

DIVISION OF INSURANCE

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**RISK RETENTION GROUP (RRG) REGISTRATION PACKET
TO DO THE BUSINESS OF INSURANCE**

Division Position: The Division is charged with the regulation and oversight of the seller of insurance products for the protection of all policyholders, therefore, RRG oversight has both financial and market conduct orientation.

Foreign RRG:

Must be licensed as a casualty carrier in a State;
NAIC Risk Retention Group Uniform Registration Forms are accepted;
No fee is charged for “Registration” or Annual Statement filing;
Is regulated as a surplus lines (non-admitted) insurer; and
Is subject to compliance with the following chapters of Title 58 – South Dakota Insurance Laws:

- 6A - Risk retention groups.
- 9 - Kinds of insurance.
- 10 - Insurable interest.
- 30 - Insurance Producers
- 33 - Unfair trade practices.

Domestic RRG: Regulated as a casualty insurer and must comply with all applicable portions of Title 58 - South Dakota Insurance Laws.

Reporting forms, which may be required when doing business, are included in this packet.

Please provide the FEIN and the NAIC number for the Risk Retention Group with the application.

Please contact the Division if you have any questions.

SUMMARY: RISK RETENTION GROUP (RRG) REGISTRATION TO CONDUCT INSURANCE BUSINESS

DEFINITION: QUALIFIED RISK RETENTION GROUP - RRG [SDCL 58-6A-1]

- (1) Any corporation or other limited liability association formed under the laws of any state, Bermuda or the Cayman Islands;
- (2) Primary activity and purpose is to assume and spread all, or any portion, of the liability exposure of group members; provide liability insurance for its members or reinsurance for other RRG's;
- (3) Chartered and licensed as a liability insurance company and authorized to engage in the business of insurance under the laws of one of fifty states unless it is "grandfathered" in;
- (4) Does not promote competitive advantage over others not in the RRG;
- (5) All members have "ownership interest" and are provided insurance by the RRG; or sole member and owner is an organization owned by persons who purchase insurance from the RRG;
- (6) Members are engaged in businesses or activities similar or related with respect to the liability exposures;
- (7) Name includes the term "risk retention group."

REGISTRATION REQUIREMENTS [SDCL 58-6A-3]

NON-ADMITTED RRG:

- (1) Date of charter and State of Domicile.
- (2) List of states RRG is doing insurance business
- (3) Complete principal business including street and/or post office box, telephone number and fax number.
- (4) Information, including information on its membership, as may be required by the Division to verify RRG qualification as per Definition above.
- (5) Copy of plan of operations and related amendments submitted to its state of domicile; exception for filing is provided for the "grandfathered" RRG as qualified under Subsection (C) (ii) of the Act [SDCL 58-6A-3 (2)].
- (6) Statement designating the Director as its agent for "Service of Process." (RR-713)

POLICY FORM AND RATE REQUIREMENTS

Admitted Insurer - - - - File and Use required by SDCL 58-11 & 58-24-10.

Non-Admitted Insurer - Informational basis. On request only.

FILING REQUIREMENTS FOR RRG DOING BUSINESS IN THIS STATE [SDCL-58-6A-4]

- (1) Certified (by State of Domicile) copy of:
 - a. Annual statement reporting premium written in South Dakota
 - b. Audited financial statement (CPA);
 - c. "Statement of Actuarial Opinion" as required by NAIC annual statement procedure;
 - d. Each "Association Examination" of RRG if/when available;
- (2) Upon request by the Director, a copy of any audit performed with respect to the RRG as certified by the director or public official;
- (3) Information to verify its continuing qualification as a RRG under SDCL 58-6A.

PREMIUM TAX ON SOUTH DAKOTA RISK(S) INSURED [SDCL 58-6A-5 & 5.1]

Tax Rate: 2.5%. Basis: Gross Direct Written Premium - Returned Premium.

Insurer Status	Remitted By	Date Due
Licensed	Insurer	March 1
Non Admitted*	RRG	April 1
	S. L. Broker	April 1

All forms are available on the Division of Insurance website at <http://dlr.sd.gov/insurance>.

* An **RRG** is the **only** non-admitted insurer allowed the **option of remitting premium taxes** to the DOI for its sales representative(s).

LICENSURE OF RRG REPRESENTATIVES (SDCL 58-6A-22)

"Any person acting, or offering to act, as an insurance producer for a risk retention group or purchasing group, which solicits members, sells insurance coverage, purchases coverage for its members located within this state or otherwise does business in this state shall, before commencing any such activity, obtain a license from the Division of Insurance. The residency requirements shall be waived for any insurance producer license issued under this chapter."

GENERAL COMMENTS

Registration Procedure:

- (1) Review of registration materials;
- (2) Request and review additional information (if any);
- (3) Send RRG letter confirming "Registered" status in SD.

Notice of "Registered" status by the South Dakota Division of Insurance and compliance with Agency requirements outlined above is **prerequisite** to **any** insurance business transaction in South Dakota under the Liability Risk Retention Act of 1986 and SDCL 58-6A.

RISK RETENTION GROUP (RRG) REGISTRATION

PLAN OF OPERATION [SDCL 58-6A-8]

Definition: Analysis which presents the expected activities and results of an RRG.

- (A) Minimum Information Required:
- (B) Coverages, deductibles, coverage limits, rates and rating classification systems for each line of insurance the group intends to offer;
- (C) Historical and expected loss experience of the proposed members and national experience of similar exposures to the extent that this experience is reasonably available;
- (D) Pro forma financial statements and projections;
- (E) Appropriate opinions by a qualified, independent casualty actuary including determination of minimum premium or participation levels required to commence operations and prevent hazardous financial condition;
- (F) Identification of management, underwriting procedures, managerial oversight methods, investment policies; and
- (G) Such other matters as may be prescribed by the director for liability insurance companies authorized by the insurance laws of the state in which the RRG is chartered;

The following is the uniform registration form adopted in June 1991, by the NAIC.

PART A

STATE OF _____

**DEPARTMENT OF INSURANCE
RISK RETENTION GROUP - NOTICE AND REGISTRATION**

(All Information Should Be Typed)

1. Name of the Risk Retention Group as it appears on its Certificate of Authority:

1b. FEIN:

2. List any other name(s) by which the Risk Retention Group is known or may be doing business in this State or any other state:

3. The Risk Retention Group is a corporation or other limited liability association whose primary activity consists of assuming and spreading all, or any portion, of the liability exposure of its members.

4. The Risk Retention Group is organized for the primary purpose of conducting the activity described under Item #3 above.

5. The Risk Retention Group is chartered and licensed as a liability insurance company under the laws of the State of _____, and is authorized to engage in the following lines and/or classifications of insurance under the laws of its chartering State:

6. The Risk Retention Group does not exclude any person from membership in the Group solely to provide for members of the Group a competitive advantage over such a person.

7. Ownership of the Risk Retention Group consists of one or the other of the following (check one):

a) _____ the owners of the Group are the only persons who comprise the membership of the Group and who are provided insurance by the Group.

b) _____ the sole owner of the Group is: _____

(Name and Address of Organization)

RISK RETENTION GROUP FORM

an organization which has as its members only persons who comprise the membership of the Group and which has as its owners only persons who comprise the membership of the Group and who are provided insurance by the Group.

- 8. The Risk Retention Group members are engaged in business or activities similar or related with respect to the liability to which such members are exposed by virtue of related, similar or common business, trade, product, services, premises or operations. Give a general description of business or activities engaged in by the Group's members:

- 9. The activities of the Risk Retention Group do not include the provision of insurance other than:
 - a) liability insurance for assuming and spreading all or any portion of the similar or related liability exposure of its Group members; and
 - b) reinsurance with respect to the similar or related liability exposure of another Risk Retention Group (or a member of such other Risk Retention Group) engaged in business or activities which qualify such other Risk Retention Group (or member) under Item #8 above for membership in this Group.
- 10. (a) List the name, social security number (SS#) and address of each officer and director of the Risk Retention Group: (Attach additional pages, if necessary.)

<u>Name</u>	<u>SS#</u>	<u>Position with Risk Retention Group</u>	<u>Address</u>
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

- (b) Identify and give the telephone number of the officer or director of the Risk Retention Group who can be contacted for any information regarding the management of the insurance activities of the Group:

Name: _____ Telephone Number: _____

RISK RETENTION GROUP FORM

11. List the name, address, telephone number and Federal Employer Identification Number (FEIN) of the company responsible for managing the insurance operations of the Risk Retention Group and the contact person at the company: (If none, answer none.)

<u>Name</u>	<u>FEIN</u>	<u>Address</u>	<u>Telephone #</u>
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

Contact Person: _____ Telephone # _____

12. List the name(s), SS# (s) and address(es) of the licensed insurance producer(s) or broker(s) responsible for marketing the Risk Retention Group's insurance policies and the state(s) in which they are licensed: (If none, answer none. Attach additional pages, if necessary.)

<u>Name</u>	<u>SS#</u>	<u>Address</u>	<u>State(s)</u>
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

13. The Risk Retention Group will comply with the unfair claim settlement practices laws of this state.
14. The Risk Retention Group will pay, on a non-discriminatory basis, applicable premium and other taxes which are levied on such Group under the laws of this State.
15. The Risk Retention Group has designated the Insurance Commissioner [Director, Superintendent] of this State to be its agent solely for the purpose of receiving service of legal documents or process by executing Part B of this form, attached hereto.
16. The Risk Retention Group will submit to Examination by the Insurance Commissioner [Director, Superintendent] of this State to determine the Group's financial condition, if:
- a) the Insurance Commissioner [Director, Superintendent] of the Group's chartering State has not begun or has refused to initiate an examination of the Group; and
 - b) any such examination by the Insurance Commissioner [Director, Superintendent] is coordinated to avoid unjustified duplication and unjustified repetition.

RISK RETENTION GROUP FORM

17. The Risk Retention Group will comply with a lawful order issued in a delinquency proceeding commenced by the Insurance Commissioner [Director, Superintendent] of this State upon a finding of financial impairment, or in a voluntary dissolution proceeding.
18. The Risk Retention Group will comply with the laws of this State concerning deceptive, false or fraudulent acts or practices, including any injunctions regarding such conduct obtained from a court of competent jurisdiction.
19. The Risk Retention Group will comply with an injunction issued by a court of competent jurisdiction upon petition by the Insurance Commissioner [Director, Superintendent] of this State alleging that the Group is in hazardous financial condition or is financially impaired.
20. The Risk Retention Group will provide the following notice, in at least 10-point type, in any insurance policy issued by the Group:

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.

21. The Risk Retention Group has submitted to the Insurance Commissioner [Director, Superintendent] as part of this filing and before it has offered any insurance in this State, a copy of the plan of operation or feasibility study which it has filed with the Insurance Commissioner [Director, Superintendent] of its chartering State. This plan or study includes the name of the State in which the Group is chartered, as well as the Group's principal place of business, and such plan or study further includes the coverages, deductibles, coverage limits, rates, and rating classification systems for each line of insurance the Group intends to offer. The Group will promptly submit to the Insurance Commissioner [Director, Superintendent] of this State any revisions of such plan or study to reflect any changes to the plan if the Group intends to offer any additional lines of liability insurance, including any change in the designation of the State in which it is chartered.
22. The Risk Retention Group will submit a copy of its annual financial statement submitted to its chartering state, to the Insurance Commissioner [Director, Superintendent] of this State, by March 1 of each year. The annual financial statement will be certified by an independent public accountant and include 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. The certification and statement of opinion on loss and loss adjustment expense reserves will be submitted to the Insurance Commissioner [Director, Superintendent] of this State by the date it is required to be submitted to its chartering state.
23. The Risk Retention Group will not solicit or sell insurance to any person in this State who is not eligible for membership in the Group.
24. The Risk Retention Group will not solicit or sell insurance in this State, or otherwise operate in this State, if the Group is in hazardous financial condition or is financially impaired.

RISK RETENTION GROUP FORM

Part B

APPOINTMENT OF ATTORNEY TO ACCEPT SERVICE AND DESIGNATION

The _____ ("the Group"), a risk retention group which is chartered and licensed as a liability insurance company under the laws of the State of _____, having notified the Insurance Commissioner [Director, Superintendent] of the State of _____ of its intention to do business in this State as a risk retention group pursuant to the federal Liability Risk Retention Act of 1986, hereby appoints the Insurance Commissioner [Director, Superintendent] of the State of _____, any successor in office, and any authorized deputy its true and lawful attorney, in and for the State of _____, upon whom all legal documents or process in any proceeding against it may be served. Such service of process shall be of the same legal force and validity as if served personally upon the Group.

The Group designates:

(Name)

(Address)

(City, Town or Village)

(State and ZIP Code)

as its officer, agent or other person to whom shall be forwarded all legal documents or process served upon the insurance Commissioner [Director, Superintendent] of the State of _____, any successors in office, or any authorized deputy, for the Group. This designation shall continue in full force and effect until superseded by a new written designation filed with the Insurance Commissioner [Director, Superintendent].

**APPOINTMENT AND DESIGNATION
OF
SOUTH DAKOTA DIRECTOR OF INSURANCE
AS
AGENT FOR SERVICE OF PROCESS**

_____, domiciled in the State
(Name of Purchasing Group or Risk Retention Group)

of _____ and having its principal office located at

_____,
(Address of Purchasing Group or Risk Retention Group)

is a _____ as defined
(State whether a Purchasing Group or Risk Retention Group)

in the Federal Liability Risk Retention Act of 1986. In accordance with the terms and

requirements of the Act, _____ does
(Name of Purchasing Group or Risk Retention Group)

hereby appoint and designate the South Dakota Director of Insurance as its agent for the purpose
of receiving service of legal documents or process for claims made against the

_____ in a court in this State arising out
(Name of Purchasing Group or Risk Retention Group)

of or related to its activities under the insurance and related laws of South Dakota. Service of
process upon the Director shall be considered as valid as if served upon

_____ according to the laws of
(Name of Purchasing Group or Risk Retention Group)

this or any other State, if the Director provides a copy of such service of legal documents to

_____ at its address indicated above.
(Name of Purchasing Group or Risk Retention Group)

BY: _____
Signature of Authorized Official Title

Date: _____