

1                                   A bill to be entitled  
 2           An act relating to risk retention groups; amending s.  
 3           627.944, F.S.; providing that risk retention groups  
 4           authorized to do business in this state are deemed to  
 5           be insurance companies authorized to do business in  
 6           this state; providing an effective date.

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 8   Be It Enacted by the Legislature of the State of Florida:

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 10           Section 1. Section 627.944, Florida Statutes, is amended  
 11           to read:

12           627.944 Risk retention groups not certificated in this  
 13           state.~~—Risk retention groups authorized to do business in this~~  
 14           state pursuant to this section are deemed to be insurance  
 15           companies authorized to do business in this state. Risk  
 16           retention groups certificated or licensed in states other than  
 17           this state and seeking to do business as a risk retention group  
 18           in this state must observe and abide by the laws of this state  
 19           as follows:

20           (1) NOTICE OF OPERATIONS AND DESIGNATION OF CHIEF  
 21           FINANCIAL OFFICER AS AGENT.—Before offering insurance in this  
 22           state, a risk retention group shall submit to the office:

23           (a) A statement identifying the state or states in which  
 24           the risk retention group is certificated or licensed as a  
 25           liability insurance company, date of certification or licensing,

26 | its principal place of business, and such other information,  
27 | including information on its membership, as the office may  
28 | require to verify that the risk retention group is qualified as  
29 | a risk retention group under the provisions of this part.

30 |       (b) A copy of its plan of operations or a feasibility  
31 | study and revisions of such plan or study submitted to its state  
32 | of domicile; provided, however, that the provision relating to  
33 | the submission of a plan of operation or a feasibility study  
34 | shall not apply with respect to any line or classification of  
35 | liability insurance which was defined in the Product Liability  
36 | Risk Retention Act of 1981 before October 27, 1986, and which  
37 | was offered before such date by any risk retention group which  
38 | had been certificated or licensed and operating for not less  
39 | than 3 years before such date.

40 |       (c) A statement of registration which designates the Chief  
41 | Financial Officer or her or his designee as its agent for the  
42 | purpose of receiving service of legal documents of process.

43 |       (2) FINANCIAL CONDITION.—Any risk retention group doing  
44 | business in this state shall submit to the office:

45 |       (a) A copy of the group's financial statement submitted to  
46 | its state of domicile, which shall be certified by an  
47 | independent public accountant and contain a statement of opinion  
48 | on loss and loss adjustment expense reserves made by a member of  
49 | the American Academy of Actuaries or a qualified loss reserve  
50 | specialist under criteria established by rule of the commission

51 after considering any criteria established by the National  
52 Association of Insurance Commissioners.

53 (b) A copy of each examination of the risk retention group  
54 as certified by the insurance commissioner or public official  
55 conducting the examination.

56 (c) Upon request by the office, a copy of any audit  
57 performed with respect to the risk retention group.

58 (d) Such information as may be required to verify its  
59 continuing qualification as a risk retention group under the  
60 provisions of this part.

61 (3) TAXATION.—All premiums paid for insurance or coverages  
62 on risks located within this state to a risk retention group  
63 shall be subject to taxation at the same rate and subject to the  
64 same interest, fines, and penalties for nonpayment as that  
65 applicable to eligible surplus lines insurers. Each agent  
66 utilized in any transaction shall report and pay the taxes for  
67 the premiums for risks which they have placed with or on behalf  
68 of a risk retention group not certificated in this state. In the  
69 event that an agent fails to pay the tax, each risk retention  
70 group shall pay the tax for insured or covered risks located  
71 within this state. Further, each risk retention group shall  
72 report all premiums paid to it for insured or covered risks  
73 located within this state.

74 (4) COMPLIANCE WITH UNFAIR CLAIM SETTLEMENT PRACTICES  
75 LAW.—Any risk retention group, its agents, and its

76 representatives shall comply with the unfair claim settlement  
77 practices law of this state as set forth in s. 626.9541(1)(i).

78 (5) DECEPTIVE, FALSE, OR FRAUDULENT PRACTICES.—Any risk  
79 retention group shall comply with and be subject to the laws of  
80 this state regarding deceptive, false, or fraudulent acts or  
81 practices, including the provisions of part IX of chapter 626.  
82 If the office seeks an injunction regarding conduct in violation  
83 of these laws, the injunction may be obtained from any Florida  
84 court of competent jurisdiction.

85 (6) EXAMINATION REGARDING FINANCIAL CONDITION.—Any risk  
86 retention group must submit to an examination by the office to  
87 determine its financial condition if the insurance commissioner  
88 of the jurisdiction in which the group is certificated or  
89 licensed has not initiated an examination or does not initiate  
90 an examination within 30 days after a request by the office. Any  
91 examination shall be coordinated to avoid unjustified repetition  
92 and conducted in an expeditious manner.

93 (7) NOTICE TO PURCHASERS.—Any policy issued by a risk  
94 retention group shall contain in 10-point type on the front page  
95 and the declaration page, the following provision:

96 "Notice, this policy is issued by your risk retention group.  
97 Your risk retention group may not be subject to all of the  
98 insurance laws and regulations of your state. State insurance  
99 insolvency guaranty funds are not available for your risk  
100 retention group."

101 (8) PROHIBITED ACTS REGARDING SOLICITATION OR SALE.—The  
 102 following acts by a risk retention group are hereby prohibited:

103 (a) The solicitation or sale of insurance by a risk  
 104 retention group to any person who is not eligible for membership  
 105 in the group.

106 (b) The solicitation or sale of insurance by, or operation  
 107 of, a risk retention group that is in a hazardous financial  
 108 condition or is financially impaired.

109 (9) PROHIBITED OWNERSHIP BY AN INSURANCE COMPANY.—No risk  
 110 retention group shall be allowed to do business in this state if  
 111 an insurer is directly or indirectly a member or owner of the  
 112 risk retention group, other than in the case of a risk retention  
 113 group all of whose members are insurers.

114 (10) PROHIBITED COVERAGE.—No risk retention group may  
 115 offer insurance coverage prohibited by the Florida Insurance  
 116 Code or declared unlawful by the highest court of this state.

117 (11) DELINQUENCY PROCEEDINGS.—A risk retention group not  
 118 domiciled in this state but doing business in this state shall  
 119 comply with a lawful order issued in a voluntary dissolution  
 120 proceeding or in a delinquency proceeding commenced by the  
 121 office if there has been a finding of financial impairment after  
 122 an examination under subsection (6).

123 (12) UTILIZATION OF AGENT.—A risk retention group shall  
 124 utilize an agent licensed and appointed in this state in order  
 125 to solicit, transact, underwrite, or provide insurance on a risk

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126 | of a group member, which risk is located in this state.

127 |       Section 2. This act shall take effect July 1, 2024.