



A publication of The Risk Retention Reporter

Risk Retention Industry News Digest

A quarterly newsletter for Risk Retention Group Boards, Policyholders & Insureds

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News Roundup

Call For Congress to Protect Risk Retention Groups

In a "Letter From Washington" written by Robert (Skip) H. Myers, a partner in the Washington, D.C.-based law firm of **Morris, Manning & Martin, LLP** and general counsel for the **National Risk Retention Association**, published in the *Morris Manning & Martin Insurance and Reinsurance Review (Fall 2008)*, Myers calls upon Congress to provide a solution to the "gradual encroachment" of states upon the preemption provisions of the Liability Risk Retention Act (LRRRA).

Pointing out that the "strength of the LRRRA (federal preemption of state law) is also its weakness," because RRGs must bring a court action when states violate the LRRRA preemption provisions, Myers calls upon Congress "to acknowledge that its intent has been thwarted by some of the states and that a different dispute resolution process should be adopted."

House Passes Amended LRRRA Bill Reflecting NAIC/RRG Compromise

Amendments to H.R. 5792, a bill to expand the Liability Risk Retention Act (LRRRA) to allow risk retention groups and purchasing groups to offer commercial property insurance to members, were passed by the **U.S. House Financial Services Subcommittee on Capital Markets, Insurance and Government Sponsored Enterprises** during its mark-up session on July 9, 2008. The original bill was introduced into Congress on April 15, 2008 with bi-partisan support from Rep. Dennis Moore (D-KS) and Rep. Deborah Pryce (R-OH). The proposed legislation, cited as "*Increasing Insurance Coverage Option for Consumers Act of 2008*," expands the scope of the LRRRA to include commercial property insurance, and would also require RRGs to adhere to uniform corporate governance standards, provide enhanced disclosure, and comply with financial accounting standards.

NAIC Does Not Support Expansion of LRRRA to Commercial Property

In a letter to the chairman of the **U.S. House Financial Services Subcommittee on Capital Markets, Insurance and Government Sponsored Enterprises**, the **National Association of Insurance Commissioners (NAIC)** expressed its views on H.R. 5792, the proposed legislation that expands the Liability Risk Retention Act to allow RRGs to offer commercial property insurance to members.

In the letter, dated July 8, 2008, NAIC president, Sandy Praeger, states, "There is a diversity of views among the State regulatory community regarding this legislation, and as such, we have not taken a formal position on the bill."

RRG Boards' Best Practices

Creating Empowered Boards

by Sanford "Sandy" Elsass, Uni-Ter President-Underwriting Manager



• About the Author •

Sanford "Sandy" Elsass is President and Chief Executive Officer of Uni-Ter Underwriting Management Corporation. He also serves as President-Underwriting Manager for Ponce de Leon LTC RRG, Inc., Lewis & Clark LTC RRG, Inc., J. M Woodworth RRG, Inc., and Sophia Palmer Nurses RRG, Inc.

"An empowered board is one that is fully informed on company operations, knows enough about the business in which the company is engaged to exercise independent judgment, and is not controlled by management."

Creating an empowered board is critical to the success of a risk retention group. An empowered board is one that is fully informed on company operations, knows enough about the business in which the company is engaged to exercise independent judgment, and is not controlled by management.

Creating an empowered board is especially important for RRGs because board members often know little about liability insurance. This can lead to faulty judgments influenced by management or competition — judgments that could lead to financial impairment or even bankruptcy.

RRGs tend to be made up of executives or professional practitioners in the business that is insured. Our company, Uni-Ter Underwriting Management Corporation, based in Atlanta, Georgia, builds and manages RRGs that insure long-term care facilities, physicians and surgeons, and nurses. Each of the RRGs we manage is organized as a stock company, which makes it easier to understand their valuation. Boards of the RRGs we manage are composed largely of facility owners/operators, medical doctors, and nurses. As policyholders and shareholders, board members want stable, reliable insurance at affordable rates and, they expect to see their stock grow in value. To achieve these objectives in a soft market — where the lure of lower prices may tempt management to engage in cutthroat competition — requires an informed board empowered to make tough decisions in the long-term interest of the shareholders. Our boards also include independent members from other financial businesses and academe.

Best Practices for RRG Boards

To my knowledge, there is no "Best Practices Manual" on how to create an empowered board. RRGs may differ in their approach but based on our experience in launching five RRGs in the last six years, there are certain guidelines that we believe every RRG should follow:

Educate board members on insurance practices and issues so they can make informed policy decisions and monitor management's performance.

Offer new board members training in insurance accounting (GAAP/Statutory), Incurred But Not Reported (IBNR) reserving, investment strategy, and the various components of the insurance premium.

Appoint some independent directors from other businesses who bring outside perspectives to bear on policy deliberations.

Create an Audit Committee authorized to meet with outside auditors without management present and directed to provide its comments to the board in a letter.

Hold board meetings at least quarterly.

Pay board members an annual retainer plus meeting fees and expenses.

Expect board members to attend all board meetings and committee members to attend all committee meetings.

Let board members know they can contact any management staff member directly to ask questions or request information on company operations.

Set regular meeting dates on an annual basis so board and committee members can plan their schedules.

**Risk Retention Group
Vital Statistics
2008 Year End**

Total Number of RRGs: 262

RRG '08 Formations: 18

By Domicile:

- Arizona: 2
- District of Columbia: 2
- Delaware: 1
- Kentucky: 1
- Montana: 2
- Nevada: 4
- South Carolina: 3
- Vermont: 3

By Business Area:

- Govt. & Institutions: 3
- Healthcare: 12
- Property Development: 1
- Transportation: 2

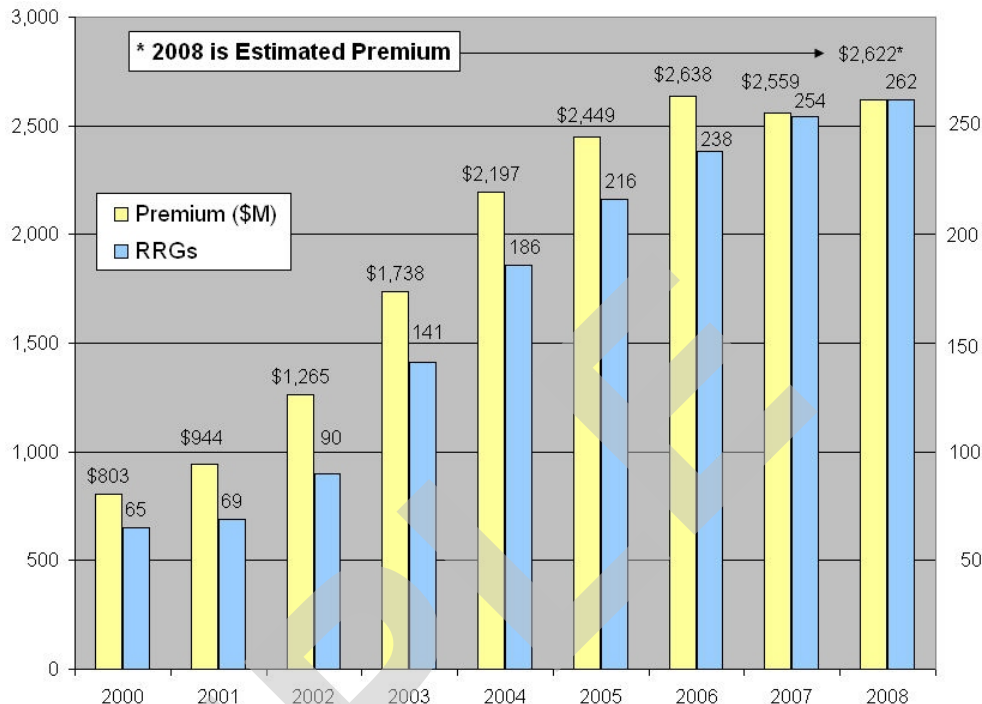
By Captive Manager:

- Aon: 3
- Marsh: 3
- ORG: 2
- Risk Services: 2
- Others: 8

RRG '08 Retirements: 10

Industry Trends

Slight Rebound in 2008 Premium of 2.5% Projected



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