

SOUTH DAKOTA DEPARTMENT OF LABOR AND REGULATION

DIVISION OF INSURANCE

124 S Euclid Ave, 2nd Floor, Pierre, South Dakota 57501
Tel: 605.773.3563 Fax: 605.773.3569 dlr.sd.gov/insurance

**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:

- 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 person listed below if you have any questions regarding:

RRG Registration - Charlene Squires Keller
Producer Licensing - Penney Wagoner, Producer Licensing
General Agency / Solicitation Procedures

**STATE OF SOUTH DAKOTA
DIVISION OF INSURANCE**

**RISK RETENTION GROUP (RRG)
REGISTRATION TO CONDUCT INSURANCE BUSINESS**

DEFINITION: QUALIFIED RISK RETENTION GROUP - RRG [SDCL 58-6A-1 (13)]

- (13) "Risk retention group," any corporation or other limited liability association formed under the laws of any state, Bermuda, or the Cayman Islands:
- (a) Whose primary activity consists of assuming and spreading all, or any portion, of the liability exposure of the group members;
 - (b) Which is organized for the primary purpose of conducting the activity described under subsection (a);
 - (c) Which is chartered and licensed as a liability insurance company and authorized to engage in the business of insurance under the laws of any state; or 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 such date, had certified to the insurance director of at least one state that it satisfied the capitalization requirements of such state, except that any such group shall be considered to be a risk retention group only if it has been engaged in business continuously since such date and only for the purpose of continuing to provide insurance to cover product liability or completed operations liability;
 - (d) Which does not exclude any person from membership in the group solely to provide for members of such a group a competitive advantage over such a person;
 - (e) Which has as its members only persons who have an ownership interest in the group and which has as its owners only persons who are members who are provided insurance by the risk retention group; or has as its sole member and sole owner an organization which is owned by persons who are provided insurance by the risk retention group;
 - (f) Whose members are engaged in businesses or activities similar or related with respect to the liability of which such members are exposed by virtue of any related, similar, or common business, trade, product, services, premises, or operations;
 - (g) Whose activities do not include the provision of insurance other than liability insurance for assuming and spreading all or any portion of the liability of its group members; and reinsurance with respect to the liability of any other risk retention group or any members of such other group which is engaged in businesses or activities so that such group or member meets the requirement described in subsection (f) from membership in the risk retention group which provides such reinsurance; and
 - (h) The name of which includes the term, risk retention group;

REGISTRATION REQUIREMENTS [SDCL 58-6A-3]

58-6A-3. Information submitted to director.

Before offering insurance in this state, a risk retention group not chartered in this state shall submit to the director:

- (1) A statement identifying the states in which the risk retention group is chartered and licensed as a liability insurance company, date of chartering, its principal place of business, and other information, including information on its membership, as the director of this state may require to verify that the risk retention group is qualified under this chapter;
- (2) A copy of the group's plan of operations or a feasibility study and revisions of the plan or study submitted to its state of domicile. However, 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 which was defined in the Product Liability Risk Retention Act of 1981, before October 27, 1986, and was offered before such date by any risk retention group which had been chartered and operating for not less than three years before such date;
- (3) A statement of registration which designates the director as the group's agent for the purpose of receiving service of legal documents or process; and

- (4) A copy of any material revision to the group's plan of operation or feasibility study within thirty days of the date of the approval of the revision by the director of the group's chartering state, or if no such approval is required, within thirty days of filing.

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]

58-6A-4. Financial information submitted to director.

Any risk retention group doing business in this state shall submit to the director:

- (1) A copy of the group's financial statement submitted to its state of domicile, 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 or a qualified loss reserve specialist under criteria established by the National Association of Insurance Commissioners;
- (2) A copy of each examination of the risk retention group as certified by the director or public official conducting the examination;
- (3) Upon request by the director, a copy of any audit performed with respect to the risk retention group; and
- (4) Such information as may be required to verify its continuing qualification as a risk retention group under this chapter.

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
<u>Licensed</u>	Insurer	March 1
<u>Non Admitted</u> ***	RRG	April 1
	S. L. Broker	April 1

All forms are available on the Division of Insurance web site at the following address:

<http://dlr.sd.gov/insurance>

** A **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.

NAIC UNIFORM RISK RETENTION GROUP REGISTRATION FORM

Appendix D

The following is the uniform registration form adopted by the NAIC. This registration form is being filed by a Risk Retention Group (RRG) operating in accordance with the Federal Liability Risk Retention Act of 1986 (LRRRA), 15 USC 3901-3906, chartered or licensed to write only liability insurance by the state of domicile listed in #1e. The registration form and supplemental documents are provided in accordance with §3902(d)(2) of the LRRRA. Under §3902 of the LRRRA, with the exception of the domiciliary state, RRGs are exempt from any state laws, rules, regulations, or orders that would make unlawful, or would regulate, directly or indirectly, the operation of an RRG, except that any state may require an RRG to comply with those laws specified in §3902(a)1(A),(B),(C) and (G) of the LRRRA. The domiciliary state regulates the formation and operation of the RRG.

Part A

STATE OF [Insert State in which the Risk
Retention Group intends to do business]

DEPARTMENT OF INSURANCE

RISK RETENTION GROUP - NOTICE AND REGISTRATION

(All Information Should Be Typed)

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

1b. Address of the Risk Retention Group:

1c. NAIC Company Code:

1d. FEIN:

1e. State of domicile, date licensed and date chartered:

1f. Primary contact person for state of domicile to whom questions regarding the Risk Retention Group should be addressed (include name, phone number and email address):

NAIC UNIFORM RISK RETENTION GROUP REGISTRATION FORM

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 authorized to engage in the following lines and/or classifications of liability insurance under the laws of its chartering State:

4. Give a general description of the liability insurance coverages the Risk Retention Group plans to write in the state it is registering to do business in.

5. Has the Risk Retention Group’s domiciliary state approved the Risk Retention Group to register and expand its writings in the state it is seeking to become registered in?

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

a) the owners of the Group are 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)

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.

7. The Risk Retention Group members are engaged in businesses or activities similar or related with respect to the liability to which such members are exposed by virtue of any related, similar or common business (whether profit or nonprofit), trade, product, services (including professional services), premises or operations. Give a general description of businesses or activities engaged in by the Group’s members:

NAIC UNIFORM RISK RETENTION GROUP REGISTRATION FORM

8. (a) List the name, position with the Risk Retention Group, and address of each officer and director of the Risk Retention Group: (Attach additional pages, if necessary.)

(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 #: _____

9. List the name, address, and telephone number of the company responsible for managing the insurance operations of the Risk Retention Group and the company contact person's name, telephone number and email. (If none, answer none.)

Contact Person: _____ Telephone # _____

Email: _____

10. List the name(s) NPR#, and address(es) of the licensed insurance agent(s) or broker(s) who will be responsible for marketing the Risk Retention Group's insurance policies in the State of [Insert State in which the Risk Retention Group intends to do business] and the current licensing status in the State of [Insert State in which the Risk Retention Group intends to do business]: (If none, answer none. Attach additional pages, if necessary.)

<u>Name</u>	<u>NPR#</u>	<u>Address</u>	<u>License Status in State Registering</u>
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

NAIC UNIFORM RISK RETENTION GROUP REGISTRATION FORM

11. In accordance with the Liability Risk Retention Act, we verify the following:
- A. 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.
 - B. The Risk Retention Group is organized for the primary purpose of conducting the activity described under Item "A" above.
 - C. 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.
 - D. The activities of the Risk Retention Group do not include the provision of insurance other than:
 - i. liability insurance for assuming and spreading all or any portion of the similar or related liability exposure of its Group members; and
 - ii. 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 so that such Risk Retention Group or member meets the requirement under Item #7 above for membership in the Risk Retention Group which provides such reinsurance.
12. In accordance with the LRRRA, if the State in which the Risk Retention Group is registering requires compliance with the following laws and requirements, the RRG agrees to the following:
- A. The Risk Retention Group will comply with the unfair claim settlement practices laws of this State.
 - B. The Risk Retention Group will pay, on a non-discriminatory basis, applicable premium and other taxes which are levied on admitted insurers, surplus line insurers, brokers or policyholders under the laws of this State.
 - C. The Risk Retention Group will participate, on a nondiscriminatory basis, in any mechanism established or authorized under the law of the State for the equitable apportionment among insurers of liability insurance losses and expenses incurred on policies written through such mechanism.
 - D. The Risk Retention Group will designate the Insurance Commissioner [Director, Superintendent] of this State as its agent solely for the purpose of receiving service of legal documents or process by executing Part B of this form, attached hereto.
 - E. 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:
 - i. 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
 - ii. any such examination by the Insurance Commissioner [Director, Superintendent] shall be coordinated to avoid unjustified duplication and unjustified repetition.

NAIC UNIFORM RISK RETENTION GROUP REGISTRATION FORM

- F. 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.
- G. The Risk Retention Group will comply with the laws of this State regarding deceptive, false or fraudulent acts or practices, including any injunctions regarding such conduct obtained from a court of competent jurisdiction.
- H. 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.
- I. 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.

- 13. In accordance with the LRRRA, the Risk Retention Group affirms that it 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 state of domicile. 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 of operation or feasibility study further includes the coverages, deductibles, coverage limits, rates, and rating classification systems for each line of liability insurance the Group intends to offer. The Group has also submitted to the Insurance Commissioner [Director, Superintendent] of this State any revisions of such plan of operation or feasibility study to reflect any changes if the Group intends to offer any additional lines of liability insurance or change in the designation of the State in which it is chartered.
- 14. 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. The annual financial statement shall 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 annual financial statement, 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.
- 15. 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.
- 16. 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.
- 17. In accordance with the LRRRA, the terms of any insurance policy provided by the Risk Retention Group shall not provide or be construed to provide insurance policy coverage prohibited generally by State statute or declared unlawful by the highest court of the State whose law applies to such policy.

NAIC UNIFORM RISK RETENTION GROUP REGISTRATION FORM

- 18. To the extent required by the LRRRA, the Risk Retention Group will comply with all other applicable state laws.

- 19. The Risk Retention Group will notify the Insurance Commissioner [Director, Superintendent] as to any subsequent changes in any of the items included in this form (except for items #1f, #8 and #10).

The undersigned hereby swear and affirm that the foregoing statements and information regarding their principal, the _____ (Name of Risk Retention Group) are true and correct.

President of the Risk Retention Group

Secretary of the Risk Retention Group

State of _____)
 ss:
County of _____)

Sworn before me this _____ day of _____, 20____.
_____, Notary Public. My Commission Expires: _____

NAIC UNIFORM RISK RETENTION GROUP REGISTRATION 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 legal documents or 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].

NAIC UNIFORM RISK RETENTION GROUP REGISTRATION FORM

This appointment and designation is made pursuant to a resolution by the Group’s governing body authorizing it, and a certified copy of the resolution is attached hereto. This appointment shall be binding upon any person or corporation which as successor acquires the Group’s assets or assumes its liabilities, by merger or consolidation or otherwise.

This appointment may be withdrawn only upon a written notice of termination and, in any event, shall not be terminated by the Group or its successor so long as any contracts or liabilities or duties arising out of contracts entered into by the Group while it was doing business in this State are in effect.

IN WITNESS OF THIS APPOINTMENT AND DESIGNATION, the Group, in accordance with the resolution of its Board of Directors duly passed on _____, 20____, has affixed its corporate seal, and caused the same to be subscribed and attested in its name by its President and Secretary, at the City of _____ in the State of _____ on _____, 20____.

(Name of Risk Retention Group)

By: _____ President

_____ Secretary

State of _____)

) ss:

County of _____)

Sworn before me this _____ day of _____, 20____.

_____, Notary Public. My Commission Expires: _____

