

By Senator DiCeglie

18-00549-24

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

7
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 to
11 read:

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

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

21 (a) A statement identifying the state or states in which
22 the risk retention group is certificated or licensed as a
23 liability insurance company, date of certification or licensing,
24 its principal place of business, and such other information,
25 including information on its membership, as the office may
26 require to verify that the risk retention group is qualified as
27 a risk retention group under ~~the provisions of~~ this part.

28 (b) A copy of its plan of operations or a feasibility study
29 and revisions of such plan or study submitted to its state of

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

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

41 (2) FINANCIAL CONDITION.—Any risk retention group doing
42 business in this state must ~~shall~~ submit to the office:

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

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

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

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

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

72 (4) COMPLIANCE WITH UNFAIR CLAIM SETTLEMENT PRACTICES LAW.—
73 Any risk retention group, its agents, and its representatives
74 shall comply with the unfair claim settlement practices law of
75 this state as set forth in s. 626.9541(1)(i).

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

83 (6) EXAMINATION REGARDING FINANCIAL CONDITION.—Any risk
84 retention group must submit to an examination by the office to
85 determine its financial condition if the insurance commissioner
86 of the jurisdiction in which the group is certificated or
87 licensed has not initiated an examination or does not initiate

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88 an examination within 30 days after a request by the office. Any
89 examination must ~~shall~~ be coordinated to avoid unjustified
90 repetition and conducted in an expeditious manner.

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

94

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

100

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 offer
115 insurance coverage prohibited by the Florida Insurance Code or
116 declared unlawful by the highest court of this state.

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

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