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GOVERNMENT RELATIONS
ISSUE BRIEF

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NAIC
National Association of Insurance Commissioners
The Center for Insurance Policy and Research

Risk Retention Group Expansion

- *In the 114th Congress, legislation was introduced that would allow Risk Retention Groups (RRGs) that write liability insurance for non-profits to write property coverage. The NAIC opposes legislative proposals which would expand the scope of the Liability Risk Retention Act of 1986 (LRRA) to allow RRGs to write commercial property insurance.*

- *State insurance regulators focus on protecting insurance consumers and ensuring competitive and stable insurance markets. State insurance regulators are unaware of a large scale crisis in the commercial property insurance market, for non-profits or otherwise, that would merit the expansion of the LRRA and preemption of state insurance regulatory laws that are designed to protect policyholders.*

- *Allowing RRGs to sell property coverage could create more risks for the RRGs and ultimately, their insureds.*

Background

During the 1980s, the availability of commercial liability insurance became severely restricted. To address this issue Congress passed the LRRA, which allowed RRGs to write commercial liability insurance. RRGs have different regulatory and financial solvency requirements that are designed to address concerns with the availability for liability coverage as compared to admitted market requirements for property coverage, which is widely available. The LRRA contains limitations on the regulatory authority of state insurance commissioners.

An RRG is regulated almost exclusively by its domiciliary state regulator and there are prohibitions against other non-domiciliary states. By comparison, a traditional admitted insurer must receive a license and submit to regulation from every state where it writes business (albeit on a coordinated basis), including complying with all consumer protection laws in all states where it does business. Further, the LRRA prohibits RRGs from participating in state guaranty funds, which serve as a backstop and protect policyholders of property and casualty insurance. This is particularly concerning as RRGs have historically had a higher rate of insolvencies when compared to admitted insurers.

In the 114th Congress, the NAIC opposed legislation that would allow RRGs that write coverage for non-profits to write property coverage. State insurance regulators are unaware of any large-scale property insurance availability problem within non-profits and the NAIC is opposed to such a proposal. Recent experience with natural catastrophes across the country has only reinforced the need for strong solvency oversight of insurers writing such coverage. RRGs interested in expanding into writing commercial property coverage should explore converting to an admitted carrier be subject to the same regulatory requirements as traditional admitted property and casualty insurers and compete with those insurers on a level playing field.

Key Points

- ✓ The current regulatory framework for financial oversight of RRGs was designed with the more limited purpose of promoting the availability of liability coverage not for protecting policyholders of property insurance. The nature of this framework, coupled with the lack of state guaranty fund protection, could expose nonprofit organizations and those who rely upon them to unnecessary risks.

- ✓ State insurance regulators encourage any nonprofit policyholders that have difficulties with obtaining property coverage to bring them to their attention, so they can seek to address such issues through appropriately tailored state-based regulatory solutions as is done with all other lines of insurance.

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