



99TH GENERAL ASSEMBLY

State of Illinois

2015 and 2016

SB2589

Introduced 2/16/2016, by Sen. Antonio Muñoz

SYNOPSIS AS INTRODUCED:

215 ILCS 5/123B-2	from Ch. 73, par. 735B-2
215 ILCS 5/123B-3	from Ch. 73, par. 735B-3
215 ILCS 5/123B-4	from Ch. 73, par. 735B-4
215 ILCS 5/123B-7	from Ch. 73, par. 735B-7

Amends the Illinois Insurance Code. Requires the Director of Insurance to forward certain information to the National Association of Insurance Commissioners. Establishes new governance standards that must be met by existing risk retention groups within one year after the effective date of the amendatory Act. Establishes governance standards concerning boards of directors, independent directors, service provider contracts, adopting certain written policies, audit committees, disclosure, business conduct and ethics, and reporting noncompliance. Requires risk retention groups to submit copies of material revisions to their plans of operation or feasibility studies within 30 days after the date of the approval of the revisions. Exempts purchasing groups meeting certain federal requirements from additional laws concerning insurance.

LRB099 18821 MLM 43206 b

1 AN ACT concerning regulation.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Illinois Insurance Code is amended by
5 changing Sections 123B-2, 123B-3, 123B-4, and 123B-7 as
6 follows:

7 (215 ILCS 5/123B-2) (from Ch. 73, par. 735B-2)

8 (Section scheduled to be repealed on January 1, 2017)

9 Sec. 123B-2. Definitions. As used in this Article:

10 (1) "Director" means the Director of the Department of
11 Insurance.

12 (2) "Completed operations liability" means liability
13 arising out of the installation, maintenance, or repair of any
14 product at a site which is not owned or controlled by:

15 (a) any person who performs that work; or

16 (b) any person who hires an independent contractor to
17 perform that work; but shall include liability for
18 activities which are completed or abandoned before the date
19 of the occurrence giving rise to the liability.

20 (3) "Domicile", for purposes of determining the state in
21 which a purchasing group is domiciled, means:

22 (a) for a corporation, the state in which the
23 purchasing group is incorporated; and

1 (b) for an unincorporated entity, the state of its
2 principal place of business.

3 (4) "Hazardous financial condition" means that, based on
4 its present or reasonably anticipated financial condition, a
5 risk retention group, although not yet financially impaired or
6 insolvent, is unlikely to be able:

7 (a) to meet obligations to policyholders with respect
8 to known claims and reasonably anticipated claims; or

9 (b) to pay other obligations in the normal course of
10 business.

11 (5) "Insurance" means primary insurance, excess insurance,
12 reinsurance, surplus lines insurance, and any other
13 arrangement for shifting and distributing risk which is
14 determined to be insurance under the laws of Illinois.

15 (6) "Liability" means:

16 (a) legal liability for damages (including costs of
17 defense, legal costs and fees, and other claims expenses)
18 because of injuries to other persons, damage to their
19 property, or other damage or loss to such other persons
20 resulting from or arising out of:

21 (i) any business (whether for profit or not for
22 profit), trade, product, services (including
23 professional services), premises, or operations; or

24 (ii) any activity of any state or local government,
25 or any agency or political subdivision thereof; but

26 (b) does not include personal risk liability and an

1 employer's liability with respect to its employees other
2 than legal liability under the Federal Employers'
3 Liability Act (45 U.S.C. 51 et seq.).

4 (7) "Personal risk liability" means liability for damage
5 because of injury to any person, damage to property, or other
6 loss or damage resulting from any personal, familial, or
7 household responsibilities or activities, rather than from
8 responsibilities or activities referred to in paragraph (a) of
9 subsection (6) of this Section;

10 (8) "Plan of operation or a feasibility study" means an
11 analysis which presents the expected activities and results of
12 a risk retention group including, at a minimum:

13 (a) information sufficient to verify that its members
14 are engaged in businesses or activities similar or related
15 with respect to the liability to which such members are
16 exposed by virtue of any related, similar, or common
17 business, trade, product, services, premises or
18 operations;

19 (b) for each state in which it intends to operate, the
20 coverages, deductibles, coverage limits, rates, and rating
21 classification systems for each line of insurance the group
22 intends to offer;

23 (c) historical and expected loss experience of the
24 proposed members and national experience of similar
25 exposures to the extent this experience is reasonably
26 available;

1 (d) pro forma financial statements and projections;

2 (e) appropriate opinions by a qualified, independent
3 casualty actuary, including a determination of minimum
4 premium or participation levels required to commence
5 operations and to prevent a hazardous financial condition;

6 (f) identification of management, underwriting and
7 claims procedures, marketing methods, managerial oversight
8 methods, investment policies and reinsurance agreements;
9 ~~and~~

10 (f-5) identification of each state in which the risk
11 retention group has obtained, or sought to obtain, a
12 charter and license and a description of its status in each
13 such state; and

14 (g) such other matters as may be prescribed by the
15 commissioner of the state in which the group is chartered
16 for liability insurance companies authorized by the
17 insurance laws of such state.

18 (9) "Product liability" means liability for damages
19 because of any personal injury, death, emotional harm,
20 consequential economic damage, or property damage (including
21 damages resulting from the loss of use of property) arising out
22 of the manufacture, design, importation, distribution,
23 packaging, labeling, lease, or sale of a product, but does not
24 include the liability of any person for those damages if the
25 product involved was in the possession of such a person when
26 the incident giving rise to the claim occurred.

1 (10) "Purchasing group" means any group which:

2 (a) has as one of its purposes the purchase of
3 liability insurance on a group basis;

4 (b) purchases such insurance only for its group members
5 and only to cover their similar or related liability
6 exposure, as described in paragraph (c) of this subsection
7 (10);

8 (c) is composed of members whose businesses or
9 activities are similar or related with respect to the
10 liability to which members are exposed by virtue of any
11 related, similar, or common business, trade, product,
12 services, premises, or operations; and

13 (d) is domiciled in any State.

14 (11) "Risk retention group" means any corporation or other
15 limited liability association:

16 (a) whose primary activity consists of assuming and
17 spreading all, or any portion, of the liability exposure of
18 its group members;

19 (b) which is organized for the primary purpose of
20 conducting the activity described under paragraph (a) of
21 this subsection (11);

22 (c) which:

23 (i) is organized and licensed as a liability
24 insurance company and authorized to engage in the
25 business of insurance under the laws of any state; or

26 (ii) before January 1, 1985 was organized or

1 licensed and authorized to engage in the business of
2 insurance under the laws of Bermuda or the Cayman
3 Islands and, before such date, had certified to the
4 insurance commissioner of at least one state that it
5 satisfied the capitalization requirements of such
6 state, except that any such group shall be considered
7 to be a risk retention group only if it has been
8 engaged in business continuously since such date and
9 only for the purposes of continuing to provide
10 insurance to cover product liability or completed
11 operations liability (as such terms were defined in the
12 Product Liability Risk Retention Act of 1981 before the
13 date of the enactment of the Risk Retention Act of
14 1986);

15 (d) which does not exclude any person from membership
16 in the group solely to provide for members of such a group
17 a competitive advantage over such a person;

18 (e) which:

19 (i) has as its owners (directly or indirectly) only
20 persons who comprise the membership of the risk
21 retention group and who are provided insurance by such
22 group; or

23 (ii) has as its sole owner (directly or indirectly)
24 an organization which:

25 (I) has as its members only persons who
26 comprise the membership of the risk retention

1 group; and

2 (II) has as its owners only persons who
3 comprise the membership of the risk retention
4 group and who are provided insurance by such group;

5 (f) whose members are engaged in businesses or
6 activities similar or related with respect to the liability
7 of which such members are exposed by virtue of any related,
8 similar, or common business, trade, product, services,
9 premises, or operations;

10 (g) whose activities do not include the provision of
11 insurance other than:

12 (i) liability insurance for assuming and spreading
13 all or any portion of the liability of its group
14 members; and

15 (ii) reinsurance with respect to the liability of
16 any other risk retention group (or any members of such
17 other group) which is engaged in businesses or
18 activities so that such group or member meets the
19 requirement described in paragraph (f) of this
20 subsection (11) for membership in the risk retention
21 group which provides such reinsurance; and

22 (h) the name of which includes the phrase "Risk
23 Retention Group".

24 (12) "State" means any state of the United States or the
25 District of Columbia.

26 (13) "NAIC" means the National Association of Insurance

1 Commissioners.

2 (Source: P.A. 85-131.)

3 (215 ILCS 5/123B-3) (from Ch. 73, par. 735B-3)

4 (Section scheduled to be repealed on January 1, 2017)

5 Sec. 123B-3. Risk retention groups organized in this State.

6 A. A risk retention group shall either:

7 (1) pursuant to the provisions of Articles II or III,
8 be organized to write only liability insurance and, except
9 as provided elsewhere in this Article, must comply with all
10 of the laws, rules, regulations and requirements
11 applicable to such insurers organized in this State and
12 with Section 123B-4 of this Article to the extent such
13 requirements are not a limitation on laws, rules,
14 regulations or requirements of this State; or

15 (2) pursuant to the provisions of Article VIIC, be
16 organized to write only liability insurance as a captive
17 insurance company and, except as provided elsewhere in this
18 Article, must comply with all of the laws, rules,
19 regulations and requirements applicable to such insurers
20 organized in this State and with Section 123B-4 of this
21 Article to the extent such requirements are not a
22 limitation on laws, rules, regulations or requirements of
23 this State.

24 Except that, as of the effective date of this amendatory
25 Act of 1995, a new risk retention group must qualify under

1 paragraph (1) of this subsection, ~~and any risk retention group~~
2 ~~presently organized in accordance with paragraph (2) of this~~
3 ~~subsection shall amend its articles of incorporation and comply~~
4 ~~with paragraph (1) of this subsection within 6 months of the~~
5 ~~effective date of this amendatory Act of 1995 or cease~~
6 ~~operating under this Article.~~

7 B. Before it may offer insurance in any state, each risk
8 retention group shall also submit for approval to the Director
9 a plan of operation or a feasibility study and revisions of
10 such plan or study if the group intends to offer any additional
11 lines of liability insurance. In the event of any subsequent
12 material change in any item of its plan or study, such risk
13 retention group shall submit an appropriate revision to the
14 Director within 10 days of any such change for approval by the
15 Director. The group shall not offer any additional kinds of
16 liability insurance, in this State or in any other state, until
17 a revision of such plan or study is approved by the Director.

18 C. At the time of filing its application for organization,
19 the risk retention group shall provide to the Director in
20 summary form the following information: the identity of the
21 initial members of the group, the identity of those individuals
22 who organized the group or who will provide administrative
23 services or otherwise influence or control the activities of
24 the group, the amount and nature of initial capitalization, the
25 coverages to be afforded, and the states in which the group
26 intends to operate. Upon receipt of this information, the

1 Director shall forward the information to the NAIC. Providing
2 notification to the NAIC is in addition to and shall not be
3 sufficient to satisfy the requirements of Section 123B-4 of
4 this Code or any other provisions of this Article.

5 D. The name under which a risk retention group may be
6 organized and licensed shall include the phrase "Risk Retention
7 Group".

8 E. Notwithstanding any other provision to the contrary, all
9 risk retention groups chartered in this State shall file an
10 annual statement with the Department and NAIC ~~the National~~
11 ~~Association of Insurance Commissioners~~ (NAIC). The annual
12 statement shall be in a form prescribed by the Director. The
13 statement may be required to be in diskette form. The statement
14 shall be completed in accordance with the annual statement
15 instructions and the NAIC Accounting Practices and Procedures
16 Manual.

17 F. As used in this subsection F:

18 "Board of directors" means the governing body of the risk
19 retention group elected by shareholders or members to establish
20 policy, elect or appoint officers and committees, and make
21 other governing decisions.

22 "Director" means a natural person designated in the
23 articles of the risk retention group, or designated, elected,
24 or appointed by any other manner, name, or title, to act as a
25 director.

26 "Material relationship" means a relationship of a person

1 with the risk retention group that includes, but is not limited
2 to:

3 (a) The receipt in any one 12-month period of
4 compensation or payment of any other item of value by the
5 person, a member of the person's immediate family, or any
6 business with which the person is affiliated from the risk
7 retention group or a consultant or services provider to the
8 risk retention group is greater than or equal to 5% of the
9 risk retention group's gross written premium for the
10 12-month period or 2% of its surplus, whichever is greater,
11 as measured at the end of any fiscal quarter falling in a
12 12-month period. The person or immediate family member of
13 that person is not independent until one year after his or
14 her compensation from the risk retention group falls below
15 the threshold.

16 (b) A relationship with the auditor as follows: a
17 director or an immediate family member of a director who is
18 affiliated with or employed in a professional capacity by a
19 present or former internal or external auditor of the risk
20 retention group is not independent until one year after the
21 end of the affiliation, employment, or auditing
22 relationship.

23 (c) A relationship with a related entity as follows: a
24 director or an immediate family member of a director who is
25 employed as an executive officer of another company where
26 any of the risk retention group's present executives serve

1 on that other company's board of directors is not
2 independent until one year after the end of the service or
3 the employment relationship.

4 Within one year after the effective date of this amendatory
5 Act of the 99th General Assembly, existing risk retention
6 groups shall be in compliance with the following governance
7 standards and new risk retention groups shall be in compliance
8 with the standards at the time of licensure:

9 (1) The board of directors of the risk retention group
10 shall have a majority of independent directors. If the risk
11 retention group is a reciprocal, then the attorney-in-fact
12 shall adhere to the same standards regarding independence
13 of operations and governance as imposed on the risk
14 retention group's board of directors or subscribers
15 advisory committee under these standards and, to the extent
16 permissible under State law, service providers of a
17 reciprocal risk retention group shall contract with the
18 risk retention group and not the attorney-in-fact.

19 No director qualifies as independent unless the board
20 of directors affirmatively determines that the director
21 has no material relationship with the risk retention group.
22 Each risk retention group shall disclose these
23 determinations to the Department at least annually and the
24 Director may approve or refute the board's determination.
25 For this purpose, any person that is a direct or indirect
26 owner of or subscriber in the risk retention group (or is

1 an officer, director, or employee of an owner and insured,
2 unless some other position of the officer, director, or
3 employee constitutes a material relationship), as
4 contemplated by 15 U.S.C. 3901(a)(4)(E)(ii), shall be
5 deemed independent.

6 A material relationship shall not be deemed to exist by
7 reason that a majority of the membership of the related
8 entity's board of directors is the same as the membership
9 of the board of directors of the risk retention group
10 unless the director decides otherwise.

11 (2) The term of any material service provider contract
12 with the risk retention group shall not exceed 5 years. Any
13 contract, or its renewal, shall require the approval of the
14 majority of the risk retention group's independent
15 directors. The risk retention group's board of directors
16 shall have the right to terminate any service provider,
17 audit, or actuarial contracts at any time for cause after
18 providing adequate notice as defined in the contract. The
19 service provider contract is deemed material if the amount
20 to be paid for the contract is greater than or equal to 5%
21 of the risk retention group's annual gross written premium
22 or 2% of its surplus, whichever is greater.

23 No service provider in a material relationship with the
24 risk retention group shall enter into a contract with the
25 risk retention group unless the risk retention group has
26 notified the Director of Insurance in writing of its

1 intention to enter into a transaction at least 30 days
2 prior thereto and the Director of Insurance has not
3 disapproved it within that period.

4 For the purposes of this paragraph (2), "service
5 providers" includes captive managers, auditors,
6 accountants, actuaries, investment advisors, lawyers,
7 managing general underwriters or other party responsible
8 for underwriting, determination of rates, collection of
9 premium, adjusting and settling claims or preparation of
10 financial statements.

11 "Lawyers" does not include defense counsel retained by
12 the risk retention group to defend claims, unless the
13 amount of fees paid to the lawyers meet the definition of a
14 material relationship.

15 (3) The risk retention group's board of directors shall
16 adopt a written policy in the plan of operation as approved
17 by the board that requires the board to:

18 (a) ensure that all owner-insureds of the risk
19 retention group receive evidence of ownership
20 interest;

21 (b) develop a set of governance standards
22 applicable to the risk retention group;

23 (c) oversee the evaluation of the risk retention
24 group's management, including, but not limited to, the
25 performance of the captive manager, managing general
26 underwriter, or other party or parties responsible for

1 underwriting, determination of rates, collection of
2 premium, adjusting or settling claims or the
3 preparation of financial statements;

4 (d) review and approve the amount to be paid for
5 all material service providers; and

6 (e) review and approve at least annually:

7 (i) the risk retention group's goals and
8 objectives relevant to the compensation of
9 officers and service providers;

10 (ii) the officers' and service providers'
11 performance in light of those goals and
12 objectives; and

13 (iii) the continued engagement of the officers
14 and material service providers.

15 (4) The risk retention group shall have an audit
16 committee composed of at least 3 independent board members
17 as defined in this subsection F. A non-independent board
18 member may participate in the activities of the audit
19 committee, if invited by the members, but cannot be a
20 member of the committee.

21 The audit committee shall have a written charter that
22 defines the committee's purpose, which at a minimum must be
23 to:

24 (a) assist board oversight of: (I) the integrity of
25 the financial statements, (II) the compliance with
26 legal and regulatory requirements, and (III) the

1 qualifications, independence, and performance of the
2 independent auditor and actuary;

3 (b) discuss the annual audited financial
4 statements and quarterly financial statements with
5 management;

6 (c) discuss the annual audited financial
7 statements with its independent auditor and, if
8 advisable, discuss its quarterly financial statements
9 with its independent auditor;

10 (d) discuss policies with respect to risk
11 assessment and risk management;

12 (e) meet separately and periodically, either
13 directly or through a designated representative of the
14 committee, with management and independent auditors;

15 (f) review with the independent auditor any audit
16 problems or difficulties and management's response;

17 (g) set clear hiring policies of the risk retention
18 group as to the hiring of employees or former employees
19 of the independent auditor;

20 (h) require the external auditor to rotate the lead
21 or coordinating audit partner having primary
22 responsibility for the risk retention group's audit as
23 well as the audit partner responsible for reviewing
24 that audit so that neither individual performs audit
25 services for more than 5 consecutive fiscal years; and

26 (i) report regularly to the board of directors.

1 The Department may waive the requirement to establish
2 an audit committee composed of independent board members if
3 the risk retention group is able to demonstrate to the
4 Department that it is impracticable to do so and the risk
5 retention group's board of directors itself is otherwise
6 able to accomplish the purposes of an audit committee as
7 described in this paragraph (4).

8 (5) The board of directors shall adopt and disclose
9 governance standards, either through electronic or other
10 means, and provide information to members and insureds upon
11 request, including, but not limited to:

12 (a) a process by which the directors are elected by
13 the owner or insureds;

14 (b) director qualification standards;

15 (c) director responsibilities;

16 (d) director access to management and, as
17 necessary and appropriate, independent advisors;

18 (e) director compensation;

19 (f) director orientation and continuing education;

20 (g) the policies and procedures that are followed
21 for management succession; and

22 (h) the policies and procedures that are followed
23 for annual performance evaluation of the board.

24 (6) The board of directors shall adopt and disclose a
25 code of business conduct and ethics for directors,
26 officers, and employees and promptly disclose to the board

1 of directors any waivers of the code for directors or
2 executive officers. The code of business conduct and ethics
3 shall include, but is not limited to, the following topics:

4 (a) conflicts of interest;

5 (b) matters covered under the corporate
6 opportunities doctrine under the state of domicile;

7 (c) confidentiality;

8 (d) fair dealing;

9 (e) protection and proper use of risk retention
10 group assets;

11 (f) compliance with all applicable laws, rules,
12 and regulations; and

13 (g) the required reporting of any illegal or
14 unethical behavior that affects the operation of the
15 risk retention group.

16 (7) The captive manager, president, or chief executive
17 officer of the risk retention group shall promptly notify
18 the Department in writing if he or she becomes aware of any
19 material non-compliance with any of these governance
20 standards.

21 (Source: P.A. 89-97, eff. 7-7-95.)

22 (215 ILCS 5/123B-4) (from Ch. 73, par. 735B-4)

23 (Section scheduled to be repealed on January 1, 2017)

24 Sec. 123B-4. Risk retention groups not organized in this
25 State. Any risk retention group organized and licensed in a

1 state other than this State and seeking to do business as a
2 risk retention group in this State shall comply with the laws
3 of this State as follows:

4 A. Notice of operations and designation of the Director as
5 agent.

6 Before offering insurance in this State, a risk retention
7 group shall submit to the Director on a form prescribed by the
8 NAIC ~~approved by the Director~~:

9 (1) a statement identifying the state or states in
10 which the risk retention group is organized and licensed as
11 a liability insurance company, its date of organization,
12 its principal place of business, and such other
13 information, including information on its membership, as
14 the Director may require to verify that the risk retention
15 group is qualified under subsection (11) of Section 123B-2
16 of this Article;

17 (2) a copy of its plan of operations or a feasibility
18 study and revisions of such plan or study submitted to its
19 state of domicile; provided, however, that the provision
20 relating to the submission of a plan of operation or a
21 feasibility study shall not apply with respect to any line
22 or classification of liability insurance which (a) was
23 defined in the Product Liability Risk Retention Act of 1981
24 before October 27, 1986, and (b) was offered before such
25 date by any risk retention group which had been organized
26 and operating for not less than 3 years before such date;

1 and

2 (3) a statement of registration which designates the
3 Director as its agent for the purpose of receiving service
4 of legal documents or process, together with a filing fee
5 of \$200 payable to the Director.

6 A risk retention group shall submit a copy of any material
7 revision to its plan of operation or feasibility study required
8 by subsection B of Section 123B-3 of this Code within 30 days
9 after the date of the approval of the revision by the Director
10 or, if no such approval is required, within 30 days after
11 filing.

12 B. Financial condition. Any risk retention group doing
13 business in this State shall submit to the Director:

14 (1) a copy of the group's financial statement submitted
15 to the state in which the risk retention group is organized
16 and licensed, which shall be certified by an independent
17 public accountant and contain a statement of opinion on
18 loss and loss adjustment expense reserves made by a member
19 of the American Academy of Actuaries or a qualified loss
20 reserve specialist (under criteria established by the NAIC
21 ~~National Association of Insurance Commissioners~~);

22 (2) a copy of each examination of the risk retention
23 group as certified by the public official conducting the
24 examination;

25 (3) upon request by the Director, a copy of any
26 information or document pertaining to any outside audit

1 performed with respect to the risk retention group; and

2 (4) such information as may be required to verify its
3 continuing qualification as a risk retention group under
4 subsection (11) of Section 123B-2.

5 C. Taxation.

6 (1) Each risk retention group shall be liable for the
7 payment of premium taxes and taxes on premiums of direct
8 business for risks resident or located within this State,
9 and shall report to the Director the net premiums written
10 for risks resident or located within this State. Such risk
11 retention group shall be subject to taxation, and any
12 applicable fines and penalties related thereto, on the same
13 basis as a foreign admitted insurer.

14 (2) To the extent licensed insurance producers are
15 utilized pursuant to Section 123B-11, they shall report to
16 the Director the premiums for direct business for risks
17 resident or located within this State which such licensees
18 have placed with or on behalf of a risk retention group not
19 organized in this State.

20 (3) To the extent that licensed insurance producers are
21 utilized pursuant to Section 123B-11, each such producer
22 shall keep a complete and separate record of all policies
23 procured from each such risk retention group, which record
24 shall be open to examination by the Director, as provided
25 in Section 506.1 of this Code. These records shall, for
26 each policy and each kind of insurance provided thereunder,

1 include the following:

2 (a) the limit of the liability;

3 (b) the time period covered;

4 (c) the effective date;

5 (d) the name of the risk retention group which
6 issued the policy;

7 (e) the gross premium charged; and

8 (f) the amount of return premiums, if any.

9 D. Compliance With unfair claims practices provisions. Any
10 risk retention group, its agents and representatives shall be
11 subject to the unfair claims practices provisions of Sections
12 154.5 through 154.8 of this Code.

13 E. Deceptive, false, or fraudulent practices. Any risk
14 retention group shall comply with the laws of this State
15 regarding deceptive, false, or fraudulent acts or practices.
16 However, if the Director seeks an injunction regarding such
17 conduct, the injunction must be obtained from a court of
18 competent jurisdiction.

19 F. Examination regarding financial condition. Any risk
20 retention group must submit to an examination by the Director
21 to determine its financial condition if the commissioner of
22 insurance of the jurisdiction in which the group is organized
23 and licensed has not initiated an examination or does not
24 initiate an examination within 60 days after a request by the
25 Director. Any such examination shall be coordinated to avoid
26 unjustified repetition and conducted in an expeditious manner

1 and in accordance with the NAIC's ~~National Association of~~
2 ~~Insurance Commissioners'~~ Examiner Handbook.

3 G. Notice to purchasers. Every application form for
4 insurance from a risk retention group and the front page and
5 declaration page of every policy issued by a risk retention
6 group shall contain in 10 point type the following notice:

7 "NOTICE

8 This policy is issued by your risk retention group. Your
9 risk retention group is not subject to all of the insurance
10 laws and regulations of your state. State insurance insolvency
11 guaranty fund protection is not available for your risk
12 retention group".

13 H. Prohibited acts regarding solicitation or sale. The
14 following acts by a risk retention group are hereby prohibited:

15 (1) the solicitation or sale of insurance by a risk
16 retention group to any person who is not eligible for
17 membership in such group; and

18 (2) the solicitation or sale of insurance by, or
19 operation of, a risk retention group that is in a hazardous
20 financial condition or is financially impaired.

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

1 J. Prohibited coverage. No risk retention group may offer
2 insurance policy coverage prohibited by Articles IX or XI of
3 this Code or declared unlawful by the Illinois Supreme Court;
4 provided however, a risk retention group organized and licensed
5 in a state other than this State that selects the law of this
6 State to govern the validity, construction, or enforceability
7 of policies issued by it is permitted to provide coverage under
8 policies issued by it for penalties in the nature of
9 compensatory damages including, without limitation, punitive
10 damages and the multiplied portion of multiple damages, so long
11 as coverage of those penalties is not prohibited by the law of
12 the state under which the risk retention group is organized.

13 K. Delinquency proceedings. A risk retention group not
14 organized in this State and doing business in this State shall
15 comply with a lawful order issued in a voluntary dissolution
16 proceeding or in a conservation, rehabilitation, liquidation,
17 or other delinquency proceeding commenced by the Director or by
18 another state insurance commissioner if there has been a
19 finding of financial impairment after an examination under
20 subsection F of Section 123B-4 of this Article.

21 L. Compliance with injunctive relief. A risk retention
22 group shall comply with an injunctive order issued in another
23 state by a court of competent jurisdiction or by a United
24 States District Court based on a finding of financial
25 impairment or hazardous financial condition.

26 M. Penalties. A risk retention group that violates any

1 provision of this Article will be subject to fines and
2 penalties applicable to licensed insurers generally, including
3 revocation of its license or the right to do business in this
4 State, or both.

5 N. (Blank). ~~Operations prior to August 3, 1987. In addition~~
6 ~~to complying with the requirements of this Section, any risk~~
7 ~~retention group operating in this State prior to August 3,~~
8 ~~1987, shall within 30 days after such effective date comply~~
9 ~~with the provisions of subsection A of this Section.~~

10 (Source: P.A. 93-32, eff. 7-1-03.)

11 (215 ILCS 5/123B-7) (from Ch. 73, par. 735B-7)

12 (Section scheduled to be repealed on January 1, 2017)

13 Sec. 123B-7. Purchasing Groups - Exemption from Certain
14 Laws Relating to the Group Purchase of Insurance. Any
15 purchasing group meeting the criteria established under the
16 provisions of the federal Liability Risk Retention Act of 1986
17 shall be exempt from any law of this State prohibiting relating
18 ~~to~~ the creation of risk purchasing of groups for the purchase
19 of insurance; and any countersignature requirements as provided
20 in this Code; and any prohibition of group purchasing or any
21 law that would discriminate against a purchasing group or its
22 members, prohibit a purchasing group from obtaining insurance
23 on a group basis or because the group has not been in existence
24 for a minimum period of time or because any member has not
25 belonged to the group for a minimum period of time, require

1 that a purchasing group must have a minimum number of members,
2 common ownership or affiliation, or certain legal form, or
3 require that a certain percentage of a purchasing group must
4 obtain insurance on a group basis. In addition, an insurer
5 shall be exempt from any law of this State which prohibits
6 providing, or offering to provide, to a purchasing group or its
7 members advantages based on their loss and expense experience
8 not afforded to other persons with respect to rates, policy
9 forms, coverages or other matters. A purchasing group shall be
10 subject to all other applicable laws of this State.
11 (Source: P.A. 85-131.)