

Senate Bill No. 1011

CHAPTER 556

An act to amend Section 5005.1 of the Corporations Code, relating to corporations.

[Approved by Governor September 25, 2014. Filed with
Secretary of State September 25, 2014.]

LEGISLATIVE COUNSEL'S DIGEST

SB 1011, Monning. Nonprofit corporations: self-insurance.

The Nonprofit Corporation Law authorizes certain nonprofit corporations that are organized chiefly to provide or fund health or human services, other than hospitals, to establish an insurance pool to self-insure against various risks, including, among others, tort liability and any loss arising from physical damage to motor vehicles owned or operated by the nonprofit corporation. The pooling arrangement is not considered insurance nor is it subject to regulation under the insurance laws of this state.

This bill would extend these provisions to authorize the establishment of an insurance pool to self-insure against the loss or damage to property of every kind, including, but not limited to, losses and expenses related to the loss of property. The bill would require that the pooling arrangement be organized as a nonprofit public benefit corporation, be in existence for purposes of covering tort liability for no less than 5 years, and have accumulated net assets of not less than \$5,000,000. The bill would require the pooling arrangement to include in every application form for membership and every risk pooling contract issued or renewed on or after January 1, 2016, in boldface 10-point type on the front page, a notice that states, among other things, that the risk pooling contract is not subject to all of the California insurance laws and is not subject to regulation by the Insurance Commissioner.

The people of the State of California do enact as follows:

SECTION 1. Section 5005.1 of the Corporations Code is amended to read:

5005.1. (a) Except for a liability that may be insured against pursuant to Division 4 (commencing with Section 3200) of the Labor Code, an authorized corporation may do any of the following:

- (1) Insure itself against all or any part of any tort liability.
- (2) Insure any employee of the corporation against all or any part of his or her liability for injury resulting from an act or omission in the scope of employment.

(3) Insure any board member, officer, or volunteer of the corporation against any liability that may arise from any act or omission in the scope of participation with the corporation.

(4) Insure itself against any loss arising from physical damage to motor vehicles owned or operated by the corporation.

(5) Insure itself against the loss or damage to property of every kind, including, but not limited to, losses and expenses related to the loss of property.

(b) (1) The arrangement authorized pursuant to this section shall only be available to an authorized corporation where that corporation has joined with two or more other authorized corporations to provide for the pooling of self-insured claims or losses. The pooling arrangement shall be organized as a nonprofit public benefit corporation pursuant to Part 2 (commencing with Section 5110) and shall not be considered insurance nor be subject to regulation under the Insurance Code.

(2) A pooling arrangement shall include in every application form for membership and every risk pooling contract issued or renewed on or after January 1, 2016, and in boldface 10-point type on the front page, the following notice:

“Notice: This risk pooling contract is issued by a pooling arrangement authorized by California Corporations Code Section 5005.1. The pooling arrangement is not subject to all of the insurance laws of the State of California and is not subject to regulation by the Insurance Commissioner. Insurance guaranty funds are not available to pay claims in the event the risk pool becomes insolvent.”

(c) This section does not authorize a corporation organized pursuant to this division to pay for, or to insure, contract, or provide for payment for, any part of a claim or judgment against an employee of the corporation for punitive or exemplary damages.

(d) (1) Any insurance pool established pursuant to this section shall have initial pooled resources of not less than two hundred fifty thousand dollars (\$250,000).

(2) Any insurance pool providing the coverage described in paragraph (5) of subdivision (a) shall do all of the following:

(A) Be organized for the purpose of providing the coverage described in paragraph (1) of subdivision (a) for a period of no less than five years.

(B) Have accumulated net assets of not less than five million dollars (\$5,000,000).

(e) All participating corporations in any pool established pursuant to this section are required to agree to pay premiums or make other mandatory financial contributions or commitments necessary to ensure a financially sound risk pool.

(f) For the purpose of this section, an authorized “corporation” means any corporation that meets all of the following criteria:

- (1) Is organized chiefly to provide or fund health or human services, but does not include a hospital.
- (2) Is exempt from federal income taxation as an organization described in Section 501(c)(3) of the United States Internal Revenue Code.

O