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GOVERNMENT RELATIONS
ISSUE BRIEF

700 HALL OF STATES
444 NORTH CAPITOL STREET N.W.
WASHINGTON, D.C. 20001
202-471-3990
www.naic.org

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

Risk Retention Group Expansion

- *The NAIC opposes legislative proposals which would expand the scope of the Liability Risk Retention Act of 1986 (LRRA) to allow Risk Retention Groups (RRGs) to write commercial property insurance.*

- *State insurance regulators focus on protecting insurance consumers and ensuring competitive and stable insurance markets. Unlike the market conditions that led to the LRRA, there is no evidence of a crisis in the commercial property insurance market, for non-profits or otherwise, that would merit 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, much of which was attributable to the expansion of tort doctrines for insurer liability. Premiums for general liability more than tripled over a three-year period. To address this issue Congress passed the LRRA, which allowed RRGs to write commercial liability insurance and limited regulatory authority of state insurance regulators. In order to quickly address the lack of commercial liability coverage, RRGs were afforded different regulatory and financial solvency requirements. This market issue no longer exists today and has never existed in the commercial property space.

RRGs are regulated almost exclusively by a single domiciliary state regulator and even though they may operate in other states, non-domiciliary state regulatory authority over these entities is severely curtailed. By comparison, traditional admitted insurers must receive a license and submit to regulation from every state where they write business (on a coordinated basis), including complying with consumer protection laws in all states where they operate. This coordinated multi-state approach limits the potential for regulatory capture and a race to the bottom – a feature now missing from RRG oversight. Further, the LRRA prohibits RRGs from participating in state guaranty funds, which serve as a backstop and will pay claims to policyholders in the event of an insurer failure. This is particularly concerning as RRGs have historically had a much higher rate of insolvencies when compared to admitted insurers.

The NAIC opposes legislation that would allow RRGs that provide coverage for non-profits to write property coverage as there is no crisis in commercial property insurance availability that would warrant state preemption. Recent experience with natural catastrophes across the country has only reinforced the need for strong solvency oversight of insurers writing such coverage.

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 difficulty obtaining property coverage to contact them so they can seek to address such issues through appropriately tailored state-based regulatory solutions as is done with all other lines of insurance.

Ethan Sonnichsen, Managing Director, Government Relations esonnichsen@naic.org
Mark Sagat, Assistant Director, Financial Policy and Legislation msagat@naic.org
Heather Eilers-Bowser, Financial Policy and Legislative Counsel heilersbowser@naic.org