Property Casualty Insurers
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Statement for the Record

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Submitted to the

Subcommittee on Housing and Insurance

The Committee on Financial Services of the

United States House of Representatives

by the

Property and Casualty Insurers Association of America (PCI)

The Property Casualty Insurers Association of America (PCI) appreciates the opportunity to submit the following statement regarding the Risk Retention Act Modernization discussion draft for the record. PCI is a trade association composed of more than 1,000 member companies, representing the broadest cross section of insurers of any national trade association. In fact, PCI members include six risk retention groups writing almost $250 million in annual premium. Overall, PCI members write more than $195 billion in annual premium and 39 percent of the nation's home, auto and business insurance, epitomizing the diversity and strength of the U.S. and global insurance markets.

PCI supports the Risk Retention Act Modernization discussion draft. PCI's mission is to promote and protect the viability of a competitive private insurance market for the benefit of consumers and insurers. PCI's principles of good insurance regulation include the recognition of a wide variety of property-casualty business models to increase private competition. Expanding the ability of Risk Retention Groups to offer coverage with appropriate regulatory oversight and protections can expand competition for consumers.

In the 1970s, product liability insurance became increasingly costly and unavailable. In response, in 1981, Congress passed the “Product Liability Risk Retention Act” that allowed product manufacturers and distributors to band together to form their own self-insurance “risk retention groups" (RRGs) for product liability insurance. In the mid-1980s, general liability (and other commercial liability) insurance premiums skyrocketed and coverage for certain liability exposures was unavailable in the standard marketplace or extremely expensive for the desired limits and coverages. Among the entities particularly hard hit during this crisis were nonprofits, universities, municipalities, daycare centers, health care providers, and small businesses. In 1986, Congress further expanded the 1981 Act to permit Risk Retention Groups (RRGs) to cover broader liability risks. The Act is now referred to as the Liability Risk Retention Act (LRRA).

RRGs are unique, industry-specific groups that must be made up of similarly-situated entities, with similar risk exposures, that pool their risk to self-insure their liability on a group basis. RRGs are insurers licensed and fully regulated in one state pursuant to that state’s laws. Each state, in turn, is accredited by the National Association of Insurance Commissioners (NAIC). Under the LRRA, once licensed in one accredited state, an RRG then “registers” in non-domiciliary states and provides those states with ongoing information about the RRG’s financial condition and business in each state.

The LRRA currently limits RRGs to providing commercial liability insurance. One of the requirements is that all owners of an RRG must also be insured by the RRG and that all insureds must be owners. In the more than quarter century since the 1986 Amendment, more than 250 risk retention groups have aggregated more than $2.5 billion in gross written premiums. In 2005, a study by the Government

Accountability Office found that "RRGs have had a small but important effect in increasing the availability and affordability of commercial liability insurance for certain groups..." In their 2012 update, the GAO found that "the financial condition of the RRG industry in aggregate generally has remained profitable. In 2010, RRGs continued to comprise a small percentage of the total market, writing about $2.5 billion—or about 3 percent of commercial liability coverage." The GAO also noted that, "[i]n 2005, GAO recommended implementation of more uniform, baseline state regulatory standards, including corporate governance standards to better protect RRG insureds. The National Association of Insurance Commissioners (NAIC) has since revised its accreditation standards to more closely align with those for traditional insurers which are subject to oversight in each state in which they operate. For example, all financial examinations of RRGs that have commenced during or after 2011 should use the risk-focused examination process. NAIC also has begun developing corporate governance standards that it plans to implement in the next few years."

The Risk Retention Act Modernization discussion draft would expand the LRRA to allow RRGs to provide all commercial property casualty lines of coverage except workers' compensation, so long as the RRG has been a state licensed insurer for at least five consecutive years and maintains at least $5 million capital and surplus.

PCI supports the expansion of the LRRA to allow RRGs to provide commercial liability insurance other than worker's compensation so long as the RRGs continue: to be excluded from the state guaranty funds for property-casualty insurance; to have full solvency regulation by domiciliary state (including participation in NAIC solvency monitoring mechanisms); to be subject to non-domiciliary regulators; continue to have some degree of solvency regulation including examination and order of delinquency in situations where an RRG is financially impaired; to comply with injunctions issued by a court upon petition by a state insurance commissioner where the group is found to be in a hazardous financial condition or financially impaired; to comply with state laws governing deceptive, false or fraudulent acts or practices; to comply with unfair claims settlement practice laws; to pay applicable premium and other taxes; and to participate in residual market programs to the extent required by each state. The current Risk Retention Act Modernization discussion draft does not undermine any of these criteria applicable to RRGs.

The LRRA has existed in its present form for 28 years as a state regulated competitive business model. Given the requirements detailed above, PCI supports the ability of RRGs to offer expanded commercial insurance coverage, using well-established principles of risk management, broad coverage, stable pricing and coordinated claims services.

PCI looks forward to working with the Subcommittee on Housing and Insurance, state insurance regulators, and educational institutions, nonprofits, and businesses to further refine legislative language that builds on the successes achieved through the LRRA while preserving the important solvency protections of the existing state system of insurance regulation that helped the robust U.S. insurance marketplace, including RRGs, to remain strong throughout the recent financial crisis.