

THE INSURANCE CODE OF 1956 (EXCERPT)
Act 218 of 1956

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