agrees to or acknowledges the members' joint and several liability for liabilities incurred by the pool.

Sec. 2214.303. CONFIDENTIALITY OF RECORDS. Except as otherwise provided by this chapter, the pool's records and any records of the department associated with the pool are confidential and not subject to disclosure under Chapter 552, Government Code.

SUBCHAPTER H. FINANCIAL PROVISIONS

Sec. 2214.351. INITIAL FINANCIAL REQUIREMENTS. (a) To maintain the pool's financial stability, the commissioner shall, at times determined necessary by the commissioner, require two or more members to maintain:

(1) a minimum combined net worth of \$1 million; and
(2) a current assets to current liabilities ratio of at least one-to-one.

(b) After the pool has been operating for three years and has a total surplus of \$3 million, the commissioner may waive any requirements imposed under Subsection (a).

(c) The pool must maintain at least \$750,000 in earned premiums in the pool's first year of operation as documented in the pool's audited financial statement prepared in accordance with generally accepted accounting principles.

(d) During the pool's first year of operation, the board shall submit to the department:

(1) a safekeeping receipt or trust receipt from a bank or savings and loan association doing business in this state indicating that the board has deposited and pledged:

1 (A) \$100,000; or

2 (B) bonds of the United States, this state, or a
3 political subdivision of this state having a par value of \$100,000;
4 or

5 (2) a surety bond issued by a corporate surety
6 authorized to engage in business in this state in an amount of
7 \$100,000 to secure the pool's obligations.

8 Sec. 2214.352. EARNED PREMIUM REQUIREMENTS. Each year
9 after the pool's first year of operation, the pool shall maintain at
10 least \$2 million in earned premiums as documented on the pool's
11 audited financial statement prepared in accordance with generally
12 accepted accounting principles.

13 Sec. 2214.353. SECURITY. Each year after the pool's first
14 year of operation, the pool's board shall submit to the department:

15 (1) a safekeeping receipt or trust receipt from a bank
16 or savings and loan association doing business in this state
17 indicating that the board has deposited and pledged:

18 (A) \$250,000; or

19 (B) bonds of the United States, this state, or
20 any political subdivision of this state having a par value of
21 \$250,000; or

22 (2) a surety bond issued by a corporate surety
23 authorized to engage in business in this state, in the amount of
24 \$250,000 to secure the pool's obligations.

25 Sec. 2214.354. RESERVE ACCOUNT. (a) To maintain the
26 financial stability of the pool, the board shall annually assess
27 each member a reserve payment in an amount that is a percentage of

1 the premium owed by the member for that year.

2 (b) Before assessing a reserve payment under Subsection
3 (a), the board must obtain approval from the commissioner of the
4 percentage amount to be paid by all members.

5 (c) The board shall deposit all reserve payments into a
6 separate reserve account and shall maintain the account at all
7 times while the pool is in operation. The board may not withdraw
8 money from the reserve account without commissioner approval.

9 Sec. 2214.355. EXCESS INSURANCE AND REINSURANCE. (a) The
10 pool shall maintain, on a fiscal year basis, a contract of specific
11 excess insurance or reinsurance of not less than an amount that is
12 actuarially sound and approved by the commissioner. The maximum
13 retention under the contract may not exceed amounts provided by the
14 commissioner. The commissioner must approve an excess insurance or
15 reinsurance contract before use by the pool.

16 (b) Solely for purposes of authorizing the purchase of
17 reinsurance under this section, the pool is considered an insurer.

18 (c) The board may purchase excess insurance or reinsurance
19 from a domestic or foreign company, subject to Chapter 493 and
20 Financial Accounting Standards Board Statement No. 113, Accounting
21 and Reporting for Reinsurance of Short-Duration and Long-Duration
22 Contracts.

23 (d) To be eligible to write excess coverage for the pool, a
24 casualty insurer must have on file with the department the
25 insurer's current financial statement showing assets, including
26 any surplus to policyholders, at least equal to the current
27 commissioner requirements for admission of a new company to engage

1 in business in this state. The board may enter into a contract for
2 excess insurance coverage with an active underwriter of Lloyd's of
3 London with prior commissioner approval.

4 (e) In addition to the requirements described by Subsection
5 (c) or (d), as applicable, the board must purchase excess insurance
6 or reinsurance only from a company having an eligible rating of at
7 least:

8 (1) "A-" by A.M. Best Company, Inc.;

9 (2) "A-" by Fitch Ratings Ltd.;

10 (3) "A" by Weiss Ratings;

11 (4) "A-" by Standard & Poor's Financial Services LLC;

12 or

13 (5) "A3" by Moody's Investors Service, Inc.

14 Sec. 2214.356. FINANCIAL STATEMENTS AND REPORTS. The board
15 shall file with the department financial statements and financial
16 reports, including financial statements audited by an independent
17 certified public accountant and actuarial reports, as may be
18 required by the commissioner under rules adopted under this
19 chapter.

20 Sec. 2214.357. MEMBER REFUNDS. The board may declare as
21 refundable to members any money exceeding the amount necessary to
22 fulfill the pool's obligations. The board may distribute the
23 refund at board's discretion, in accordance with the plan of
24 operation, provided that:

25 (1) the amount of the refund does not exceed the
26 members' distributions payable and is recorded on the pool's
27 balance sheet as indicated by the most recently completed audited

1 financial statements of the pool; and

2 (2) the board provides written notice of the refund to
3 the department not later than the 10th day before the date the board
4 provides the refund.

5 Sec. 2214.358. INVESTMENTS. (a) The board may invest pool
6 money only in a security or other investment authorized by this
7 section that is interest-bearing, interest-accruing,
8 dividend-paying, or income-paying and that is not in default. A
9 pool investment is exclusively for the benefit of the pool and the
10 board shall deposit the investment's interest or income in the
11 fund.

12 (b) The board may invest pool money not needed for current
13 obligations in:

14 (1) a deposit in a federally insured bank or savings
15 and loan association that is:

16 (A) insured by the Federal Deposit Insurance
17 Corporation; or

18 (B) collateralized by direct obligations of the
19 United States;

20 (2) bonds or securities not in default as to principal
21 or interest that are obligations of the United States;

22 (3) pass-through mortgage-backed securities and
23 collateralized mortgage obligations issued by the Federal National
24 Mortgage Association, the Government National Mortgage
25 Association, the Federal Home Loan Mortgage Corporation, or the
26 Federal Housing Administration, provided that the collateralized
27 mortgage obligations have a minimum financial strength of "A" by

1 Moody's Investors Service, Inc., Standard & Poor's Financial
2 Services LLC, or Fitch Ratings Ltd.;

3 (4) obligations of this state or a political
4 subdivision of this state having a minimum financial strength of
5 "A" by Moody's Investors Service, Inc., Standard & Poor's Financial
6 Services LLC, or Fitch Ratings Ltd., provided that not more than 5
7 percent of the pool's assets are invested in any particular issue
8 and the type of investment does not exceed 15 percent of the pool's
9 assets in the aggregate;

10 (5) obligations of any state or a political
11 subdivision of that state having a minimum financial strength of
12 "A" by Moody's Investors Service, Inc., Standard & Poor's Financial
13 Services LLC, or Fitch Ratings Ltd., provided that not more than 5
14 percent of the pool's assets are invested in any particular issue
15 and the type of investment does not exceed 15 percent of the pool's
16 assets in the aggregate;

17 (6) commercial mortgage-backed securities with
18 purchases having a minimum final strength of "Aaa" by Moody's
19 Investors Service, Inc., "AAA" By Standard & Poor's Financial
20 Services LLC, or "AAA" by Fitch Ratings Ltd., provided that not more
21 than 2 percent of the pool's assets are invested in one issue and
22 this type of investment does not exceed 10 percent of the pool's
23 assets in the aggregate;

24 (7) asset-backed securities with purchases having a
25 minimum financial strength of "Aa" by Moody's Investors Service,
26 Inc., "AA" by Standard & Poor's Financial Services LLC, or "AA" by
27 Fitch Ratings Ltd., provided that no more than 5 percent of the

pool's assets are invested in one issue and this type of investment does not exceed 10 percent of the pool's assets in the aggregate;

(8) repurchase agreements when the collateral for the agreement is a direct obligation of the United States, provided that the repurchase agreement:

(A) is in writing;

(B) has a specific maturity date;

(C) adequately identifies each security to which the agreement applies; and

(D) states that in the event of default by the party agreeing to repurchase the securities described in the agreement at the term contained in the agreement, title to the described securities passes immediately to the pool without recourse;

(9) corporate bonds having a minimum financial strength of "Baa" by Moody's Investors Service, Inc., "BBB" by Standard & Poor's Financial Services LLC, or "BBB" by Fitch Ratings Ltd., provided that:

(A) except as provided by Subsection (c), corporate bonds of any particular issue or issuer constitute not more than 5 percent of the pool's assets; and

(B) except as provided by Subsection (c), not more than 50 percent of the pool's assets are invested in corporate bonds of all types;

(10) mutual or trust fund institutions registered with the Securities and Exchange Commission that have underlying investments consisting solely of securities approved for

investment as provided by this section, provided that this investment does not exceed 50 percent of the pool's assets in the aggregate;

(11) individual equities, provided that:

(A) individual equities and any mutual funds or exchange-traded funds do not exceed 15 percent of the pool's assets;

(B) the pool holds a minimum of 5 different issues in the equity sector to provide for diversification;

(C) no single issue constitutes more than 5 percent, at cost, of the pool's overall investment fund;

(D) market capitalization for each issue is of at least \$1 billion;

(E) each eligible issue pays a cash dividend; and

(F) the equity holdings are restricted to:

(i) high-quality, readily marketable securities corporations that are domiciled in the United States and that are actively traded on the major United States exchanges, including the New York Stock Exchange and the National Association of Securities Dealers Automated Quotation System; or

(ii) equities of foreign-domiciled corporations that trade American depositary receipts on the major United States exchanges; and

(12) a mutual fund or exchange-traded fund, provided that:

(A) the mutual fund or exchanged-traded fund pays a dividend and consists of securities that have an average market

1 capitalization of at least \$1 billion;

2 (B) the same general quality requirements
3 described by Subdivision (11) are met; and

4 (C) the aggregate total of the investment, plus
5 any individual securities, does not exceed 15 percent of the pool's
6 assets.

7 (c) The board may invest in corporate bonds in excess of the
8 5 percent and 50 percent limitations specified under Subsections
9 (b)(9)(A) and (B) up to an additional 10 percent of the pool's
10 assets if the financial circumstances are acceptable to the
11 commissioner, such as an increase in market value after initial
12 purchase of a corporate bond, provided that:

13 (1) the initial purchase of corporate bonds was within
14 the limitations specified under Subsections (b)(9)(A) and (B); and

15 (2) in determining the financial condition of the
16 pool, the commissioner does not include as assets of the pool those
17 corporate bonds that exceed 50 percent of the pool's total assets.

18 (d) Except as provided by Subsection (e), the board may not
19 invest in rental assets, including:

20 (1) any item that is not actually owned by the pool;

21 (2) any item of which the ownership is subject to
22 resolution, rescission, or revocation on the pool's insolvency,
23 receivership, bankruptcy, statutory supervision, rehabilitation,
24 or liquidation or on the occurrence of any other contingency;

25 (3) any item for which the pool pays a regular or
26 periodic fee for the right to carry the item as an asset, whether
27 the fee is characterized as a rental fee, a management fee, or a

dividend not previously approved by the commissioner, or makes another periodic payment for that right;

(4) any asset purchased for investment by the pool on credit in which the interest rate paid by the pool on its credit instrument is greater than the interest rate or yield generated by the purchased asset;

(5) any asset on the pool's balance sheet subject to a mortgage, lien, privilege, preference, pledge, charge, or other encumbrance that is not accurately reflected in the liability section of the pool's balance sheet; and

(6) any asset received by the pool as a contribution to capital or surplus from any person that meets any of the criteria described by Subdivisions (1) through (5) while in the hands of that contributing person or on or after the moment of the contribution to capital.

(e) Subsection (d)(3) does not apply to leases capitalized under generally accepted accounting principles.

Sec. 2214.359. CONSECUTIVE NET LOSSES. (a) This section applies if the pool has:

(1) three years of consecutive net losses on the pool's audited financial statements; or

(2) two years of consecutive net losses on the pool's audited financial statements of more than the greater of:

(A) \$500,000; or

(B) five percent of the premium of the latest audited financial statement.

(b) If a condition described by Subsection (a) exists, an

authorized representative of the board shall:

(1) attend a meeting with the department, the pool administrator, and any third-party administrator to discuss the financial condition of the pool and to advise the department of the course of action the pool will take to obtain net incomes on subsequently audited financial statements;

(2) file with the department a written plan signed by the board describing the actions the pool will take to generate net incomes on subsequently audited financial statements; and

(3) obtain an actuarial rate analysis, if an actuarial rate analysis was not performed for the previous fiscal year.

Sec. 2214.360. INSOLVENCY PLAN. (a) In this section, "insolvent" means the condition in which the pool has liabilities greater than the pool's assets as determined in accordance with generally accepted accounting principles.

(b) If the pool becomes insolvent, the board shall file with the department, not later than the 60th day after the date the board becomes aware of the insolvency, a written plan to resolve the insolvency signed by the board. In determining whether the pool is insolvent, intangible property such as patents, trade names, or goodwill may not be considered to be assets of the pool.

(c) The insolvency plan must provide in detail the means by which the board intends to eliminate the insolvency, including any assessment of the members the board determines is necessary, the timetable for implementing the plan, and the reporting that will be made to the department regarding the progress of the plan, and include any other information required by the commissioner.

1 (d) The commissioner shall review the insolvency plan and
2 notify the board of the plan's approval or disapproval not later
3 than the 30th day after the date the department receives the plan.

4 (e) The commissioner shall provide written notice to the
5 board of a determination that:

6 (1) the insolvency plan submitted by the board is
7 disapproved; or

8 (2) the pool is not implementing a plan approved by the
9 commissioner in accordance with the plan's terms.

10 Sec. 2214.361. SUPERVISION, CONSERVATORSHIP, OR
11 RECEIVERSHIP. (a) In this section:

12 (1) "Hazardous financial condition" means a condition
13 in which, based on the pool's present or reasonably anticipated
14 financial condition, the pool, although not yet financially
15 impaired or insolvent, is unlikely to be able to:

16 (A) meet the pool's obligations to members with
17 respect to known claims and reasonably anticipated claims; or

18 (B) pay other obligations in the normal course of
19 business.

20 (2) "Insolvent" has the meaning assigned by Section
21 2214.360.

22 (b) In addition to any other powers of the commissioner, if
23 the commissioner determines that the pool is insolvent, is
24 operating in a hazardous financial condition, or is otherwise
25 operating in violation of this chapter, the commissioner may take
26 any action against the pool that the commissioner could take
27 against an insurer under Chapter 441 or Chapter 443.

SUBCHAPTER I. COMMISSIONER EXAMINATION

Sec. 2214.401. EXAMINATION REQUIRED. (a) The commissioner shall conduct an examination of the pool at least once every five years and at other times as the commissioner considers necessary.

(b) The examination shall be conducted in the same manner as an examination of an insurer under Chapter 401.

(c) In conducting an examination of the pool, the commissioner has the same powers and duties with respect to the pool, and with respect to other persons in relation to the pool's affairs and condition, that the commissioner has with respect to an insurer or other persons with respect to an insurer's affairs and condition.

SUBCHAPTER J. DISSOLUTION OF POOL

Sec. 2214.451. APPLICATION FOR VOLUNTARY DISSOLUTION. (a) If the members of the pool elect to dissolve the pool, the board must apply to the commissioner in the form and manner prescribed by the commissioner for the authority to dissolve.

(b) The commissioner shall approve or disapprove an application to dissolve the pool not later than the 60th day after the date the commissioner receives the application.

(c) The commissioner shall approve an application to dissolve the pool if the pool:

(1) has no outstanding liabilities including incurred but not reported liabilities; or

(2) is covered by an irrevocable commitment from an authorized insurer that provides for payment of all outstanding liabilities and related services, including payment of claims,

1 preparation of reports, and administration of transactions
2 associated with the period during which the pool provided pool
3 coverage.

4 Sec. 2214.452. DISTRIBUTION OF POOL ASSETS. On the pool's
5 dissolution and after payment of all outstanding liabilities and
6 indebtedness, the pool assets shall be distributed to the members
7 under a distribution plan submitted by the board to the department
8 and approved by the commissioner.

9 Sec. 2214.453. DISSOLUTION WITHOUT APPROVAL. (a)
10 Dissolution of the pool without authorization is prohibited.

11 (b) The dissolution of the pool in violation of this section
12 does not absolve or release the pool, a member, or any individual or
13 entity that has executed an indemnity agreement in connection with
14 the pool from obligations incurred or entered into before the
15 dissolution.

16 SUBCHAPTER K. ENFORCEMENT

17 Sec. 2214.501. CONSUMER COMPLAINTS; ADMINISTRATIVE
18 PENALTY. (a) A consumer may file a complaint with the department
19 to report a suspected violation of this chapter or the failure of
20 the pool to meet its obligations under a pool coverage agreement or
21 the plan of operation.

22 (b) After investigating a complaint regarding the pool, the
23 commissioner may order the board to take a corrective action the
24 commissioner considers necessary instead of taking an enforcement
25 action under another provision of this subchapter.

26 Sec. 2214.502. CORRECTIVE ACTION PLAN. (a) The
27 commissioner may order the board to submit a corrective action plan

1 to remediate any noncompliance or financial issues affecting the
2 pool.

3 (b) The board shall submit the completed corrective action
4 plan to the commissioner for approval and include standards, time
5 frames, and other parameters acceptable to the commissioner.

6 (c) The corrective action plan may include:

7 (1) mandatory training;

8 (2) on-site or off-site monitoring and supervision of
9 the activities of the pool for a specific period of time to
10 determine progress regarding correction of deficiencies;

11 (3) the submission of written progress reports;

12 (4) the institution of measures to conserve or
13 generate additional funding for the pool; or

14 (5) the imposition of an administrative penalty under
15 Section 2214.504 for any future misconduct of the kind that
16 contributed to the need for the imposition of the corrective action
17 plan.

18 (d) Failure by the pool to comply with the corrective action
19 plan may result in:

20 (1) the imposition of an administrative penalty under
21 Section 2214.504;

22 (2) suspension or revocation of the pool's certificate
23 of authority; or

24 (3) placement of the pool into supervision.

25 Sec. 2214.503. CEASE AND DESIST ORDER; SUSPENSION OR
26 REVOCAION OF CERTIFICATE OF AUTHORITY. (a) If the commissioner
27 determines the pool has violated this chapter, a commissioner rule,

1 or any order or directive issued by the commissioner, the
2 commissioner may:

3 (1) order the pool to cease and desist from the conduct
4 constituting the violation; or

5 (2) suspend or revoke the pool's certificate of
6 authority.

7 (b) A cease and desist order issued under this section may
8 include a prohibition on issuing or renewing pool coverage.

9 Sec. 2214.504. ADMINISTRATIVE PENALTY. If the commissioner
10 determines that the pool or any trustee, member, officer,
11 administrator, or employee of the pool has violated this chapter,
12 any other applicable law relating to the pool, a commissioner rule,
13 or any order or directive issued by the commissioner, the
14 commissioner may impose an administrative penalty not to exceed
15 \$2,000 for an initial violation. For a subsequent violation, the
16 commissioner may impose an administrative penalty not to exceed
17 \$4,000.

18 SECTION 2. A board of trustees may not apply for a
19 certificate of authority under Section 2214.101, Insurance Code, as
20 added by this Act, before January 1, 2026.

21 SECTION 3. This Act takes effect September 1, 2025.