

March 22, 1990

SUBJECT: INSURANCE

Circular Letter No. 3 (1990)  
March 22, 1990

TO: RISK RETENTION GROUPS & PURCHASING GROUPS INTENDING TO DO, OR DOING, BUSINESS IN  
NEW YORK STATE

RE: USE OF NAIC-DEVELOPED UNIFORM FORMS

The federal Liability Risk Retention Act of 1986, Article 59 of the New York Insurance Law, and Regulation No. 134 (11 NYCRR 301, relating to purchasing groups only) require risk retention groups (RRGs) and purchasing groups (PGs) to provide information to a State before any business is done in that State and, thereafter, to provide updated information. RRGs and PGs, of course, must comply with applicable requirements set forth in these governing laws and regulations.

Sample forms for PGs were furnished with Circular Letter No. 19 (1988), dated August 15, 1988, and remain available for use by PGs. As an alternative, PGs may now also use forms adopted by the National Association of Insurance Commissioners (NAIC), in order to facilitate compliance and promote uniformity in connection with state filing requirements. PG submissions should be sent to the attention of Ms. Nancy Yee (212-602-0630), Associate Insurance Examiner, Property & Casualty Insurance Bureau, at the above address.

Specific requirements, including forms, will be promulgated for RRGs in a forthcoming regulation. In the meantime, RRGs may continue to register without using a mandatory form and, therefore, may also use the forms adopted by the NAIC for RRGs, pending promulgation of this regulation. RRG submissions should be sent to the attention of Mr. Michael Moriarty (212-602-8799), Associate Insurance Examiner, Property Companies Bureau, at the above address.

The Department may request additional information if deemed necessary based upon review of these threshold filings. These forms are subject to future revision by this Department and the NAIC.

Very truly yours,

[SIGNATURE]

WENDY E. COOPER

ACTING SUPERINTENDENT OF INSURANCE

ATTACHMENT

STATE OF \_\_\_\_\_

APPOINTMENT OF ATTORNEY TO ACCEPT SERVICE

The \_\_\_\_\_, Purchasing Group (called the Group) duly organized under the laws of the St[ILLEGIBLE WORDS] of \_\_\_\_\_, appoints the Insurance Commissioner [Direct[ILLEGIBLE WORDS] Superintendent] of the State of \_\_\_\_\_, and his or her success[ILLEGIBLE WORDS] in office, to be its lawful attorney upon whom all legal process in any act[ILLEGIBLE WORDS] or proceeding against it shall be served and further agrees that any have same legal validity as if served personally upon the Group.

The Group gives the Insurance Commissioner [Director, Superintendent] his or her successors, full authority to do every act necessary to be done un[ILLEGIBLE WORDS] this appointment as fully as the Group could do if personally present, ratifies all that the Insurance Commissioner [Director, Superintendent] sh[ILLEGIBLE WORDS] lawfully do under the power granted by this appointment. This authority may [ILLEGIBLE WORDS] withdrawn only upon a written notice of revocation and in any case sh[ILLEGIBLE WORDS] continue in effect so long as any liability arising out of this appoint[ILLEGIBLE WORDS] remains outstanding in the State. This instrument is executed pursuant to shall be construed to constitute full compliance with Section 4 (e) of Liability Risk Retention Act of 1986.

The Group designates [\_\_\_\_\_] whose address[ILLEGIBLE WORDS] [\_\_\_\_\_] as the person who process against the Group served upon the Commissioner [Direc[ILLEGIBLE WORDS] Superintendent] shall be forwarded.

IN WITNESS OF THIS APPOINTMENT, the Group, pursuant to a resolution [ILLEGIBLE WORDS] adopted by its Board of Directors, has caused this instrument to be execute[ILLEGIBLE WORDS] its name by its President and Secretary, and its corporate seal to be affixe[ILLEGIBLE WORDS] it at the City of \_\_\_\_\_, State of \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_.

Attest:

\_\_\_\_\_  
Secretary

\_\_\_\_\_  
(Name of Risk Retention Purchasing Group)

By

\_\_\_\_\_  
President

6B. List the name of the principal agent or broker responsible for the sale or purchase of the group's liability insurance. (If none, answer none.)

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

7. List the names, addresses, and occupations of the principal officers and directors of the Purchasing Group. Attach additional pages if necessary.

Principal Officers    Principal Directors

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

8. The Purchasing Group is composed of members whose business or activities are similar or related with respect to the liability to which members are exposed by virtue of any related, similar, or common business, trade, product, services, premises or operations. Give a general description of business or activities engaged in by purchasing group members:

\_\_\_\_\_  
\_\_\_\_\_

9. The Purchasing Group has as one of its purposes the purchase of liability insurance on a purchasing group basis.

10. The Purchasing Group purchases such liability insurance only for its members and only to cover their similar or related liability exposure, as described in item (8) above.

11. The Purchasing Group intends to purchase the following lines and classifications of liability insurance:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

12. The Purchasing Group intends to purchase the liability insurance described in item (11) above from the following insurance company or companies. Give full name of company, state of domicile and [ILLEGIBLE WORDS]IN:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

13. List the name and address of the licensed agent or broker through whom purchases will be effected. Complete this item only if purchase of insurance is to be made from a surplus lines insurer, rather than from a licensed insurer.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

14. If the purchasing group transacts insurance business by means of a "direct offering" (without using insurance agents to market its program), list the name and address of each person not listed in (13) above who will be transacting business on behalf of the purchasing group. (You need not include the names of licensed insurance agents duly appointed by an admitted insurer.)

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

15. Has any person transacting business on behalf of this Purchasing Group ever:

(A) been arrested, indicted and convicted of a felony or is a felony charge currently pending against any such person? \_\_\_\_\_

(B) had denied any application for a professional, vocational or business license? \_\_\_\_\_

(C) had suspended or revoked any such license? \_\_\_\_\_

(D) had withdrawn or surrendered any such application or license to avoid potential disciplinary action against licensee? \_\_\_\_\_

If the answer to any part of this question is yes, attach a supplementary statement explaining in full each such occurrence.

We do hereby swear and affirm that the aforementioned statements and information are true and correct.

\_\_\_\_\_  
President or Chief Executive Officer

\_\_\_\_\_  
Secretary

Sworn before me this \_\_\_\_ day of \_\_\_\_\_, 19\_\_.  
Notary Public, State of \_\_\_\_\_  
My Commission Expires \_\_\_\_\_

STATE OF \_\_\_\_\_

APPOINTMENT OF ATTORNEY TO ACCEPT SERVICE

The \_\_\_\_\_, Purchasing Group (called the Group) duly organized under the laws of the State of \_\_\_\_\_, appoints the Insurance Commissioner (Director, Superintendent) of the State of \_\_\_\_\_, and his or her successors in office, to be its lawful attorney upon whom all legal process in any action or proceeding against it shall be served and further agrees that any have the same legal validity as if served personally upon the Group.

The Group gives the Insurance Commissioner [Director, Superintendent] and his or her successors, full authority to do every act necessary to be done under this appointment as fully as the Group could do if personally present, and ratifies all that the Insurance Commissioner [Director, Superintendent] shall lawfully do under the power granted by this appointment. This authority may be withdrawn only upon a written notice of revocation and in any case shall continue in effect so long as any liability arising out of this appointment remains outstanding in the State. This instrument is executed pursuant to and shall be construed to constitute full compliance with Section 4 (e) of the Liability Risk Retention Act of 1986.

The Group designates [\_\_\_\_\_] whose address is [\_\_\_\_\_] as the person to who process against the Group served upon the Commissioner [Director, Superintendent] shall be forwarded.

IN WITNESS OF THIS APPOINTMENT, the Group, pursuant to a resoluti[ILLEGIBLE WORDS] adopted by its Board of Directors, has caused this instrument to be executed its name by its President and Secretary, and its corporate seal to be affixed [ILLEGIBLE WORDS]to it at the City of \_\_\_\_\_, State of \_\_\_\_\_, this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_.

Attest:

\_\_\_\_\_  
Secretary

\_\_\_\_\_

(Name of Risk Retention Purchasing Group)

By

\_\_\_\_\_  
President

STATE OF \_\_\_\_\_

APPLICATION FOR REGISTRATION AS A RISK RETENTION GROUP

(All information should be typed.)

1. List the corporate name of the Risk Retention Group.

\_\_\_\_\_  
(Name must include the phrase "Risk Retention Group")

List any DBA's of the Risk Retention Group.

\_\_\_\_\_

2. The primary activity of this Risk Retention Group consists of assuming and spreading all, or any portion, of the liability exposure of its members.

3. The Risk Retention Group is organized for the primary purpose of conducting the activity described under (2) above.

4. 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 of insurance under the laws of its chartering State:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

5. 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.

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

\_\_\_\_\_ the owners of the Group are the only persons who comprise the membership of the Group and who are provided insurance by the Group;

\_\_\_\_\_ the sole owner of the Group is \_\_\_\_\_

\_\_\_\_\_

(Give name and address of organization)

An organization whose members only comprise the membership of the Group, and whose owners are only persons who comprise the membership of the Group and who are provided insurance by the Group.

7. The Risk Retention Group is composed of members who are engaged in the following described business or activities, which are 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 general description of

business or activities engaged in by Group members):

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8. List the name, address and telephone number of each officer of the Risk Retention Group and the key officer or staff person (not an employee of the group's management company) responsible for overseeing "hands on management" of the group. (Attach additional pages if necessary.)

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8A. List the name, address, and telephone number of the company responsible for management of the insurance operations of this risk retention group. (If none, answer none.)

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8B. List the name, address, and telephone number of the principal agent or broker responsible for marketing the group's insurance policies. (If none, answer none.)

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- 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 businesses or activities which qualify such other Risk Retention Group (or member) under item (6) above for membership in this Group.

10. The Risk Retention Group will comply with the unfair claim settlement practices laws of this State.

11. 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.

12. 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.

13. The Risk Retention Group will submit to examination by the Insurance Commissioner [Direct, Superintendent] 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 so as

to avoid unjustified duplication and unjustified repetition.

14. The Risk Retention Group will comply with a lawful order issued in a delinquency proceeding commenced by the Insurance Commissioner [Director, Superintendent] upon a finding of financial impairment, or in a voluntary dissolution proceeding.

15. 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.

16. The Risk Retention Group will comply with an injunction issued by a court of competent jurisdiction upon petition by the Insurance Commissioner [Director, Superintendent] alleging that the Group is in hazardous financial condition or is financially impaired.

17. The Risk Retention Group will provide the following notice, in 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."

18. The Risk Retention Group has submitted to the Insurance Commissioner [Director, Superintendent], as part of this application 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 discloses 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] any revisions of such plan or study to reflect any changes to the plan including, but without limitation, additional lines of liability insurance which the Group intends to offer, and any change in the designation of the Group's chartering state.

19. The Risk Retention Group will submit its annual financial statement to the Insurance Commissioner [Director, Superintendent] 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.

20. 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.

21. The Risk Retention Group will not solicit or sell insurance in this State, or otherwise operate in this State, if the Group is financially impaired or is in a hazardous financial condition.

We do hereby swear and affirm that the aforementioned statements and information are true and correct.

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President or Chief Executive Officer

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Secretary

Sworn before me this \_\_\_\_ day of \_\_\_\_\_, 19\_\_.

Notary Public, State of:  
My Commissioner Expires:

STATE OF \_\_\_\_\_

DEPARTMENT OF INSURANCE

APPOINTMENT OF ATTORNEY TO ACCEPT SERVICE

The \_\_\_\_\_, a Risk Retention Group (called the Group) duly organized under the laws of the State of \_\_\_\_\_, appoints the Insurance Commissioner [Director, Superintendent] of the State of \_\_\_\_\_, and his or her successors in office, to be its lawful attorney upon whom all legal process in any action or proceeding against it shall be served and further agrees that any lawful process against it which is served upon this attorney shall have the same legal validity as if served personally upon the Group.

The Group gives the Insurance Commissioner [Director, Superintendent] and his or her successors, full authority to do every act necessary to be done under this appointment as fully as the Group could do if personally present, and ratifies all that lawfully do under the power granted by this appointment. This authority may be withdrawn only upon a written notice of revocation and in any case shall continue in effect so long as any liability arising out of this appointment remains outstanding in the State. This instrument is executed pursuant to and shall be construed to constitute full compliance with Section 3 (a)(1)(D) of the Liability Risk Retention Act of 1986.

The Group designates [\_\_\_\_\_] whose address is [\_\_\_\_\_] as the person to whom process against the Group served upon the Commissioner [Director, Superintendent] shall be forwarded.

IN WITNESS OF THIS APPOINTMENT, the Group, pursuant to a resolution duly adopted by its Board of Directors, has caused this instrument to be executed in its name by its President and Secretary, and its corporate seal to be affixed at the City of \_\_\_\_\_, State of \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_.

Attest:

\_\_\_\_\_  
Secretary

\_\_\_\_\_  
(Name of Risk Retention Group)

By

\_\_\_\_\_  
President