

§6095. Risk retention groups not chartered in this State

Risk retention groups chartered and licensed in states other than this State and seeking to do business as a risk retention group in this State must comply with the laws of this State in the following manner. [PL 1987, c. 481, §3 (NEW).]

1. Notice of operations and designation of agent for service of process. Before offering insurance in this State, a risk retention group shall submit to the superintendent:

A. A statement identifying the state or states in which the risk retention group is chartered and licensed as a liability insurance company, the date of chartering and organization, its principal place of business and such other information, including information on its membership, as the superintendent may require to verify that the risk retention group is qualified under section 6093, subsection 13; [PL 1987, c. 481, §3 (NEW).]

B. A copy of its plan of operation or a feasibility study and applicable revisions of the plan or study submitted to its state of domicile, provided that the provision relating to the submission of a plan of operation or a feasibility study does not apply with respect to any line or classification of liability insurance that was defined in the Product Liability Risk Retention Act of 1981 before October 27, 1986 and was offered before that date by any risk retention group that had been chartered and operating for not less than 3 years before that date; and [PL 1997, c. 592, §73 (AMD).]

C. A designation of an agent for the purpose of receiving service of legal documents or process. That designation is subject to the provisions of section 421, except that the appointment of a private agent is optional. A risk retention group that does not elect to designate an agent in accordance with section 421, subsection 1 shall appoint the superintendent as its agent. [PL 2013, c. 238, Pt. E, §3 (AMD).]

[PL 2013, c. 238, Pt. E, §3 (AMD).]

2. Financial condition. Any risk retention group transacting business in this State shall submit to the superintendent:

A. Annually, on or before March 1st, a copy of the group's financial statement submitted to the state in which the risk retention group is chartered and licensed, which shall be certified by an independent public accountant and contain a statement of opinion on loss and loss adjustment expense reserves made by a member of the American Academy of Actuaries who is qualified to certify casualty loss reserves; [PL 1987, c. 481, §3 (NEW).]

B. A copy of each report of examination of the risk retention group as certified by the superintendent or public official conducting the examination; [PL 1987, c. 481, §3 (NEW).]

C. Upon request by the superintendent, a copy of any audit performed with respect to the risk retention group; and [PL 1987, c. 481, §3 (NEW).]

D. Such information as may be required to verify its continuing qualification as a risk retention group under section 6093, subsection 13. [PL 1987, c. 481, §3 (NEW).]

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3. Taxation. Each risk retention group shall be responsible for the payment of premium tax in accordance with Title 36, section 2513-A.

[PL 1987, c. 481, §3 (NEW).]

4. Deceptive, false or fraudulent practices. To the extent not preempted by the Risk Retention Amendments of 1986, any risk retention group shall be subject to the provisions of chapter 23, and Title 5, chapter 10.

[PL 1987, c. 481, §3 (NEW).]

5. Examination regarding financial condition. Any risk retention group must submit to an examination by the superintendent to determine its financial condition if the superintendent of the jurisdiction in which the group is chartered and licensed has not performed a timely examination or does not initiate an examination within 90 days after a request by the superintendent. Any such examination shall be coordinated to avoid unjustified repetition and conducted in an expeditious manner and in accordance with the National Association of Insurance Commissioner's Examiner Handbook, as applicable.

[PL 1987, c. 481, §3 (NEW).]

6. Notice to purchasers. Any policy issued by a risk retention group shall contain in 10 point type on the front page and the declaration page, the following notice:

"NOTICE

This policy is issued by your risk retention group. Your risk retention group may not be subject to all of the insurance laws and regulations of your state. State insurance insolvency guaranty funds are not available for your risk retention group."

[PL 1987, c. 481, §3 (NEW).]

7. Prohibited acts regarding solicitation or sale. The following acts by a risk retention group are prohibited:

A. The solicitation or sale of insurance by a risk retention group to any person who is not eligible for membership in those groups; and [PL 1987, c. 481, §3 (NEW).]

B. The solicitation or sale of insurance by, or operation of, a risk retention group that is in a hazardous financial condition or is financially impaired. [PL 1987, c. 481, §3 (NEW).]

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8. Prohibition on ownership by an insurance company. No risk retention group shall be allowed to do business in this State if an insurance company is directly or indirectly a member or owner of that risk retention group, other than in the case of a risk retention group, all of whose members are insurance companies.

[PL 1987, c. 481, §3 (NEW).]

9. Prohibited coverage. No risk retention group may offer insurance policy coverage prohibited by the laws of this State or by the Risk Retention Amendments of 1986.

[PL 1987, c. 481, §3 (NEW).]

10. Delinquency proceedings. A risk retention group not chartered in this State and doing business in this State must comply with a lawful order issued in a voluntary dissolution proceeding or in a delinquency proceeding commenced by a state insurance superintendent if there has been a finding of financial impairment after an examination under subsection 5.

[PL 1987, c. 481, §3 (NEW).]

SECTION HISTORY

PL 1987, c. 481, §3 (NEW). PL 1997, c. 592, §73 (AMD). PL 2013, c. 238, Pt. E, §3 (AMD).

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