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Risk Retention Groups Divided by House Bill's Focus on Nonprofits

By Donna Mahoney

Federal legislation that would allow only certain risk retention groups to expand the coverage they can provide for policyholder-owners is causing a rift in the industry.

The measure, H.R. 3794, would allow RRGs to write property coverages for policyholders that are nonprofit organizations with tax-exempt status or educational and education-related institutions that are nonprofit organizations or governmental entities.

The expansion of coverage, though, would be available to only RRGs that have been operating for at least 10 years, and the RRG would have to maintain capital and surplus of at least $10 million.

When the legislation was introduced in the House of Representatives in October by Reps. Dennis Ross, R-Fla., and Ed Perlmutter, D-Colo., it was embraced by nonprofit organizations, which welcomed the proposed expansion of coverage. Under current law, RRGs can write commercial casualty coverage for only member-owners.

That support continues.

“We insure thousands of vehicles driven by volunteers with fragile folks in them that are disabled, those being taken to doctor visits,” said Pamela Davis, president and CEO of the Vermont-domiciled Alliance of Nonprofits for Insurance Risk Retention Group in Santa Cruz, California.

“This is something the insurance industry doesn't typically want to cover for physical damage. It's a limited market. Some don't like to cover volunteer drivers,” Ms. Davis added.

However, the board of the Encino, California-based National Risk Retention Association, which represents many of the nation's 236 RRGs unanimously voted last month to oppose the legislation.

“It was written only for nonprofits,” said Jon Harkavy, an NRRA officer, who also is vice president and general counsel of RRG manager Risk Services L.L.C. in Washington.

“Very few other risk retention groups could take advantage of it; there are a number outside of the not-for-profit area that have trouble securing property coverages,” Mr. Harkavy said.

Others also have doubts about the legislation.

“Unfortunately, in order to get the bill this far, its scope has been so narrowed that it benefits only a handful of risk retention groups and does not benefit the risk retention industry as a whole,” said David F. Provost, Vermont's deputy commissioner of captive insurance in Montpelier.

Mr. Provost sees that the bill could be viewed as the first step in expansion of the Risk Retention Act, “but a 'foot-in-the-door' approach will surely draw even more opposition from members of regulatory organizations who have a strong distaste for any further federal involvement in the regulation of insurance,” he said.