

1 Title: To amend the Liability Risk Retention Act of 1986 to expand the types of commercial
2 insurance authorized for risk retention groups serving nonprofit organizations, and for other
3 purposes.
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6 Be it enacted by the Senate and House of Representatives of the United States of America in
7 Congress assembled,

8 SECTION 1. SHORT TITLE.

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

10 SEC. 2. COMMERCIAL INSURANCE.

11 The Liability Risk Retention Act of 1986 (15 U.S.C. 3901 et seq.) is amended—

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

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

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

16 (C) by adding at the end the following:

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

19 “(9) the term ‘nonprofit organization’ means an organization described in section
20 501(c)(3) of the Internal Revenue Code of 1986 and exempt from tax under section 501(a)
21 of such Code.”; and

22 (2) in section 3 (15 U.S.C. 3902)—

23 (A) in subsection (b)—

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

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

27 (iii) by adding at the end the following:

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

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

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

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

1 \$20,000,000, as calculated in accordance with accounting principles generally accepted
2 in the United States; and

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

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

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

16 (B) by adding at the end the following:

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

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

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

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

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

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

39 “(3) OPTION FOR NONDOMICLE STATE TO REQUIRE PARTICIPATION IN GUARANTY FUND.—A
40 State guaranty fund may require a risk retention group to participate in that guaranty fund
41 for insurance offered under subsection (b)(4) in that State.

1 “(4) NON-DOMICILE STATE OVERSIGHT AND ACTION PROVISION.—The State insurance
2 commissioner of a State in which a risk retention group is offering coverage in the manner
3 described in subsection (b)(4) may—

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

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

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

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

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

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

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

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

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

36 SEC. 3. CONFORMING AND CLARIFYING 37 AMENDMENTS.

38 The Liability Risk Retention Act of 1986 (15 U.S.C. 3901 et seq.) is amended—

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

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

- 1 (B) in subparagraph (G)—
2 (i) in clause (i), by inserting “or other commercial” after “liability” each place
3 that term appears; and
4 (ii) in clause (ii), by inserting “or other commercial” after “liability”;
5 (2) in section 3 (15 U.S.C. 3902)—
6 (A) in subsection (a)(1)(C), by inserting “or other commercial” after “liability”; and
7 (B) in subsection (d)(1)(B), by inserting “or other commercial” after “liability”; and
8 (3) in section 6(b) (15 U.S.C. 3905(b)), by inserting “or other forms of commercial”
9 before “insurance by a risk retention group”.

10 SEC. 4. AMENDMENT TO SHORT TITLE.

- 11 (a) In General.—Section 1 of the Liability Risk Retention Act of 1986 (15 U.S.C. 3901 note)
12 is amended by striking “Liability Risk Retention Act of 1986” and inserting “Risk Retention Act
13 of 1986”.
- 14 (b) Technical and Conforming Amendment.—Section 527(11) of the Nonadmitted and
15 Reinsurance Reform Act of 2010 (15 U.S.C. 8206(11)) is amended by striking “Liability”.
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