

August 31, 2021

By email: rulescoordinator@oic.wa.gov

Michael Walker
Office of the Insurance Commissioner
302 Sid Snyder Avenue, S.W.,
Olympia, Washington 98504

**Re: Insurance Commissioner Matter No. R 2021-12
Implementation of SB 5315**

Dear Mr. Walker:

Please accept these comments submitted on behalf of the National Risk Retention Association (“NRRA”). The purpose of our comments is to request that the Office of the Insurance Commissioner (“OIC”) clarify in the regulations it is developing to implement SB 5315 that risk retention groups are not subject to registration under SB 5315.

NRRA is a national association representing risk retention groups and purchasing groups. NRRA has been in existence for over thirty years, and its membership, either directly or through their captive Managers, comprises over 80% of the risk retention groups chartered in the United States.

Risk retention groups are a type of commercial liability insurance company authorized by the federal Liability Risk Retention Act of 1986, 15 USC §§ 3901 – 3906 (the “LRRA”). Under the LRRA, a risk retention group may insure only the liability risks of its members and may be owned only by its insured members.¹ Most risk retention groups are organized as captive insurers.

In accordance with the LRRA, risk retention groups chartered outside of Washington seeking to do business in the state register with the Insurance Commissioner (the “Commissioner”) and designate the Commissioner as their agent for service of process. *See* 15 USC § 3902(a)(4). Washington law regarding the registration of risk retention groups is found at RCW 48.92.040 with implementing regulations at WAC 284-92-401 through 490.

SB 5315 establishes certain requirements for “eligible captive insurers,” as defined by SB 5315. These requirements include a required process to register with the Commissioner. In email correspondence between OIC staff and staff of the Senate Ways and Means Committee

¹ A risk retention group may be owned directly by its members or indirectly if it is owned by an association that is owned by the members. 15 USC § 3901(a)(4).

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that has been shared with us, OIC clarifies that risk retention groups are not subject to the registration process for eligible captive insurers under SB 5315. Although the clarification provided by staff is very helpful, we urge OIC to include the same clarification in the regulations implementing SB 5315. Doing so will ensure the clarification is accessible to all risk retention groups seeking to comply with Washington law now and in the future and will help avoid confusion over this point among the regulated community. Once the proposed regulations are published for public comment, we would be glad to suggest clarifying language.

Thank you for your consideration.

Sincerely,

A handwritten signature in blue ink, appearing to read 'JD', with a long horizontal line extending to the right.

Joseph Deems
Executive Director