

THE INSURANCE CODE OF 1956 (EXCERPT)

Act 218 of 1956

CHAPTER 18

500.1801 Definitions.

Sec. 1801. As used in this chapter:

(a) "Chartered" means a risk retention group licensed and authorized to engage in business as a liability insurance company in a state.

(b) "Hazardous financial condition" means that, based on its present or reasonably anticipated financial condition, a risk retention group, although not yet financially impaired or insolvent, is unlikely to be able to meet obligations to policyholders with respect to known claims and reasonably anticipated claims or to pay other obligations in the normal course of business.

(c) "Liability" means legal liability for damages including costs of defense, legal costs and fees, and other claims expenses because of personal injuries, property damage, or other damage or loss, to another person resulting from or arising out of a profit or nonprofit business, trade, product, service, including professional service, a premises or operation, or an activity of a state or local government or an agency or political subdivision of a state or local government. Liability does not include personal risk liability or an employer's liability with respect to its employees other than legal liability under chapter 149, 35 Stat. 65, 45 U.S.C. 51 to 60.

(d) "Liability risk retention act of 1986" means the liability risk retention act of 1986, Public Law 97-45, 15 U.S.C. 3901 to 3906.

(e) "Personal risk liability" means liability for damages because of personal injury, property damage, or other loss or damage, to any person resulting from a personal, family, or household responsibility or activity, and not from responsibilities or activities described under subdivision (c).

(f) "Plan of operation" or "feasibility study" means an analysis which presents the expected activities and results of a risk retention group including all of the following:

(i) Information sufficient to verify that a risk retention group's members are engaged in businesses or activities similar or related with respect to the liability to which the members are exposed by virtue of a related, similar, or common business, trade, product, service, premises, or operation.

(ii) For each state in which a risk retention group intends to operate, the coverages, deductibles, coverage limits, rates, and rating classification systems for each line of insurance the group intends to offer.

(iii) Historical and expected loss experience of the proposed risk retention group members and national experience of similar exposures if this experience is reasonably available.

(iv) Financial statements for the 3 years immediately preceding the submission of the plan of operation or feasibility study under section 1807 or if financial statements are not available because the risk retention group has not been in existence for 3 years, any previous years' financial statements together with pro forma financial statements and projections for the upcoming 3-year period.

(v) Appropriate opinions by a qualified, independent casualty actuary, including a determination of minimum premium or participation levels required of the risk retention group to commence operations and to prevent a hazardous financial condition.

(vi) Identification of management, underwriting and claims procedures, marketing methods, managerial oversight methods, investment policies, and reinsurance agreements of the risk retention group.

(vii) Identification of each state in which the risk retention group has obtained, or sought to obtain, a charter, and a description of its status in those states.

(viii) Other matters as may be prescribed by the commissioner of the state in which the risk retention group is chartered.

(g) "Purchasing group" means a group which meets all of the following:

(i) Has as 1 of its purposes the purchase of liability insurance on a group basis.

(ii) Is composed of members whose businesses or activities are similar or related with respect to the liability to which members are exposed by virtue of a related, similar, or common business, trade, product, service, premises, or operation.

(iii) Purchases insurance only for its group members and only to cover their similar or related liability exposure, as described in subparagraph (ii).

(iv) Is domiciled in a state.

(h) "Risk retention group" means a corporation or other limited liability association which meets all of the following criteria:

(i) Is either of the following:

(A) Chartered in a state.

(B) Before January 1, 1985 was chartered or licensed and authorized to engage in the business of insurance under the laws of Bermuda or the Cayman Islands and before January 1, 1985 had certified to the insurance commissioner of at least 1 state that it satisfied the capitalization requirements of that state, except that the group shall be considered to be a risk retention group only if it has been engaged in business continuously since January 1, 1985 and only for the purpose of continuing to provide insurance to cover product liability or completed operations liability as those terms were defined before the October 27, 1986 amendments to the liability risk retention act of 1986.

(ii) Does not exclude a person from membership solely to provide members of the group with a competitive advantage over that person.

(iii) Has either of the following:

(A) As its owners only persons who comprise the membership of the risk retention group and who are provided insurance by the group.

(B) As its sole member and sole owner an organization which is owned by persons who are provided insurance by the risk retention group.

(iv) Its members are engaged in businesses or activities similar or related with respect to the liability of which members are exposed by virtue of a related, similar, or common business trade, product, service, premises, or operation.

(v) Is organized for, and whose activities are limited to, the provision of either or both of the following:

(A) Liability insurance for assuming and spreading all or a portion of the liability of its group members.

(B) Reinsurance with respect to the liability of another risk retention group, or any members of that other group, which is engaged in businesses or activities enabling the group or member to meet the requirement under subparagraph (iv) for membership in the risk retention group which provides the reinsurance.

(vi) The name of the group includes the phrase "risk retention group".

(i) "State" means any state of the United States or the District of Columbia.

History: Add. 1989, Act 214, Eff. Jan. 1, 1990.

Popular name: Act 218

500.1803 Risk retention group chartered in state; certificate of authority; license; compliance.

Sec. 1803. (1) To be chartered in this state, a risk retention group shall obtain a certificate of authority from the commissioner and be licensed as a domestic stock or mutual casualty insurer.

(2) Except as otherwise provided in this chapter, a risk retention group chartered in this state shall comply with all statutes, rules, regulations, and requirements applicable to domestic stock or mutual casualty insurers.

(3) A certificate of authority issued to a risk retention group chartered in this state shall be limited to the business of insurance for liability.

History: Add. 1989, Act 214, Eff. Jan. 1, 1990.

Popular name: Act 218

500.1804 Repealed. 1980, Act 341, Eff. June 23, 1981.

Compiler's note: The repealed section pertained to void contracts of fire insurance.

Popular name: Act 218

500.1805 Risk retention group chartered in state; summary form of required information.

Sec. 1805. To be chartered in this state, a risk retention group shall provide to the commissioner in summary form, at the time of its application for a certificate of authority, all of the following:

(a) The identity of the initial members of the risk retention group.

(b) The identity of those individuals who organized the risk retention group or who will provide administrative services or otherwise influence or control the activities of the group.

(c) The amount and nature of initial capitalization.

(d) The coverages to be afforded.

(e) The states in which the risk retention group intends to operate.

History: Add. 1989, Act 214, Eff. Jan. 1, 1990.

Compiler's note: Former MCL 500.1805, which provided a penalty for fire insurance with unauthorized insurer, was repealed by Act 341 of 1980, Eff. June 23, 1981.

Popular name: Act 218

500.1806 Repealed. 1980, Act 341, Eff. June 23, 1981.

Compiler's note: The repealed section provided penalty for agents' solicitation of fire insurance with unauthorized insurer.

Popular name: Act 218

500.1807 Risk retention group chartered in state; plan of operation or feasibility study.

Sec. 1807. Before it may offer insurance in this state, a risk retention group chartered in this state shall submit to the commissioner for approval a plan of operation or feasibility study and, within 10 days of a change, shall submit an appropriate revision if a subsequent material change in an item of the plan of operation or feasibility study occurs. The risk retention group shall not offer any additional kinds of liability insurance until a revision of the plan of operation or feasibility study is approved by the commissioner.

History: Add. 1989, Act 214, Eff. Jan. 1, 1990.

Popular name: Act 218

500.1809 Risk retention group chartered in state; name.

Sec. 1809. The name under which a risk retention group chartered in this state may be authorized as a domestic casualty insurer shall be a brief description of the risk retention group's membership followed by the phrase "risk retention group".

History: Add. 1989, Act 214, Eff. Jan. 1, 1990.

Popular name: Act 218

500.1810 Repealed. 1980, Act 341, Eff. June 23, 1981.

Compiler's note: The repealed section provided penalty for life insurance with unauthorized insurer.

Popular name: Act 218

500.1811 Risk retention group not chartered in state; submission of information to commissioner.

Sec. 1811. A risk retention group not chartered in this state shall submit to the commissioner all of the following:

(a) Before offering insurance in this state, a statement identifying any state in which the risk retention group is chartered as a liability insurance company, the date on which it was chartered, and its principal place of business.

(b) Before offering insurance in this state, a copy of the risk retention group's plan of operation or feasibility study and revisions of the plan or study submitted to the state in which the risk retention group is chartered. However, the submission of a plan of operation or feasibility study shall not apply with respect to any line or classification of liability insurance which was defined in the liability risk retention act of 1986 before the October 27, 1986 amendments to that act and was offered before October 27, 1986 by a risk retention group which had been chartered and operating for not less than 3 years before October 27, 1986. A revision to the risk retention group's plan of operation or feasibility study submitted under this subdivision shall be submitted at the same time the revision is submitted to the commissioner of the risk retention group's chartering state.

(c) Before offering insurance in this state and by March 1 of each year thereafter, a copy of the risk retention group's financial statement submitted to the state in which the risk retention group is chartered. The financial statement 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 or a qualified loss reserve specialist.

(d) A copy of the most recent examination of the risk retention group and upon request by the commissioner, any examination of the risk retention group, as certified by the commissioner or public official conducting the examination.

(e) Upon request by the commissioner, a copy of any audit performed with respect to the risk retention group and other information as considered necessary by the commissioner in order to determine the risk retention group's financial condition.

(f) Before offering insurance in this state, a \$25.00 registration fee and, on a form prescribed by the commissioner, a statement of registration which designates the commissioner as its agent for the purpose of receiving service of legal documents or process.

(g) Other information as may be required to verify the risk retention group's continuing qualification as a risk retention group.

History: Add. 1989, Act 214, Eff. Jan. 1, 1990.

Popular name: Act 218

500.1812 Repealed. 1980, Act 341, Eff. June 23, 1981.

Compiler's note: The repealed section provided penalty for disability, casualty, title, or surety insurance with unauthorized insurer.

Popular name: Act 218

500.1813 Risk retention group without certificate of authority issued by commissioner; tax; regulatory fee; report.

Sec. 1813. A risk retention group that does not have a certificate of authority issued by the commissioner shall be liable for the payment of a tax of 2% on direct business for a risk resident or located within this state and, instead of the costs and expenses that may be imposed by the commissioner pursuant to this chapter, an additional regulatory fee of 0.5% on direct business for a risk resident or located within this state and shall report to the commissioner the net direct premiums written for that business.

History: Add. 1989, Act 214, Eff. Jan. 1, 1990;—Am. 1994, Act 228, Imd. Eff. June 30, 1994.

Popular name: Act 218

500.1815 Risk retention group not chartered in state and doing business in state; compliance required; examination of financial condition.

Sec. 1815. (1) A risk retention group, not chartered in this state and doing business in this state, and the risk retention group's agents and representatives, shall comply with chapter 20.

(2) A risk retention group not chartered in this state and doing business in this state shall submit to an examination by the commissioner to determine its financial condition if the commissioner of the charter state has not initiated an examination or does not initiate an examination within 60 days after a request by the commissioner of this state. An examination under this subsection should be coordinated with examination requests in other states to avoid unjustified repetition and conducted in an expeditious manner in accordance with generally accepted auditing standards.

History: Add. 1989, Act 214, Eff. Jan. 1, 1990.

Popular name: Act 218

500.1817 Risk retention group not chartered in state and doing business in state; voluntary dissolution or delinquency proceeding.

Sec. 1817. A risk retention group not chartered in this state and doing business in this state shall comply with a lawful order issued in a voluntary dissolution proceeding or in a delinquency proceeding commenced by the commissioner if there has been a finding of financial impairment after an examination performed under section 1815(2).

History: Add. 1989, Act 214, Eff. Jan. 1, 1990.

Popular name: Act 218

500.1819 Notice required on application form and front and declaration pages of policy.

Sec. 1819. An application form for insurance from a risk retention group chartered or doing business in this state, as well as the front and declaration pages of a policy issued by a risk retention group, shall contain in 10-point type 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."

History: Add. 1989, Act 214, Eff. Jan. 1, 1990.

Popular name: Act 218

500.1820 Repealed. 1980, Act 341, Eff. June 23, 1981.

Compiler's note: The repealed section contained a short title.

Popular name: Act 218

500.1821 Risk retention group chartered or doing business in state; prohibited conduct.

Sec. 1821. A risk retention group chartered or doing business in this state shall not do any of the following:

(a) Solicit or sell insurance to a person who is not eligible for membership in the group.

(b) Solicit or sell insurance if the risk retention group is in a hazardous financial condition or is financially impaired.

(c) Have as a member or owner, whether directly or indirectly, an insurance company, unless all members of the risk retention group are insurance companies.

(d) Issue an insurance policy with terms which provide, or could be construed to provide, coverage prohibited generally by law or declared unlawful by a final and binding decision of an appellate court that has considered the matter.

History: Add. 1989, Act 214, Eff. Jan. 1, 1990.

Compiler's note: Former MCL 500.1821, which pertained to substituted service of process, was repealed by Act 341 of 1980, Eff. June 23, 1981.

Popular name: Act 218

500.1822 Repealed. 1980, Act 341, Eff. June 23, 1981.

Compiler's note: The repealed section pertained to acts constituting appointment of commissioner as attorney for service of process.

Popular name: Act 218

500.1823 Violation; fines and penalties; compliance.

Sec. 1823. A risk retention group that violates a provision of this chapter shall be subject to fines and penalties applicable to licensed insurers, including revocation of the right to do business in this state. A risk retention group operating in this state prior to January 1, 1990 shall comply with section 1811 by February 1, 1990.

History: Add. 1989, Act 214, Eff. Jan. 1, 1990.

Popular name: Act 218

500.1825 Purchasing group; information required before doing business in state.

Sec. 1825. (1) Before doing business in this state, a purchasing group shall provide the commissioner with all of the following:

(a) The identity of the name of the purchasing group through which it is purchasing liability insurance.

(b) The identity of the state in which the purchasing group is domiciled.

(c) The identity of all other states in which the purchasing group intends to do business or is doing business.

(d) The identity of the specific types and classifications of liability insurance which the purchasing group intends to purchase.

(e) The identity of any insurance company from which the group intends to purchase its insurance and the domicile of those companies.

(f) The method by which, and if applicable, the person through whom, insurance will be offered to the purchasing group's members whose risks are resident or located in this state.

(g) The identity of the officer or person responsible for the purchasing group.

(h) Other information as may be required by the commissioner to verify that the purchasing group is qualified under this chapter.

(2) A purchasing group shall notify the commissioner of any changes in any of the items set forth in subsection (1) within 10 days of the change.

(3) A purchasing group shall notify the commissioner annually of its intention to continue doing business in this state.

History: Add. 1989, Act 214, Eff. Jan. 1, 1990.

Compiler's note: Former MCL 500.1825, which pertained to service of process on insurance commissioner or secretary of state, was repealed by Act 341 of 1980, Eff. June 23, 1981.

Popular name: Act 218

500.1827 Purchasing group and insurer thereof; registration fee; statement of registration; applicability of subsection (1); information to be furnished.

Sec. 1827. (1) The purchasing group and any insurer of the purchasing group which has not submitted a registration fee shall submit a \$25.00 registration fee and, on a form prescribed by the commissioner, a statement of registration which designates the commissioner as its agent for the purpose of receiving service of legal documents or process.

(2) Subsection (1) shall not apply to a purchasing group which meets all of the following:

(a) Was a purchasing group under the requirements of the liability risk retention act of 1986 before October 27, 1986.

(b) Only purchases insurance that was authorized under the liability risk retention act of 1986 before October 27, 1986.

(c) Was domiciled in a state before April 1, 1986 and is domiciled in a state on and after September 25, 1981.

(d) Before September 25, 1981 purchased insurance from an insurance carrier licensed in a state and since September 25, 1981, purchased its insurance from an insurance carrier licensed in a state.

(3) A purchasing group under subsection (1) shall furnish information as requested by the commissioner that does all of the following:

- (a) Verifies that the entity qualifies as a purchasing group.
- (b) Determines where the purchasing group members are located.
- (c) Determines appropriate tax treatment.

(4) A purchasing group which was doing business in this state prior to January 1, 1990 shall provide the information required by section 1825 to the commissioner by February 1, 1990.

History: Add. 1989, Act 214, Eff. Jan. 1, 1990.

Popular name: Act 218

500.1828 Repealed. 1980, Act 341, Eff. June 23, 1981.

Compiler's note: The repealed section pertained to defense of action against unauthorized foreign or alien insurer.

Popular name: Act 218

500.1829 Purchase of insurance by purchasing group; written information to members; deductible or self-insured retention.

Sec. 1829. (1) A purchasing group doing business in this state may purchase insurance for risks resident or located in this state only from a risk retention group chartered in a state, from an insurer authorized in this state, or from an eligible unauthorized insurer pursuant to chapter 19.

(2) A purchasing group which obtains liability insurance from an insurer not authorized in this state or a risk retention group shall inform in writing each of the members of the group which have a risk resident or located in this state that the risk is not protected by an insurance insolvency guaranty fund in this state and that the risk retention group or the insurer may not be subject to all insurance laws and regulations of this state.

(3) A purchasing group shall not purchase insurance providing for a deductible or self-insured retention, unless the deductible or self-insured retention is the sole responsibility of each individual member of the purchasing group.

History: Add. 1989, Act 214, Eff. Jan. 1, 1990.

Popular name: Act 218

500.1830 Repealed. 1980, Act 341, Eff. June 23, 1981.

Compiler's note: The repealed section pertained to refusal to defend action against unauthorized foreign or alien insurer.

Popular name: Act 218

500.1831 Premium taxes and other taxes.

Sec. 1831. Premium taxes and other taxes paid for coverage of risks resident or located in this state by a purchasing group or any members of the purchasing group shall be imposed at the same rate and subject to the same interest, fines, and penalties as that applicable to premium taxes and other taxes paid for similar coverage from a similar insurance source by other insureds.

History: Add. 1989, Act 214, Eff. Jan. 1, 1990.

Popular name: Act 218

500.1832 Repealed. 1980, Act 341, Eff. June 23, 1981.

Compiler's note: The repealed section pertained to applicability of unauthorized insurers process act.

Popular name: Act 218

500.1833 Prohibitions regarding property and casualty guaranty association or similar association; risks covered by property and casualty guaranty association; participating member in Michigan automobile insurance placement facility; submission of information by risk retention group; apportioning proportionate share of losses and expenses.

Sec. 1833. (1) A risk retention group chartered or doing business in this state shall not join or contribute financially to the property and casualty guaranty association created under chapter 79 or other similar association or mechanism in this state. A risk retention group, its insureds, or claimants against its insureds, shall not receive any benefit from the property and casualty guaranty association or other similar association or mechanism for claims arising under the insurance policies issued by the risk retention group.

(2) A purchasing group obtaining insurance covering its members' risks from an insurer not authorized in

this state or a risk retention group shall not be covered by the property and casualty guaranty association or similar association or mechanism in this state.

(3) If a purchasing group obtains insurance covering its members' risks from an insurer authorized in this state, only risks resident or located in this state shall be covered by the property and casualty guaranty association under chapter 79.

(4) A risk retention group chartered or doing business in this state which offers coverage for the security required under chapter 31 shall be a participating member in the Michigan automobile insurance placement facility established under chapter 33 for the purpose of sharing in the equitable apportionment among insurers of liability insurance losses and expenses incurred on policies written through that facility. The risk retention group shall submit sufficient information to the commissioner, or to whomever the commissioner may designate, to enable the apportionment on a nondiscriminatory basis of the risk retention group's proportionate share of the losses and expenses.

History: Add. 1989, Act 214, Eff. Jan. 1, 1990.

Popular name: Act 218

500.1835 Licensing as condition to soliciting, negotiating, or procuring liability insurance; residency requirement for agent or broker; licensure of nonresident.

Sec. 1835. (1) A person, firm, association, or corporation shall not act or aid in any manner in soliciting, negotiating, or procuring liability insurance in this state from a risk retention group unless the person, firm, association, or corporation is licensed under chapter 12 or chapter 19.

(2) A person, firm, association, or corporation shall not act or aid in any manner in soliciting, negotiating, or procuring liability insurance in this state for a purchasing group from an authorized insurer or a risk retention group chartered in this state unless the person, firm, association, or corporation is licensed under chapter 12.

(3) A person, firm, association, or corporation shall not act or aid in any manner in soliciting, negotiating, or procuring liability insurance from an insurer not authorized to do business in this state on behalf of a purchasing group doing business in this state unless the person, firm, association, or corporation is licensed under chapter 19.

(4) For the purpose of acting as an agent or broker for a risk retention group or purchasing group under subsections (1) and (2), the requirement of residence in this state shall not apply. However, licensure of a nonresident under chapter 19 shall be for the limited purpose of soliciting, negotiating, or procuring liability insurance from a risk retention group not chartered in this state.

History: Add. 1989, Act 214, Eff. Jan. 1, 1990.

Popular name: Act 218

500.1837 Enforcement.

Sec. 1837. The commissioner may use any of the powers established under this act to enforce the laws of this state so long as those powers have not been specifically preempted by the liability risk retention act of 1986. For risk retention groups, the commissioner's injunctive authority is restricted by the requirement that an injunction be issued by a court of competent jurisdiction.

History: Add. 1989, Act 214, Eff. Jan. 1, 1990.

Popular name: Act 218

500.1839 Financial responsibility.

Sec. 1839. If a law of this state or any political subdivision of this state requires a demonstration of financial responsibility as a condition for obtaining a license or permit to undertake specified activities, and the requirement may not be satisfied by obtaining insurance coverage from an insurer not authorized to do business in this state, the requirement shall not be satisfied by purchasing insurance from a risk retention group not chartered and authorized in this state.

History: Add. 1989, Act 214, Eff. Jan. 1, 1990.

Popular name: Act 218

500.1840 Repealed. 1980, Act 341, Eff. June 23, 1981.

Compiler's note: The repealed section pertained to procurement of additional indemnity.

Popular name: Act 218

500.1841 Repealed. 2000, Act 486, Imd. Eff. Jan. 11, 2001.

Compiler's note: The repealed section pertained to promulgation of rules.

Popular name: Act 218

500.1843-500.1864 Repealed. 1980, Act 341, Eff. June 23, 1981.

Compiler's note: The repealed sections pertained to surplus lines insurers and agents.

Popular name: Act 218