

The Risk Retention Reporter

March 2010
Volume 24, No. 3

*The Authoritative Journal
for the Risk Retention Marketplace*

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Founding Editor

Risk Retention Modernization Act Introduced in Congress

Legislation that would significantly impact risk retention groups and purchasing groups—including allowing RRGs to write commercial property insurance and PGs to purchase that coverage—has been introduced in Congress.

The *Risk Retention Modernization Act*, HR 4802, was introduced in the **House of Representatives** on March 10, 2010 by Rep. Dennis Moore (D-KS) and Rep. John Campbell (R-CA), and co-sponsored by Rep. Ron Klein (D-FL) and Suzanne Kosmas (D-FL).

Along with the commercial property expansion, the bill would improve corporate governance standards for RRGs and provide a better process for dispute resolution among the states and RRGs through the **Treasury Department**.

A coalition of industry groups including the **National Risk Retention Association** (NRRA), the **Risk Insurance Management Society** (RIMS), and the **Self Insurance Institute of America** (SIIA) worked to advance the bill through Congress.

“SIIA has for many years supported both the availability of commercial property coverage to members of risk retention groups and the assurance of a consistent regulatory environment,” said Kevin Doherty, chair of SIIA’s committee on alternative risk transfer.

The bipartisan legislation is said by its sponsors to be aimed at bringing down insurance costs and increasing coverage availability, particularly in higher-risk areas prone to hurricanes or other natural disasters.

“The new legislation, if passed, would provide another critical venue for insurance purchasers to secure commercial property insurance,” says Scott Clark, RIMS board member and risk and benefits officer for Miami-Dade County Public Schools. “Such an option can make insurance more affordable, especially when natural disasters in some U.S. regions have made it more difficult to purchase commercial

property insurance. Many liability risks are related to property owned by business entities and non-profit organizations, and this bill will enable those businesses to obtain coverages that might not otherwise be readily available.”

“This is a bi-partisan bill with support from numerous industry groups. We are part of a coalition of groups [that] are working together to advance this important bill,” said Kim Wynkoop, chair of the NRRA board.

SIIA’s Doherty also credited the NRRA and RIMS for their active involvement in the legislative process.

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"This effort is a perfect example of how the alternative risk transfer industry can join together to promote good policy that advances competition in the insurance marketplace."

Background to the *Risk Retention Modernization Act* appeared in two recent issues of the *RRR* (Dec. 09 and Feb. 10). This month's *Forum* includes the first in a series of articles detailing the rationale behind the new legislation. (See page 9)

Pending Federal Legislation Focus at SIIA Conference

The **Self-Insurance Institute of America's** (SIIA) annual legislative and regulatory conference, held March 10-12 in Washington, D.C., featured leaders of the self-insurance marketplace along with several members of Congress addressing a range of developing legislative issues, with the ongoing health care legislation debate dominating much of the discussion.

The big news on the opening day of the conference was the introduction of HR 4802, the *Risk Retention Modernization Act*, in Congress the very same day. This generated excitement among speakers and attendees and drew uniform praise. Rep. John Campbell (R-CA), one of the two sponsors of HR 4802 spoke at the conference, discussing the content of the bill and its possibility of passage during this congressional session.

"It's a good bill, it's good policy, and it's got bipartisan support," said Campbell. He pointed out that the lengthy debate over the health care legislation may make it difficult to find time to get the legislation onto the congressional calendar. This can be a particularly acute problem during an election year, when representatives often return to their home districts earlier than usual for campaigning.

Echoing Rep. Campbell, Rep. Jason Almiré (D-PA), who also addressed attendees, said that the health care debate on the floor of the House, before passage in December, lasted longer than any other except for the debate on whether the U.S. should have entered World War I.

On the plus side, Campbell says he has spoken to Barney Frank (D-MA), chairman of the **House Financial Services Committee**, who indicated he was not aware of any significant opposition to the bill.

Also at the conference, three members of SIIA's government relations staff addressed attendees: Mike Ferguson, chief operating officer, Cliff Roberti, director of government relations, and Jay Fahrer, manager of government relations. The SIIA presentation outlined recent legislative activity, including the introduction of HR 4802. Ferguson said that a significant aspect of the legislation was the inclusion of the new dispute mechanism in those instances where non-domiciliary states attempt to improperly regulate RRGs doing business in their state. "This gives us an opportunity to play offense, when we usually have to play defense," he said.

The presentation was also in preparation for SIIA's annual "walk on Capitol Hill," wherein SIIA members meet directly with members of Congress and congressional staff members to advance issues important to the association.

During the "walk," conference attendees were able to emphasize their priorities to their elected representatives, as well as to ask questions and advance SIIA's legislative agenda. Prior to the conference, the SIIA set up appointments with congressional representatives and provided attendees with talking-points on key industry issues.

The conference also featured a preview of the 2010 congressional elections by Bob Benenson, senior elections analyst for **Congressional Quarterly**, who suggested that passage of health care legislation may harm the re-election hopes of several democratic congressional representatives, if the current public sentiment against the legislation continues into November.

Gary Lefkowitz, benefits law specialist of the **Employee Benefits Security Administration** at the **Department of Labor**, discussed potential alternative health benefit plans in the current uncertain legislative environment. Sen. Ben Nelson (D-NE), who in the past served as chief of staff and executive vice president of the **National Association of Insurance Commissioners** as well as director of the **Nebraska Department of Insurance**, discussed the difficulties of passage for

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Published by INSURANCE COMMUNICATIONS
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(626) 796-4972; Fax: (626) 796-2363
E-MAIL—info@rrr.com URL—<http://www.rrr.com>

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complex financial regulation, stressing the ongoing need for education on matters critical to the self-insurance and alternative risk transfer communities.

Risk Retention Groups Generally Younger Than Purchasing Groups

An analysis of the formation dates of risk retention groups and purchasing groups by the *Risk Retention Reporter* reveals that the majority of risk retention groups tend to have been formed much more recently than the greater part of the country's existing purchasing groups.

RRGs have experienced a rapid rate of growth over the last ten years, as the hard market that persisted throughout much of the decade made the cost advantages of risk retention groups increasingly appealing. The number of operating RRGs increased from only 69 in 2001 to a peak of 262 in January 2009 before falling to current number of 246 RRGs.

PGs, in contrast, saw an initial spurt to 400 by 1990. This was followed by sustained growth going from 400 in 1990 to almost 800 in 1999. Then the PG population slumped to less than 700 in 2004 before experiencing a rebound topping 800 in late 2009.

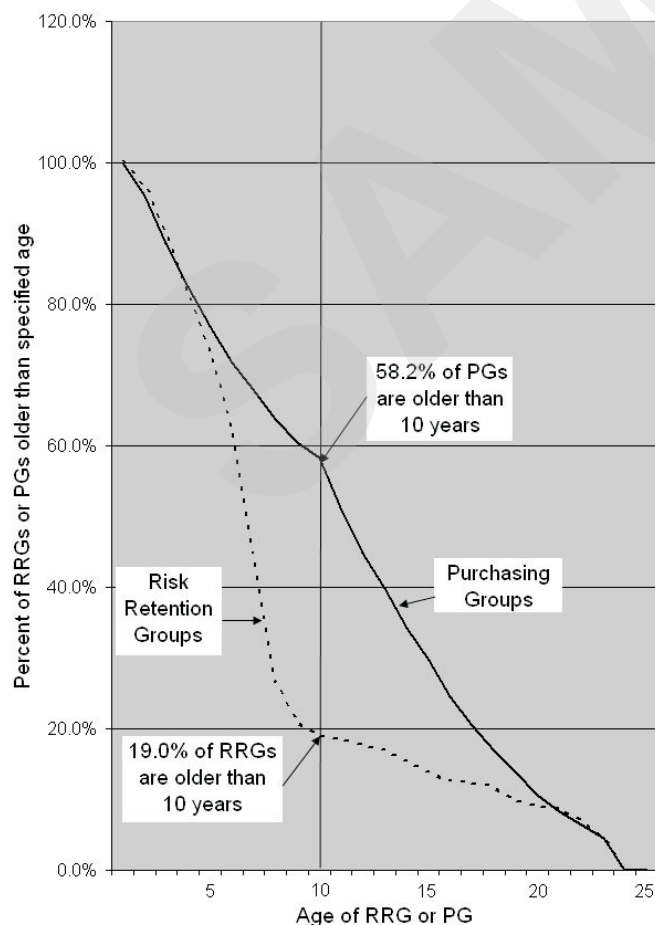
As a result of these growth patterns, the RRG population is dominated by RRGs formed in the last

decade, while the PG population is mostly made up of groups formed earlier than that. Specifically, more than 58% of PGs are greater than 10 years old, while only about 19% of RRGs have been in existence for more than a decade.

The median lifetime (where an equal number of groups are higher and lower in age) for RRGs and PGs similarly reflects the generally longer lifespans for purchasing groups. Risk retention groups have a median age of approximately 6.6 years, while purchasing groups have a median age nearly twice as long at 11.2 years.

Both RRGs and PGs are permitted to provide coverage to their homogenous members for all types of third-party liability, and there are ongoing advantages to each. RRGs give control to members over their programs which can translate into lower rates, broader coverage, effective loss control and risk management programs, participation by members in favorable loss experience, access to reinsurance markets, and stability of coverage, notwithstanding insurance market cycles. PGs offer members precise and broad coverage, lower rates, loss control and risk management programs, and often provide rewards for good loss experience, such as dividends in the form of credits against next year's premium. The differences in growth patterns and median ages of the RRG and PG populations stem from the competitive factors driving the formation of each.

While most RRGs are less than a decade old, many that formed soon after the enactment of the 1986 Risk Retention Act are still operating. For example, of RRGs formed in the four years between 1991 and 1994 (after excluding those subject to infant mortality), two-thirds are still operating today. With the rigorous regulation established in the intervening years, most of today's youthful crop of RRGs can also look forward to lengthy and productive lives.



PG Provides Professional Liability to Federal Employees

A recently-formed D.C.-domiciled purchasing group—**Public Employees Purchasing Group, Inc.**—is providing professional liability to federal employees in a range of different federal agencies and departments.

The insurance will be made available to federal employees to protect against personal capacity lawsuits, administrative sanctions, or other job actions.

The PG is managed by Federal Employee Defense Services (FEDS), founded by a former federal employee and attorney, Anthony F. Vergnetti. The FEDS program entitles a federal employee who is accused of some kind of wrongdoing in the course of rendering a professional service to have legal fees paid. For an administrative investigation (including an investigation for alleged whistleblower reprisal by Office of Special Counsel, Office of Inspector General investigation, or an Equal Employment Opportunity Office investigation where

the employee is named as the responsible party), judicial sanction proceeding, or disciplinary action limits are up to \$200,000. Limits are up to \$100,000 for criminal legal defense. The FEDS program will also pay a personal judgment up to \$2 million in a civil suit.

The FEDS program offers the \$1 million liability protection benefits for \$270 per year and the \$2 million liability protection benefits for \$370 per year. Managers, supervisors, and law enforcement officers are entitled to have their agency reimburse them up to one-half of the cost of the annual premium. Benefits are secured by **American Safety Indemnity Co.**, an **A.M. Best** "A"-rated Oklahoma-based excess and surplus lines carrier, under **American Safety Insurance**.

FEDS founder Anthony F. Vergnetti, who saw the benefits of professional liability protection first-hand by defending federal employees in employment-related matters, said the PG can provide professional liability benefits to the entire federal community and to communicate to the federal community the need for professional liability protection.

Prior to founding FEDS, Vergnetti was a partner in the Washington, D.C. law firm **Shaw, Bransford, Veilleux & Roth, P.C.** where he specialized in federal personnel and employment law, representing federal employees in disciplinary action cases, employment discrimination complaints, whistleblower cases, and prohibited personnel practice cases, as well as legal representation to small federal agencies on a multitude of federal personnel law matters.

The typical claim against federal employees is administrative in nature, involving disciplinary actions for discrimination in the workplace, or violation of equal employment opportunity mandates. When a federal employee is sued or subjected to investigation, the U.S. Government does not automatically pay for the employee's costs during the process.

Liability protection for federal employees is expected to increase with the advent of new workplace rules for agencies such as **Department of Homeland Security** and the **Department of Defense**. Vergnetti said that workplace morale often improves when liability coverage is in place, because knowing that quality legal defense and liability protection is available provides federal employees the reassurance they need in order to make difficult decisions affecting their agency, other employees, or members of the public.

Fitness Consultancy Forms Risk Retention Group

CrossFit Inc., a fitness consultancy based in Washington, D.C., has launched a risk retention group, domiciled in Montana, in order to address liabilities stemming from injuries sustained by individuals training at CrossFit locations.

CrossFit Risk Retention Group, Inc. is a stock company owned by its policyholders, which consist of

CrossFit, Inc., CrossFit affiliates, and certified CrossFit trainers. The RRG was licensed on December 11, 2009 with a capitalization of \$500,000.

The RRG is being launched during an extended period of growth for the organization. The first CrossFit affiliated gym opened in Santa Cruz, California in 1996, and the CrossFit website was launched in 2001. The number of affiliated gyms has grown from 18 in 2005 to over 1,500 in 2010.

CrossFit is the principal strength and conditioning program for many police academies and tactical operations teams, military special operations units, martial artists, and other professional athletes. The company also publishes a monthly magazine, provides training seminars and certifications, and supports a rapidly growing program of CrossFit affiliates who use the company's training methods.

By providing professional and general liability coverages, the RRG is designed to protect affiliates from lawsuits stemming from injuries that are alleged to have been caused by the advice of a professionally certified CrossFit trainer.

The CrossFit website cites a 2005 lawsuit—in which a jury awarded an injured claimant \$300,000 against CrossFit trainers—as a driving force behind the formation of the risk retention group. Although CrossFit Inc. was not named in the lawsuit, the company said the litigation illustrated potential vulnerabilities in the insurance coverage protecting affiliates and trainers.

According to the company's website, an affiliate owner's policy will cover trainers who are working at the CrossFit training facility and working within "the scope of their duties." In addition to company affiliates, individual trainers are also able to purchase separate policies. Purchasing insurance from the RRG is optional and is not required for affiliation. Affiliates can buy into the program at a cost of \$1,000 and individual trainers at \$200, with the \$1000/\$200 buy-in providing an ownership stake in the RRG and creating an eligibility to purchase a policy. Premium rates are separate and are based upon the business size of specific CrossFit affiliates or trainers.

Oceanus RRG Offers Enhanced Identity Theft to Policies

Oceanus Insurance Company, A RRG, a South Carolina-domiciled risk retention group specializing in medical professional liability insurance, has added new coverage enhancements for members. Oceanus is registered in 16 states and currently has over 11,000 policyholders.

The coverage augmentations focus on identity theft and data security, emerging issues that affected over 9 million people in healthcare-related breaches in 2009. Data security risks continue to grow in correlation with the rise in electronic medical record-keeping. As losses

increase and the public becomes aware of the events, there may be a concurrent risk of class-action lawsuits, which ultimately can impact a medical practice's financial stability and reputation.

"We selected these particular enhancements because we wanted to provide our member-insureds with coverage that would safeguard their practice from 21st century risks," said Stewart E. Tetreault, president of Oceanus.

Oceanus will provide to all of its insured members in good standing automatic "e-MD network security & privacy insurance," which is coverage for the broad range of network-related exposures unique to physicians and medical groups. As part of the 2010 Oceanus policy, insureds will receive the following coverage with no increase in the stated premium:

- **Network Security and Privacy Insurance** (online and offline information, viral attacks, etc.)
- **Regulatory Fines and Penalties Insurance** (defense coverage for government investigations into HIPAA violations)
- **Customer Notification and Credit Monitoring Costs Insurance** (all necessary legal, PR, advertising, and postage expenses to notify customers or clients of breach of information, as well as credit monitoring services for all affected parties)
- **Data Recovery Costs Insurance** (reasonable and necessary sums required to recover and/or replace comprised, damaged, lost, erased, or corrupted data)
- **Media Liability Insurance** (claims arising out of the gathering and communication of information; defamation, invasion of privacy claims; copyright or trademark infringement)

Oceanus has partnered with **Zarin's Liability Alert Publications** to introduce a monthly newsletter for member-owners, *Healthcare Liability Review*. It will offer an analysis of medical malpractice verdicts designed to assist in physician's efforts to reduce the risks inherent in their practice. The publication analyzes actual medical malpractice cases, court decisions, and eventual dispositions. A synopsis follows each case that reviews the issues and provides a risk management insight along with tips on how to prevent these exposures in the practice.

In addition, Oceanus has chosen **Delphi** to provide professional liability technology for its policy and underwriting administration.

Delphi's "OASIS" product will enable Oceanus to automate its current manual processes. Implementation of the automated processes is currently underway and on track for production use in late spring. Oceanus selected Delphi due to the company's experience in medical professional liability insurance.

Strategic Risk Solutions Expands, Hires Former Regulator Judy Nako

Strategic Risk Solutions (SRS), a nationwide, independent captive management firm, has expanded into Hawaii with the hiring of Judy Nako, formerly the acting deputy commissioner and captive insurance administrator for the **State of Hawaii**. She worked for the state's captive insurance branch for eight years and has 17 years experience working with insurance companies in Hawaii.

SRS's activities in Hawaii will be overseen by Ann Wick, president of SRS's western division. The company currently manages its Hawaii domiciled captives from its Arizona office.

The expansion provides SRS with local representation in Hawaii. "This is a natural progression for us in supporting our growing list of clients in Hawaii" said Wick. "We have worked with Judy for a number of years as a regulator, and we are excited about her joining SRS."

Wick has many years experience forming and managing captives in Hawaii, as far back as the mid-nineties with AIG. "I've just found it to be a very solid, well-regulated domicile," said Wick. "So when I began to develop our west coast operations one of my goals was to focus on business in Hawaii, whether in new formations or managing transfer opportunities."

Last year SRS began making competitive inroads in the state to the point where the firm felt the time was right to increase its efforts. "Last year we started gaining ground and there's nothing better than having somebody on the ground, and we had the opportunity to recruit Judy Nako."

In 2007, SRS launched its western region operations, which has grown steadily since, and now manages captives in Arizona, Utah, and Nevada, in addition to Hawaii. "Based on our recent successes in taking over the management of many captives in Hawaii and other domiciles, we see tremendous opportunity to help other clients in Hawaii that are seeking a higher level of service and more value from their captive manager," said Brady Young, president of SRS.

"We are pleased to welcome Strategic Risk Solutions to Hawaii. This expansion shows the strength of Hawaii as a captive domicile," said George Sumner, captive insurance administrator and deputy commissioner, State of Hawaii. "Judy Nako has been a tremendous supporter of the Hawaii captive community and we wish her every success at Strategic Risk Solutions."

SRS is an independent captive management firm with representation in all major onshore and offshore domiciles. It provides financial reporting, regulatory compliance, and underwriting management services to existing and prospective captive insurance companies.

Nako had been with the Hawaii department for nearly 10 years. Prior to her time there she had filled several roles within the insurance industry, including working as a captive manager and with insurance companies and consulting firms focusing on insurance. Sanford Saito is Judy Nako's replacement at the Hawaii Captive department, assuming the title of chief captive examiner.

NAIC RRG Working Group Discusses Part A Changes

Members of the risk retention group task force of the **National Association of Insurance Commissioners (NAIC)**, who meet regularly via conference call to discuss issues affecting RRGs and related entities, met on February 12, 2010 to consider exposure of a memo for public opinion that discusses Part A standards.

The Part A standards are part of the criteria the task force is considering with respect to what accreditation standards should apply to RRGs chartered under captive laws. The memo includes information related to the financial solvency model laws and regulations that have been revised since the task force's original discussions on Part A standards began in 2003.

States represented on the call included Vermont, South Carolina, Hawaii, California, Alabama, Arizona, Delaware, Florida, the District of Columbia, Minnesota, Montana, Nevada, Utah, and New York. At the conclusion of the call, the task force voted to expose the document for 30 days, with comments to be discussed at the NAIC's March meeting.

The task force also briefly reviewed two comment letters that will be sent to the financial regulation standards and accreditation (F) committee as a result of the task force's discussions at the 2009 winter national meeting.

RRR Domicile Review Features Hawaii

The *Risk Retention Reporter* recently launched a series focusing on how individual states are regulating risk retention groups and purchasing groups, including their legislative history and current leadership and regulatory climate. This month's focus is on Hawaii, one of the earliest states to pass risk retention legislation and one of the largest international domiciles for captives.

CEO of the Month is PG Manager Robert Wiley

In a first for this monthly feature in the *RRR*, the CEO of the month manages a purchasing group—**Appraisers' Liability Insurance Trust**. Robert Wiley founded the PG's management company **Liability Insurance Administrators** and the PG in 1987, just following the passing of the LRRRA. In the article, Wiley discusses the growth of the purchasing group industry and offers five keys to successfully managing a purchasing group.

FORUM: Why the LRRRA Needs to be Amended

Robert H. Myers, Jr., partner with **Morris Manning & Martin, LLP** and general counsel for the **National Risk Retention Association** illustrates the importance and the necessity of amending the Liability Risk Retention Act to include provisions for a federal-level oversight entity. Myers presents the reasons why an impartial arbitrator to work on disputes between state insurance offices and risk retention groups is essential and makes a strong case for such an entity.

Risk Retention Roundup

This month two new risk retention groups were added to RRR listings and four RRGs were deleted, taking the total number of RRGs to 246. No new purchasing groups were added to the RRR listings and five PGs were deleted, bringing the total number of PGs to 802.

The two new RRGs added to the listings this month are **CMIC RRG (DC)**, which is providing medical malpractice for physicians, and **Red Rock RRG (AZ)**, which is providing auto liability for trucking operators affiliated with **Swift Transportation**, an Arizona-based trucking company.

Of the RRGs retiring, **Astraea RRG, Inc. (AZ)**, which provided auto liability and general liability for **Arrow Trucking Co.** and its subsidiaries, was placed in receivership following the financial and legal troubles of its parent company. **General Eastern Ski Insurance RRG, Inc. (VT)**, which provided general liability for ski area operators, went into run-off at the end of 2009.

Both **Essential RRG (SC)**, which provided medical malpractice for **American Multi-Specialty Group, Inc.** and its physicians, and **ProBuilders Specialty Insurance Co., RRG (DC)**, which provided general liability for contractors and subcontractors, are both voluntarily dissolving.

Domicile Review: Hawaii

Hawaii was one of the first states to embrace the opportunity to serve as a domicile for RRGs following the passage of the Liability Risk Retention Act in 1986. Driven by that early action, coupled with a continued willingness to respond to the needs of RRGs and PGs doing business in the state, Hawaii has proved itself to be a consistently inviting destination for the formation of alternative risk transfer mechanisms, continually adapting its policies to further accommodate RRGs and PGs in the state.

Current Status

Hawaii is the domicile for 15 RRGs, including California Healthcare Ins. Co., a RRG, and MedAmerica Mutual Risk Retention Group, Inc., two RRGs that are among the largest groups based on premium volume. Hawaii stands as the domicile with the 6th greatest number of RRGs, following Vermont, South Carolina, Washington D.C., Nevada, and Arizona.

While Hawaii is accommodating to purchasing groups, there are currently just five PGs domiciled in the state.

Illustrating its flexibility as a regulatory domicile, Hawaii accepts both the uniform registration form developed by the risk retention working group of the National Association of Insurance Commissioners (NAIC) as well as its own, specialized state form.

In addition, there are no fees for RRGs that are registered in Hawaii, nor are there fees or taxes on purchasing groups. Taxes on RRGs are based on premium volume (HRS 431k-3, §431:19-116), ranging up to a high of 0.25%.

Laying the Groundwork

The risk retention statutes governing RRGs and PGs in Hawaii (Hawaii Revised Statutes, Chapter 431K), were passed in 1987. Former Hawaii insurance commissioner, Robin Canipaniano, was a driving force behind the state's captive movement.

While early legislation had nominal fees in place, the majority of the fees and taxes imposed were jettisoned over the years, such as the \$406 registration fee for RRGs that was rescinded in the year 2000. Similarly, in 2007 the state reorganized its premium tax structure, capping premium taxes at \$200,000.

Generally speaking, the licensing process in the state is straightforward, both for those RRGs and PGs domiciled in Hawaii and for other groups simply licensed to do business there. For the latter group—risk retention groups domiciled in states other than Hawaii—the requirement is that they must provide the commissioner with a statement identifying the state or states in which the RRG is chartered and licensed as a liability insurance company, date of chartering, and its principal place of business, as well as appropriate financial statements.

HAWAII SNAPSHOT

Enabling Legislation: 1987

Currently operating RRGs: 15

Fees: None

Taxes: 0% to 0.25% (depending on premium)

Forms: NAIC or State forms

Working with RRGs and PGs in the state has helped Hawaii to become a significant player overseeing alternative risk formations. Along with its leading stature regarding RRGs, Hawaii is the fifth largest captive insurance domicile in the world based on the captives' combined capital assets of more than \$7 billion. Based on the number of captives, Hawaii is the 9th largest domicile in the world and 2nd largest in the United States with 220 licenses issued and 165 active licenses, as of December 31, 2008.

Of the active licenses, 154 are for companies headquartered in the U.S., with the remainder located in Asia. Forty-eight of the captives are within the real estate/construction industry, 31 in health care, 27 in telecommunications and manufacturing, 22 in retail and other services, 21 in financial services, and 16 in transportation and energy.

Hawaii captives are designated and licensed with five classes: class one is limited to single parent captives that only reinsure affiliated risk from an insurer; class two captives insure risks of its owners and/or affiliates on a direct basis, and may also assume reinsurance; class three is limited to association captive insurance companies or risk retention captive insurance companies; class four captives are limited to a sponsored captive facility where protected cells may be established to segregate the risks of participants; and class five are those captives not in the first four groups that act only as a reinsurer or excess insurer or both.

Minimum statutory requirements range from \$100,000 for a class one captive, \$250,000 for a class two, and \$500,000 for the remaining classes, which include risk retention groups.

Leadership

Hawaii RRGs and PGs are overseen by the Hawaiian Department of Commerce and Consumer Affairs, led by commissioner Jeffrey P. Schmidt.

Last year, George W. Sumner III, ACI was named as captive administrator and deputy insurance commissioner for the Hawaii Insurance Division. Sumner was previously a vice president with Bank of Hawaii and leader of its Captive Insurance team. The team increased the bank's captive accounts from 36 with \$136 million in assets and deposits in 2000, to 90 with \$830 million in assets and deposits in 2009. Sumner has been very active in the support group for the industry, the Hawaii Captive Insurance Council (HCIC), holding positions as chairman of the board, president, and chairman of the marketing committee.

Hawaiian RRGs are assisted by the HCIC, a nonprofit corporation formed in 1991 that is committed to promoting, developing, and maintaining a quality captive insurance industry in Hawaii. In partnership with the State of Hawaii Insurance Division, the HCIC

provides information and education on issues affecting RRGs and captives as a whole.

Membership in the HCIC is open to all captive insurance companies licensed in the State of Hawaii, and to all individuals and entities with a related interest in promoting, developing, and maintaining the captive industry in Hawaii. HCIC members include Hawaii captive owners, and entities providing services to Hawaii captives, such as captive managers, insurance and reinsurance brokers, banks, accounting firms, investment managers, law firms, actuaries, risk consultants, insurance and reinsurance companies, and claims administrators.

The HCIC also assists RRGs in the state throughout the year by providing educational seminars & events for risk managers, brokers, RRG owners and other insurance industry professionals. HCIC seminars are designed to educate attendees on alternative risk retention basics, formation and operations, and to highlight the benefits of Hawaii as a captive insurance domicile.

This year, the 5th annual HCIC Educational Forum will be held from October 25-27 at the JW Marriott Ihilani Resort & Spa in Oahu, Hawaii.

FORUM

Why Congress Needs to Amend the Liability Risk Retention Act

by Robert H. Myers, Jr., Partner
Morris Manning & Martin, LLP

New legislation—the “Risk Retention Modernization Act” (H.R. 4802)—was recently introduced in the U.S. House of Representatives by Representatives Dennis Moore (D-KS) and John Campbell (R-CA). It would amend the law to do three basic things: (1) create a dispute resolution process for RRGs; (2) address corporate governance concerns; and (3) expand the coverage permissibly offered by RRGs to include commercial property.

This article will address only the first of the three issues—many consider it to be the most pressing. Future articles will deal with the latter two issues.

Dispute Resolution – What is the Problem?

Under the Liability Risk Retention Act (LRRRA), 15 U.S.C. § 3901, *et seq.*, to do business in a non-domiciliary state, a risk retention group is required only to submit to that non-domiciliary state a filing containing the information delineated in Section 3902(d) of the LRRRA. The LRRRA expressly preempts any other non-domiciliary state regulation unless it falls within one of the specified exceptions to preemption under Section 3902(a)(1). The exceptions to preemption relate primarily to unfair trade practices, premium taxes, registration of an agent, injunctions from a court of competent jurisdiction, and notice to policyholders that the RRG may not be subject to all insurance laws of the state and is not a member of the state guaranty fund. *Id.* at § 3902(a)(1).

Despite these LRRRA provisions, many states currently impose a variety of informational response and approval requirements on non-domiciliary RRGs. For instance, the California Department of Insurance requires foreign RRGs to (1) wait 60 days after delivery of its registration filing before it may commence operation in the state, (2) file a recurring annual registration renewal, (3) pay registration and renewal fees, (4) submit additional information for the Department’s “approval,” and (5) make changes to documents filed and approved in the RRG’s domiciliary state before the Department will “approve” the RRG’s registration in California.

These practices violate the LRRRA. Two federal court decisions expressly concur with this position: *Attorney’s Liability Assurance Society, Inc. v. Fitzgerald*, 175 F.Supp. 2d 619 (W.D. Mich. 2001) and *National Risk Retention Association v. Brown*, 927 F.Supp. 195 (M.D. La. 1996).

In *Fitzgerald*, the court rejected a non-domiciliary state’s attempt to regulate foreign RRGs. First, the court found the state improperly concluded that the foreign RRGs did not qualify as RRGs under the LRRRA. (*Fitzgerald*, 175 F.Supp. 2d at 629-34). Secondly, the court found the LRRRA preempted a regulatory fee which the non-domiciliary state attempted to assess against foreign RRGs. (*Id.* at 636).

In *Brown*, a non-domiciliary state attempted to impose requirements not specified in Section 3902(d) of the LRRRA as conditions for foreign RRG registration. The conditions included a required minimum capital and surplus of \$5 million, posting of funds or a bond of \$100,000 with the commissioner, and an annual submission of a plan of operation along with a \$1,000 examination fee. The court held the non-domiciliary state exceeded its authority over foreign RRGs:

The burden imposed by the application process for a non resident risk-retention group is broader than is allowed by the LRRRA. Section 3902(d) sets out the documents which are to be submitted to the insurance commissioner in the state in which it intends to do business but is not chartered . . . risk retention groups are exempted from any further requirements under Section 3902(a)(1). (*Brown*, 927 F.Supp. at 201).

Accordingly, unless a specific regulatory power has been conferred upon a non-domiciliary state under the LRRRA, Section 3902 prohibits the non-domiciliary state from directly or indirectly regulating the RRG. Interestingly, the NAIC’s *Risk Retention and Purchasing Handbook* expressly supports these conclusions.

Impact on RRGs

The financial impact of improper state regulatory practices on RRGs has been substantial. According to a 2009 survey by the *Risk Retention Reporter*, for an RRG operating in all states, the annual cost for registration fees is approximately \$9,300, and annual renewal, filing, and/or other fees are approximately \$8,150. (*See RRR, Jan. 2009*) Moreover, states that impose approval and requirements beyond the scope of the LRRRA force RRGs to incur significant compliance and legal costs to satisfy individual state regulators’ demands.

The results of the *Risk Retention Reporter's* survey, which received responses from captive managers representing 118 RRGs, demonstrate the prevalence of state regulatory violations of the LRRRA. Sixty-one percent of respondents reported that states had "overreached" by attempting to directly or indirectly regulate the operation of a foreign RRG. The responses indicated that 39 states engage in some form of overreaching.

Lack of an Adequate Remedy

RRGs, through the National Risk Retention Association, and the captive industry generally, have worked well with the NAIC's Risk Retention Group Task Force and Risk Retention (C) Working Group. However, when requested to include compliance with the federal law in the accreditation standards by non-domiciliary states, the Task Force declined because the NAIC's accreditation program is limited to imposing reasonable rules upon the states of domicile for the purpose of fostering good solvency regulation. This underlines the problem that the NAIC, as currently structured, has no regulatory authority or enforcement capability over non-domiciliary states.

In some cases, non-domiciliary states will respond to a well-documented protest regarding improper laws or regulations. However, if an impasse is reached, the only recourse under the LRRRA for an RRG is to seek an injunction in court. This has proven to be inadequate because (1) a decision in one federal court is not binding in another federal district court (unless in the same federal circuit on the same facts); and (2) the cost of litigation is such a deterrent that most RRGs acquiesce to demands by non-domiciliary states even though those demands are clearly not contemplated by the LRRRA.

Proposed Solution

Federal law should be amended to grant federal oversight and rulemaking authority to an office within the Treasury. This would create an impartial arbiter which would have the authority to bind the states and the industry to avoid the problems referenced above. The Federal Administrative Procedure Act would apply

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to ensure due process, and an appeal could be taken to the federal courts.

The LRRRA is one of the few federal statutes that is not subject to direct federal oversight. While the structure of the LRRRA assumes the state of domicile is the "lead state" and will be able to provide the adequate regulatory oversight, the state of domicile has no authority under the Constitution over a non-domiciliary state.

Rulemaking authority and oversight by the Treasury would be fair to all parties (state regulators and the industry). All would have the opportunity to participate in any decision making. Moreover, the oversight and rulemaking authority can be modeled after the same authority granted to the Treasury under the Terrorism Risk Insurance Act, which has worked very well with the cooperation of the states and the NAIC.

Conclusion

The Risk Retention Modernization Act (H.R. 4802) provides a remedy for dispute resolution problems. Congress is just beginning its deliberations.

Robert H. Myers is a partner in the law firm of Morris Manning & Martin, LLP and serves as outside general counsel to the National Risk Retention Association. A similar article is also appearing in the firm's Insurance and Reinsurance Review (Spring 2010).

CEO OF THE MONTH

A Purchasing Group Success Story With Advice For New Players

Featuring Robert Wiley, President
LIA Administrators and Insurance Services

What are the keys to success in operating a Purchasing Group? We turned for answers to Robert Wiley, Founder and President of Liability Insurance Administrators and Insurance Services (LIA), which manages one of the oldest and most successful PGs in the business—Appraisers' Liability Insurance Trust (ALIT).

Headquartered in Santa Barbara, California, LIA is the premier program administrator of errors and omissions (E&O) insurance for real estate appraisers nationwide. Wiley got into the business in 1977 through a surplus lines broker. In 1987 after the Liability Risk Retention Act became law, he formed ALIT with LIA as the program administrator. LIA writes coverage for more than 24,000 real estate appraisers—about a third of the profession.

Wiley decided to organize a PG because it gave him the ability to market E&O insurance nationwide. ALIT was one of the first PGs formed under the federal law. As ground breakers, Wiley and a few other risk retention industry pioneers, including Karen Cutts of the *Risk Retention Reporter*, were sought out for advice by regulators on how to work with this new breed of insurance provider that was neither an insurance company nor a conventional broker. Their early vision was realized as PGs rapidly grew into an important sector of the insurance industry providing liability coverage in hard and soft markets.

The number of PGs mushroomed to nearly 800 in 2000 then dropped to less than 700 in the soft markets of 2003-2005. Wiley conjectures that the success of PGs operating across state lines may have caused regulators to ease restrictions on Surplus Lines companies, which made them more competitive. Also, he points out that, "It's easy to leave a PG when a competitor offers a lower price. For example, there are several competitors that offer lower priced products. However, these types of competitors last for three to four years before they have to increase their rates or get out of the business because of claims," Wiley said.

For anyone thinking about creating a PG, Wiley offers five keys to success:

1. Control:

First and foremost, he believes that a managing general agency (MGA) with a substantial book of business should maintain control. Wiley's business model of in-house underwriting and risk management created an operating business that is attractive to leading insurance companies. They know LIA consistently delivers profitable business and has the infrastructure to minimize expense to the carrier. Witness the fact that Liberty Mutual has written ALIT members for the last nine years.

2. Selective Underwriting:

LIA has its own underwriters who know the E&O exposure of real estate appraisers better than any multi-line insurance company. Wiley has been exclusively committed to this line of business for 33 years. In 1986, Wiley and his associates developed what they call a "Monster App" to classify underwriting risk. "Our applications form keeps the bad apples out," Wiley said. The experienced LIA underwriters

Robert Wiley

Founder, President, & CEO

Company: Liability Insurance Administrators and Insurance Services

PG: Appraisers' Liability Insurance Trust

Organizational Structure: Program Administrator

PG Member/Insureds: Real estate appraisers

Education: Associate Arts, Los Angeles City College

Experience: 45 years in insurance, 33 in E&O for appraisers

Greatest Challenge: Being innovative, providing good service, and addressing my clients' needs.

Proudest Achievement: On the business side: being innovative, providing good service, and addressing my clients' insurance needs. Personally—having a wonderful family.

Goal: To introduce more lines of insurance to my clients.

can spot a potential problem quickly—*Has the appraiser been sued by the lender for an inaccurate valuation, improper indication of zoning, invalid comparables, or other factors that caused the bank to lose money in a foreclosure sale?* Deep knowledge of the business contributes to a successful relationship with the carrier. It also insulates the ALIT and LIA from pressure to engage in market share competition. Selective underwriting enables LIA to maintain stable, reasonable premium rates for its customers. “Our philosophy has always been to run an actuarially sound program. We employ our own actuary and do not respond to hard and soft markets,” Wiley proudly states.

3. In-House Risk Management:

LIA has an in-house, professional risk management and loss control program that sets it apart from most MGAs, PGs, and others in the industry. LIA conducts four-hour and seven-hour Loss Prevention Seminars that give policyholders vital information on the most common allegations against appraisers and recommends steps to prevent and defend against claims. The seminars qualify for State Continuing Education credit and provide a discount on the E&O premium. They are presented by LIA’s risk management team and claims counsel. LIA held nine seminars throughout the country in 2009.

Working with the Company’s claims counsel, LIA risk managers analyze appraiser claim files to identify litigation trends and effective defenses. Findings are published in frequent “Claim Alert Bulletins.” Claudia Gaglione of Gaglione, Dolan, & Kaplan, a lawyer who has personally supervised more than 4,000 claims and lawsuits filed against real estate appraisers, answers appraisers’ questions in a “Claudia Says” section of the company’s website. She keeps ALIT members up to date on the different types of errors that are avoidable and how appraisers can make themselves the best possible defendants in the event they are ever sued. The risk management program is relentless. Wiley explains, “LIA pays for all Loss Prevention Seminar expenses including instructors. We don’t rely on outside risk management services. We produce our own information.”

4. Customer Service:

“Our number one source of new business is referrals from present clients. You can’t beat good service as a marketing tool.” LIA builds a partnership with clients by providing more than the basic E&O policy available at traditional carriers. The company’s website answers policyholders’ questions and provides a constant stream of new information to help appraisers work smarter and more efficiently. The testimonials section of the LIA website attests to the high quality of LIA service. An appraiser from Orange County, California, summed up the comments of many others: “I can’t tell you how much I appreciate having the same representative the entire five years we’ve been with your company. We have had a lot of trouble with the other insurance companies we work with, so I really appreciate you always being so available and responsive.”

5. Marketing and Communications:

“You have to be innovative in your approach to marketing,” Wiley advises. “We were one of the first agencies to run a blast-fax advertisement back in the eighties when fax machines were new. We were one of the first agencies to create a website in the early nineties, which is why we have the domain name www.liability.com. Having the endorsement of the most prestigious appraisal association is important. We write articles in industry magazines. Our blog (www.appraiserlawblog.com) has been extremely helpful. We’re constantly looking for new ways to let appraisers know about what we have to offer.

After learning about how successful LIA has been over the years, we asked Wiley to tell us about the company’s financial results. His answer: “I can afford to live in Santa Barbara.”

RISK RETENTION MONTHLY UPDATE

MARCH 2010

Summary of Risk Retention Activity: This month two new risk retention groups were added to RRR listings and four RRGs were deleted, taking the total number of RRGs to 246. No new purchasing groups were added to the RRR listings and five PGs were deleted, bringing the total number of PGs to 802. [The reason for a change or deletion in an RRG or PG listing appears in boldface following each listing.]

NEW RISK RETENTION GROUPS

CMIC RRG (DC): Medical malpractice for physicians • Contact Michael Morgan (800) 228-0287.

RED ROCK RRG (AZ): Auto liability for trucking operators affiliated with Swift Transportation • Contact Kimberly Wack (602) 427-3251.

CHANGES TO RISK RETENTION GROUPS

ICI MUTUAL INSURANCE CO., A RRG (VT): Directors and officers liability; errors and omissions; investment company blanket bond for mutual fund investment companies • Contact Charlie Behr (202) 326-5464. CO, GA, MN, NY, SC, VT [Membership in Investment Company Institute is required for membership in RRG]
(New contact and phone number)

MEDICAL INSURANCE UNDERWRITERS RRG, INC. (AZ): Professional liability for emergency room physicians of Indiana-based Unity Physician Group • Contact Eric Heitman (602) 427-3217.
(New contact and phone number)

MIDWEST INSURANCE GROUP, INC., A RRG (AZ): Professional liability; general liability for nursing home owners primarily in Indiana • Contact Steve Brown (802) 861-2930. IL, NY
(New contact and phone number)

MOUNTAIN LAUREL RRG, INC. (VT): Professional liability; general liability for 5 Phila. hospital mbrs of Jefferson Health Systems & resident physicians • Not accessible to producers. Contact Melissa H. Larose (802) 864-1716. DE, VT [Formerly known as: JHS, A RRG, Inc.]
(New contact and phone number)

NEW STAR RRG, INC. (SC): Medical professional liability for employed/non-employed physicians practicing at Novant facilities in N.C. • Contact Piper Crockett (843) 557-3494. SC
(New contact and phone number)

NORTH SHORE-LIJ PHYSICIANS INS. CO. RRG (VT): Professional liability for physicians affiliated with North Shore Long Island Jewish Health System • Contact Lisa Kane (802) 864-2120. NY, VT
(New contact and phone number)

SELECT PROVIDERS INSURANCE RECIPROCAL EXCHANGE, A RRG (SPIRE) (DC): Professional liability; general liability for nursing homes initially in Arkansas • Contact Dale Fenwick (407) 401-9596.
(New contact and phone number)

SYSTEM & AFFILIATES MEMBERS (SAAM) II RECIPROCAL RRG (VT): Medical malpractice for community hospitals & voluntary staff of Robert Wood Johnson Health Network • Not accessible to producers. Contact Irena Kaler (732) 418-8169. VT
(New contact and phone number)

UNITED HOME INS. CO., A RRG (VT): Home owner warranties for builders engaged in new home construction • Contact Delisca Christian (802) 864-2100. CA, CO, GA, NV, SC, TN, TX, VT
(New contact and phone number)

DELETED RISK RETENTION GROUPS

ASTRAEA RRG, INC. (AZ): Auto liability; general liability for Arrow Trucking Co. and its subsidiaries • Contact Marc Lapointe (888) 872-7475. CA, GA, MT, SC
(RRG placed in receivership)

ESSENTIAL RRG (SC): Medical malpractice for American Multi-Specialty Group, Inc. & its physicians operating in MO and IL • Contact Brenda Adams (314) 851-1000. IL, SC
(Voluntary dissolution)

GENERAL EASTERN SKI INSURANCE RRG, INC. (VT): General liability for ski area operators. • Accessible and commissionable to producers. Contact Andrea Sweeney (802) 862-4400. IL, MN, NY, TN, VT
(RRG in run-off)

PROBUILDERS SPECIALTY INS. CO., RRG (DC): General liability for contractors and subcontractors • Accessible and commissionable to producers under certain circumstances. Contact Robert C. Moore (770) 257-1777. CA, CO, DE, GA, HI, MN, MT, NV, NY, TX, VT [Formerly: Builders & Contractors Ins. Co. RRG]
(Voluntary dissolution)

CHANGES TO PURCHASING GROUPS

ADVOCACY PROTECTION PLUS PG ASSN. (IL): Professional liability for members engaged in legal related services, including attorneys • Chicago Ins. Co. (IL) • Contact Hilary Cheda (415) 899-6968. CA, DE, GA, IL, MN, MT, NV, SC, TN, VT
(New contact and phone number)

AGENTS PROFESSIONAL LIABILITY SERVS. ORGANIZATION (IL): Professional liability for insurance agents and brokers • American Guarantee & Liability (NY); American Intl. Specialty Lines Ins. Co. (AK); Arch Ins. Co. (MO); Arch Specialty Ins. Co. (WI); Catlin Specialty Ins. Co. (DE); Clarendon America Ins. Co. (NJ); Columbia Casualty Co. (IL); Continental Casualty Co. (IL); Everest Natl. Ins. Co. (AZ); Illinois Union Ins. Co. (IL); Liberty Surplus Ins. Corp. (NH); Liberty Underwriters, Inc. (NY); Natl. Union Fire Ins. Co. of Pittsburgh, Pa. (PA); Navigators Ins. Co. (NY); Navigators Specialty Ins. Co. (NY); Scottsdale Ins. Co. (OH); Steadfast Ins. Co. (DE); Torus Specialty Ins. Co. (DE); Westport Ins. Corp. (MO); Zurich American Ins. Co. (NY) • Contact Dan Torpey (816) 505-2846. CA, DE, GA, HI, IL, MN, MT, NY, SC, TN, TX, VT
(Additional carriers)

ALLIED HEALTH PG ASSN. (IL): Professional liability for professionals engaged in the delivery of allied and home healthcare services • Chicago Ins. Co. (IL) • Accessible and commissionable to producers under certain circumstances. Contact Hilary Cheda (415) 899-6968. CA, CO, DE, GA, IL, MN, MT, NV, NY, SC, TN, TX, VT
(New contact and phone number)

AMERICAN DIETETIC ASSN. RISK PG (IL): Professional liability; general liability for dietitians • Chicago Ins. Co. (IL) • Accessible and commissionable to producers under certain circumstances. Contact Hilary Cheda (415) 899-6968. CA, CO, DE, HI, IL, MN, MT, NV, NY, TN, TX
(New contact and phone number)

AMERICAN HEALTHCARE PROFESSIONS PG ASSN. (IL): Professional liability for allied health professionals • Chicago Ins. Co. (IL); Liberty Ins. Underwriters (NY) • Contact Diana Ivey (212) 345-4440. CA, DE, GA, HI, IL, MN, MT, NV, NY, SC, TN, TX, VT
(Additional carrier)

AMERICAN SOCIETY OF HEALTH SYSTEM PHARMACISTS RPG (IA): Professional liability for pharmacists • Chicago Ins. Co. (IL); Liberty Ins. Underwriters (NY) • Not accessible to producers. Contact Diana Ivey (212) 345-4440. CA, DE, GA, HI, IL, MN, NV, NY, SC, TN, TX, VT [Membership in American Society of Health System Pharmacists required for membership in PG]
(Additional carrier)

ANA/SNA PG ASSN. (IL): Professional liability for any business, trade, product, service, etc. invl. del. of nursing services • Chicago Ins. Co. (IL); Liberty Ins. Underwriters (NY) • Contact Diana Ivey (212) 345-4440. CA, CO, DE, GA, HI, IL, MN, MT, NV, NY, SC, TN, TX, VT
(Additional carrier)

ASHA PG ASSN. (IL): Professional liability; general liability for those engaged in delivery of speech & hearing services • Chicago Ins. Co. (IL) • Not accessible to producers. Contact Hilary Cheda (415) 899-6968. CA, CO, DE, GA, HI, IL, MN, MT, NV, NY, SC, TN, TX, VT
(New contact and phone number)

ASSOCIATIONS PG (IL): Directors and officers liability; professional liability for boards of directors of Purchasing Group associations • Chicago Ins. Co. (IL) • Accessible and commissionable to producers. Contact Hilary Cheda (415) 899-6968. CA, CO, DE, GA, HI, IL, MN, MT, NV, NY, SC, TN, TX, VT
(New contact and phone number)

COURT REPORTERS PG ASSN. (IL): Professional liability for court reporters • Chicago Ins. Co. (IL) • Contact Hilary Cheda (415) 899-6968. CA, CO, DE, GA, IL, MN, MT, NV, NY, SC, TN, TX, VT [PG formerly known as Shorthand Court Reporters PG Assn.]
(New contact and phone number)

EDUCATION SUPPORT PG (TX): Commercial general liability; non-profit professional liability; teacher professional liability; professional liability; umbrella coverage for teachers in public schools • Homeland Ins. Co. of New York (NY); Liberty Ins. Underwriters (NY) • Contact Elgin B. Allen, Jr. (214) 360-0801. DE, GA, IL, MN, SC, TN, TX, VT
(Additional carrier)

EDUCATORS PURCHASING GROUP ASSN. (IL): Professional liability for educational services • Chicago Ins. Co. (IL) • Not accessible to producers. Contact Hilary Cheda (415) 899-6968. CA, CO, DE, GA, IL, MN, MT, NV, NY, SC, TN, TX, VT
(New contact and phone number)

HEALTH AND BEAUTY PG (IL): Commercial general liability for massage therapists who are members of Intl. Massage Assn. • Colony Ins. Co. (VA); Evanston Ins. Co. (IL); Great American Ins. Co. (OH); Penn-America Ins. Co. (PA); Penn-Star Ins. Co. (PA); Western Heritage Ins. Co. (AZ) • Not accessible to producers. Contact Daniel V. O'Leary (312) 251-1013. CA, CO, DE, GA, HI, MN, NY, SC, TN [Formerly Intl. Massage Assn. PG]
(Additional carrier)

HEALTH CARE PROFESSIONS PG ASSN. (IL): Professional liability for allied healthcare professions • Chicago Ins. Co. (IL); Liberty Ins. Underwriters (NY) • Not accessible to producers. Contact Diana Ivey (212) 345-4440. CA, CO, DE, HI, IL, MN, MT, NY, SC, TN, TX, VT
(Additional carrier)

HEALTHCARE PURCHASING GROUP ASSN. (IL): Professional liability • Chicago Ins. Co. (IL); Columbia Casualty Co. (IL) • Accessible and commissionable to producers. Contact Hilary Cheda (415) 899-6968. CA, DE, GA, IL, MN, MT, NY, SC, TN, TX, VT
(New contact and phone number)

JAMISONPRO ALLIED HEALTH PG (DC): Professional liability for allied healthcare providers, incl. nurse anesthetists, phys. therapists, etc. • Evanston Ins. Co. (IL); Interstate Fire and Casualty Ins. Co. (IL) • Accessible and commissionable to producers. Contact Sean Patwell (973) 731-0806. CO, DE, IL, MN, MT, NV, NY, SC, TN, TX
(Additional carrier)

LAWYER'S PROTECTOR PLAN PG (DC): Professional liability for small law firms with approximately two attorneys • Navigators Ins. Co. (NY) • Accessible and commissionable to producers under certain circumstances. Contact Steve Van Wert (813) 222-4284. CA, CO, DE, HI, IL, MN, MT, NY, SC, TN, TX, VT
(Deleted carrier; new carrier)

MEDICAL RELATED PROFESSIONAL SERVICES PG ASSN. (IL): Professional liability; general liability; excess liability; umbrella liability for members engaged in the delivery of medical related services • Chicago Ins. Co. (IL) • Accessible and commissionable to producers. Contact Hilary Cheda (415) 899-6968. CA, CO, DE, GA, IL, MN, MT, NV, NY, SC, TN
(New contact and phone number)

MEMBER INS. PG (IL): Commercial general liability; umbrella liability for independent hardware stores, lumber/bldg. material dealers/rental operations • American Guarantee & Liability (NY) • Contact Michael L. Averill (800) 323-0131. CA, DE, GA, IL, MN, NV, NY, SC, TN, VT
(New contact and phone number)

METROPOLITAN COMMERCIAL REAL ESTATE ASSN., INC. (NY): Umbrella liability for residential and commercial real estate property owners • American Guarantee & Liability (NY); Federal Ins. Co. (IN); Zurich American Ins. Co. (NY); Zurich Ins. Co. (U.S. Branch) (SW) • Contact Robert Mackoul (516) 431-8300. CA, IL, NY, SC, VT
(Additional carrier)

NATL. LEGAL AID AND DEFENDER ASSN. (DC): Professional liability for lawyers; errors and omissions for management • Columbia Casualty Co. (IL); Continental Casualty Co. (IL); Continental Insurance Co. (NH) • Contact Joyce Huffman (202) 452-9870. CA, DE, GA, MN, MT, NV, NY, TN, TX, VT
(New contact and phone number)

NATL. NURSES PG ASSN. (IL): Professional liability for nurses • Chicago Ins. Co. (IL) • Not accessible to producers. Contact Hilary Cheda (415) 899-6968. CA, CO, DE, GA, HI, IL, MN, MT, NV, NY, SC, TX, VT
(New contact and phone number)

NON-PROFIT SERVICE ORGANIZATION (IL): Directors and officers liability for non-profit service organizations • Columbia Casualty Co. (IL); Continental Casualty Co. (IL); Trumbull Ins. Co. (CT); Twin City Fire Ins. Co. (IN) • Accessible and commissionable to producers. Contact Kip Kelley (312) 701-4168. CA, CO, DE, HI, IL, MN, MT, NV, NY, SC, TN, TX, VT
(Additional carrier)

PLATINUM LEISURE RISK PG, INC. (DE): Umbrella liability for franchise hotels and motels & restaurants • Navigators Ins. Co. (NY); United States Fire Ins. Co. (NY) • Accessible and commissionable to producers. Contact William F. Cleave (609) 818-9534. DE, GA, IL, MN, NV, NY, SC, TX
(Additional carrier)

PROFESSIONAL COUNSELORS PG, INC. (DE): Professional liability for mental health counselors • American Home Assurance Co. (NY); Darwin Natl. Assurance (DE); New Hampshire Ins. Co. (PA); Platte River Ins. Co. (NE) • Not accessible to producers. Contact Richard Imbert (631) 691-6400. CA, CO, DE, GA, HI, MN, MT, SC, TN, TX, VT
(Deleted carrier)

PROFESSIONAL DESIGN PG ASSN. (IL): Professional liability for profs. engaged in the delivery of design, architectural & eng. services • Chicago Ins. Co. (IL) • Accessible and commissionable to producers. Contact Hilary Cheda (415) 899-6968. CA, CO, DE, GA, HI, IL, MN, MT, NV, NY, SC, TN, TX, VT
(New contact and phone number)

PROFESSIONAL NURSING ORGANIZATIONS PG ASSN. (IL): Professional liability for nursing services • Chicago Ins. Co. (IL); Liberty Ins. Underwriters (NY) • Not accessible to producers. Contact Diana Ivey (212) 345-4440. CA, DE, GA, HI, IL, MN, MT, NV, NY, TN, TX, VT
(Additional carrier)

SIGMA PG ASSN. (IL): General liability; directors and officers liability for youth athletic leagues involved in sporting & recreation events • Great American Ins. Co. (OH); James River Ins. Co. (OH); Mt. Hawley Ins. Co. (KS); Philadelphia Indemnity Ins. Co. (PA); Riverport Ins. Co. (MN); St. Paul Fire & Marine Ins. Co. (MN) • Accessible and commissionable to producers. Contact Dan Szathmary (800) 538-7061. CA, CO, DE, GA, HI, IL, MN, MT, NY, SC, TN, TX, VT
(Additional carriers)

SWISS RE PG FOR INSURANCE AGENTS (KS): Professional liability for Swiss Re insurance agents • Westport Ins. Corp. (MO) • Contact Theresa Cox (800) 255-6931. DE, GA, IL, NY, SC, TX, VT
(New contact and phone number)

WASTEPAC RISK PG (NY): Auto liability; general liability for refuse removal businesses • Natl. Union Fire Ins. Co. of Pittsburgh, Pa. (PA) • Accessible and commissionable to producers. Contact Thomas Dowd (631) 403-4486. CA, CO, GA, IL, NV, NY, SC, TN
(New contact and phone number)

DELETED PURCHASING GROUPS

ASSN. FOR INDEPENDENT VIDEO & FILMMAKERS, INC. (NY): General liability for independent video and filmmakers • Reliance Ins. Co. (PA) • Accessible and commissionable to producers under certain circumstances. Contact Debra Kozee (212) 406-4499. NY
(PG inactive)

BRF GROUP, INC. (NY): Commercial general liability; umbrella liability; employee benefits liability for owners of high-end residential condos & co-ops outside five N.Y. boroughs • Northbrook Prop. & Cas. Ins. Co. (IL) • Not accessible to producers. Contact Kathy Curry (732) 661-0511. NY
(PG inactive)

BROWNSTONE OWNERS PRESERVATION ASSN., INC. (NY): Liability for owners and managers of brownstones • United States Fire Ins. Co. (NY) • Not accessible to producers. Contact David Paige (212) 832-3235. NY
(PG inactive)

FIRST CAPITAL GROUP PG (DE): General liability • Highlands Ins. Co. (TX); Virginia Surety Co., Inc. (IL) • Accessible and commissionable to producers. Contact Joseph Elmasri (908) 608-0200. NY
(PG inactive)

METRO TRANSPORTATION GROUP (NY): Auto liability for Medallion taxicabs • Insurer Unknown (Unknown) • Accessible and commissionable to producers under certain circumstances. Contact Ann Frantzen (516) 487-0300. NY
(PG inactive)

The Risk Retention Reporter monitors risk retention activity in fourteen states. These states - known as "pulse point" states - are California, Colorado, Delaware, Georgia, Hawaii, Illinois, Minnesota, Montana, Nevada, New York, South Carolina, Tennessee, Texas and Vermont. The RISK RETENTION MONTHLY UPDATE lists new risk retention groups and purchasing groups as well as changes in information for existing groups. A complete list of RRGs and PGs is published in January, April, July and October. "Pulse Point" states monitored by the RRR are listed at the end of each listing. RRGs and PGs may have filed or be operational in non-monitored states. To ascertain this information, contact the group directly or the insurance department in the state for which information is sought.

RISK RETENTION REPORTER

The gateway to the risk retention and purchasing group marketplace

Banner Advertising on www.RRR.com



Each month [RRR.com](http://www.RRR.com) averages over 70,000 unique visitors. [RRR.com](http://www.RRR.com) is the most visited website on the Internet for those seeking services and information relating to RRGs. Visitors to [RRR.com](http://www.RRR.com) include CEOs, captive managers, service providers, risk managers, regulatory officials, and more – thousands of homepage views every month!

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- Will be showcased 24/7 on the homepage
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