Title: To amend the Liability Risk Retention Act of 1986 to expand the types of commercial insurance authorized for risk retention groups serving nonprofit organizations, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Nonprofit Property Protection Act”.

SEC. 2. COMMERCIAL INSURANCE.


(1) in section 2(a) (15 U.S.C. 3901(a))—

(A) in paragraph (6), by striking “and” at the end;

(B) in paragraph (7)(B), by striking the period at the end and inserting a semicolon; and

(C) by adding at the end the following:

“(8) ‘commercial insurance’ includes all forms of commercial insurance, except that the term does not include health, life, disability, or workers’ compensation insurance; and

“(9) the term ‘nonprofit organization’ means an organization described in section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from tax under section 501(a) of such Code.”; and

(2) in section 3 (15 U.S.C. 3902)—

(A) in subsection (b)—

(i) in paragraph (2), by striking “and” at the end;

(ii) in paragraph (3), in the flush text following subparagraph (C), by striking the period at the end and inserting “; and”; and

(iii) by adding at the end the following:

“(4) subject to subsection (i), the provision of other lines of commercial insurance by a risk retention group to nonprofit organizations, provided that—

“(A) the risk retention group has been chartered or licensed as an insurance company under the laws of a State and authorized to engage in the business of insurance under the laws of that State;

“(B) the risk retention group has engaged in the business of insurance pursuant to the charter or license and authority described in subparagraph (A) for a period not less than 10 consecutive years immediately preceding the commencement of an offering of coverage under this paragraph;

“(C) the risk retention group maintains capital and surplus of not less than

...
$20,000,000, as calculated in accordance with accounting principles generally accepted in the United States; and

“(D) the total insured value of the risks covered by the initial policy for other forms of commercial insurance provided by the risk retention group to any single member of the risk retention group is in an amount that is not more than $50,000,000, provided that—

“(i) the amount specified in this subparagraph shall, beginning 1 year after the date of enactment of the Nonprofit Property Protection Act, and annually thereafter, be adjusted to reflect the percentage change for that 1-year period in the Consumer Price Index for All Urban Consumers published by the Bureau of Labor Statistics of the Department of Labor, which shall be subject to approval by the State regulator in the State in which the risk retention group is domiciled; and

“(ii) for purposes of this subparagraph, any computation of total insured value shall exclude liability insurance coverage provided by a risk retention group to any member authorized under this Act.”; and

(B) by adding at the end the following:

“(i) State Authority to Restrict Forms of Commercial Insurance Other Than Liability Insurance.—

“(1) REQUIREMENTS FOR RESTRICTION.—Subject to paragraph (2), a risk retention group may not commence offering forms of commercial insurance other than liability insurance in a State if the State insurance commissioner of that State makes publicly available on a website of the commissioner the identities of not fewer than 3 admitted carriers in that State that—

“(A) have filed forms, rates, and rules for monoline property coverage written on the property portion of a businessowners policy and monoline automobile physical damage coverage;

“(B) have active, in-force policies of monoline property and monoline automobile physical damage coverage issued to nonprofit organizations in that State, as of the date on which the information required under this paragraph is initially made publicly available; and

“(C) the monoline property and monoline automobile physical damage coverages offered by each such carrier are easily accessible in that State to nonprofit organizations through the independent broker marketplace.

“(2) TREATMENT OF RISK RETENTION GROUPS WITH IN-FORCE POLICIES.—Any risk retention group having an active, in-force commercial insurance policy described in subsection (b)(4) in a State, as of the date on which the information described in paragraph (1) for that State is initially made publicly available, may continue to provide commercial insurance, as described in subsection (b)(4).

“(3) OPTION FOR NONDOMICILE STATE TO REQUIRE PARTICIPATION IN GUARANTY FUND.—A State guaranty fund may require a risk retention group to participate in that guaranty fund for insurance offered under subsection (b)(4) in that State.
“(4) NON-DOMICILE STATE OVERSIGHT AND ACTION PROVISION.—The State insurance commissioner of a State in which a risk retention group is offering coverage in the manner described in subsection (b)(4) may—

“(A) at any time, conduct an independent financial audit of any assets of that risk retention group not held by a third-party custodian for the purposes of verifying the level of capital of that risk retention group pursuant to the risk-based capital method of the National Association of Insurance Commissioners (referred to in this paragraph as the ‘risk-based method’);

“(B) with respect to assets of that risk retention group held by a third-party custodian, require that the risk retention group authorize that custodian, not later than 7 days after receiving a written request from that commissioner, to verify, in writing, assets reported by the risk retention group in the most recent annual statement submitted by the risk retention group to the National Association of Insurance Commissioners;

“(C) provide that, if a written verification required under subparagraph (B) is not provided within 28 days of the date on which that commissioner makes a request for that verification, that commissioner may conduct an independent financial audit of all investments held by the risk retention group for the purposes of verifying the level of capital of the risk retention group under the risk-based method;

“(D) require the risk retention group, if the surplus of the risk retention group falls within the Company Action Level, as measured by the risk-based method, to provide to that commissioner a copy of any plan provided to the State insurance commissioner of the State in which the risk retention group is domiciled, if applicable;

“(E) conduct a financial examination, including by performing an analysis of the assets and liabilities of the risk retention group, if the risk retention group falls within the Regulatory Action Level under the risk-based method; and

“(F) issue a cease and desist order for that State if the risk retention group falls within the Authorized Control Level of the risk-based method.

“(5) RULE OF CONSTRUCTION.—No authority granted to a State insurance commissioner under this subsection may be used to—

“(A) arbitrarily or discriminatorily impede the operations of a risk retention group; or

“(B) request verification of assets, or the financial condition, of a risk retention group in a manner inconsistent with the typical assets review of an insurance carrier that is admitted in that State and domiciled in another State.”.

SEC. 3. CONFORMING AND CLARIFYING AMENDMENTS.


(1) in section 2(a)(4) (15 U.S.C. 3901(a)(4))—

(A) in subparagraph (C)(i), by striking “a liability” and inserting “an”; and
(B) in subparagraph (G)—

(i) in clause (i), by inserting “or other commercial” after “liability” each place that term appears; and

(ii) in clause (ii), by inserting “or other commercial” after “liability”;

(2) in section 3 (15 U.S.C. 3902)—

(A) in subsection (a)(1)(C), by inserting “or other commercial” after “liability”; and

(B) in subsection (d)(1)(B), by inserting “or other commercial” after “liability”; and

(3) in section 6(b) (15 U.S.C. 3905(b)), by inserting “or other forms of commercial” before “insurance by a risk retention group”.

SEC. 4. AMENDMENT TO SHORT TITLE.


(b) Technical and Conforming Amendment.—Section 527(11) of the Nonadmitted and Reinsurance Reform Act of 2010 (15 U.S.C. 8206(11)) is amended by striking “Liability”.