

## Article 22.

### Liability Risk Retention.

#### **§ 58-22-1. Purpose.**

The purpose of this Article is to regulate the formation and operation of risk retention and purchasing groups in this State that are formed pursuant to the provisions of the Product Liability Risk Retention Act of 1981, as amended by the Risk Retention Amendments of 1986 (15 U.S.C. §3901 et seq.). (1985 (Reg. Sess., 1986), c. 1013, s. 8; 1987, c. 310, s. 1.)

#### **§ 58-22-5: Reserved for future codification purposes.**

#### **§ 58-22-10. Definitions.**

As used in this Article:

- (1) "Completed operations liability" means liability arising out of the installation, maintenance, or repair of any product at a site that is not owned or controlled by:
  - a. Any person who performs that work; or
  - b. Any person who hires an independent contractor to perform that work; but includes liability for activities that are completed or abandoned before the date of the occurrence giving rise to the liability.
- (2) "Domicile", for purposes of determining the state in which a purchasing group is domiciled, means:
  - a. For a corporation, the state in which the purchasing group is incorporated; and
  - b. For an unincorporated entity, the state of its principal place of business.
- (3) "Hazardous financial condition" means that, based on its present or reasonably anticipated financial condition, a risk retention group is insolvent or, although not yet financially impaired or insolvent, is unlikely to be able:
  - a. To meet obligations to policyholders with respect to known claims and reasonably anticipated claims; or
  - b. To pay other obligations in the normal course of business.
- (4) "Insurance" means primary insurance, excess insurance, reinsurance, surplus lines insurance, and any other arrangement for shifting and distributing risk that is determined to be insurance under the laws of this State.
- (5) "Liability" means legal liability for damages, including costs of defense, legal costs and fees, and other claims expenses, because of injuries to other persons, damage to their property, or other damage or loss to such other persons resulting from or arising out of any profit or nonprofit business, trade, product, professional or other services, premises, or operations; or any activity of any state or local government, or any agency or political subdivision thereof. Liability does not include personal risk liability or an employer's liability with respect to its employees other than legal liability under the Federal Employers' Liability Act (45 U.S.C. § 51 et seq.).
- (6) "Personal risk liability" means liability for damage because of injury to any person, damage to property, or other loss or damage resulting from any personal, familial, or household responsibilities or activities. Personal risk liability does not include liability as defined in subdivision (5) of this section.

- (7) "Plan of operation" or "feasibility study" means an analysis that presents the expected activities and results of a risk retention group including, at a minimum:
- a. For each state in which the group intends to do business, the coverages, deductibles, coverage limits, rates, and rating classification systems for each kind of insurance the group intends to offer;
  - b. Historical and expected loss experience of the proposed members and national experience of similar exposures;
  - c. Prospective financial statements and projections;
  - d. Appropriate opinions by a qualified, independent casualty actuary, including a determination of minimum premium or participation levels required to commence operations and to prevent a hazardous financial condition;
  - e. Identification of management, underwriting and claim procedures, marketing methods, managerial oversight methods, reinsurance agreements, and investment policies;
  - f. Identification of each state in which the group has obtained, or sought to obtain, a charter and license, and a description of its status in each such state;
  - g. Information sufficient to verify that the group's members are engaged in businesses or activities similar or related with respect to the liability to which those members are exposed by virtue of any related, similar, or common business, trade, product, services, premises, or operations; and
  - h. Such other matters that are prescribed by the Commissioner for liability insurance companies authorized by this Chapter.
- (8) "Product liability" means liability for damages because of any personal injury, death, emotional harm, consequential economic damage, or property damage, including damages resulting from the loss of use of property, arising out of the manufacture, design, importation, distribution, packaging, labeling, lease, or sale of a product; but does not include the liability of any person for those damages if the product involved was in the possession of such person when the incident giving rise to the claim occurred.
- (9) "Purchasing group" means any group that:
- a. Has as one of its purposes the purchase of liability insurance on a group basis;
  - b. Purchases such insurance only for its group members and only to cover their similar or related liability exposure, as described in sub-subdivision c. of this subdivision;
  - c. Is composed of members whose businesses or activities are similar or related with respect to the liability to which the members are exposed by virtue of any related, similar, or common business, trade, product, services, premises, or operations; and
  - d. Is domiciled in any state.
- (10) "Risk retention group" means any corporation or other limited liability association:

- a. Whose primary activity consists of assuming and spreading all or any portion of the liability exposure of its group members;
- b. That is organized for the primary purpose of conducting the activity described under sub-subdivision a. of this subdivision;
- c. That
  - 1. Is chartered and licensed as a liability insurance company and authorized to engage in the business of insurance under the laws of any state; or
  - 2. Before January 1, 1985, was chartered or licensed and authorized to engage in the business of insurance under the laws of Bermuda or the Cayman Islands and, before that date, had certified to the insurance regulator of at least one state that it satisfied the capitalization requirements of such state; except that any such group shall be considered to be a risk retention group only if it has been engaged in business continuously since that date and only for the purpose of continuing to provide insurance to cover product liability or completed operations liability, as such terms were defined in the Product Liability Risk Retention Act of 1981 before the effective date of the Risk Retention Act of 1986;
- d. That does not exclude any person from membership in the group solely to provide for members of such a group a competitive advantage over such person;
- e. That
  - 1. Has as its [its] owners only persons who comprise the membership of the risk retention group and who are provided insurance by such group; or
  - 2. Has as its sole owner an organization that meets all of the following:
    - I. Its members are only persons who comprise the membership of the risk retention group; and
    - II. Its owners are only persons who comprise the membership of the risk retention group and who are provided insurance by such group;
- f. Whose members are engaged in businesses or activities similar or related with respect to the liability of which such members are exposed by virtue of any related, similar, or common business trade, product, services, premises, or operations;
- g. Whose activities do not include the provision of insurance other than:
  - 1. Liability insurance for assuming and spreading all or any portion of the similar or related liability exposure of its group members; and
  - 2. Reinsurance with respect to the similar or related liability exposure of any other risk retention group, or any member of such other group, that is engaged in businesses or activities so that such group or member meets the requirement described in

- sub-subdivision f. of this subdivision from membership in the risk retention group that provides such reinsurance; and
- h. The name of which includes the phrase "Risk Retention Group". (1985 (Reg. Sess., 1986), c. 1013, s. 8; 1987, c. 310, s. 1; 1993, c. 452, s. 35; 2001-223, s. 18; 2011-120, s. 10.)

**§ 58-22-15. Risk retention groups chartered in this State.**

(a) General Requirements. – A risk retention group shall, pursuant to the provisions of Part 9 of Article 10 of this Chapter, be chartered and licensed to write only liability insurance pursuant to this Article and, except as provided elsewhere in this Article, must comply with all of the laws and rules applicable to such insurers chartered and licensed in this State and with G.S. 58-22-20 to the extent such requirements are not a limitation on laws, administrative rules, or requirements of this State.

(b) Plan of Operation. – Before it may offer insurance in any state, each risk retention group shall also submit for approval to the Commissioner of this State a plan of operation or feasibility study. The Commissioner may limit the net amount of risk retained by a risk retention group for any individual risk. The risk retention group shall submit an appropriate revision in the event of any subsequent material change in any item of the plan of operation or feasibility study, within 10 days after any such change. The group shall not offer any additional kinds of liability insurance, in this State or in any other state, until a revision of such plan or study is approved by the Commissioner.

(c) Required Information. – At the time of filing its application for a charter, the risk retention group shall provide to the Commissioner in summary form the following information: the identity of the initial members of the group, the identity of those individuals who organized the group or who will provide administrative services or otherwise influence or control the activities of the group, the amount and nature of initial capitalization, the coverages to be afforded, and the states in which the group intends to operate. Upon receipt of this information, the Commissioner shall forward such information to the NAIC. Providing notification to the NAIC is in addition to and shall not be sufficient to satisfy the requirements of G.S. 58-22-20 or any other sections of this Article.

(c1) Examination Regarding Financial Condition. – The Commissioner may examine any risk retention group whenever the Commissioner deems it prudent and reasonable. The examination shall be (i) coordinated with other examining bodies in a manner that avoids unnecessarily repetitious examinations, (ii) conducted in an expeditious manner, and (iii) conducted in accordance with the Examiner Handbook of the NAIC. The costs associated with an examination pursuant to this subsection shall be the responsibility of the examined risk retention group.

(d) Governance Standards. – Risk retention groups shall comply with the following governance standards:

- (1) Board of directors. – The following standards apply to the board of directors of the risk retention group:
- a. Definitions. – The following definitions apply in this subdivision:
1. Board of directors or board. – The governing body of the risk retention group elected by the shareholders or members to establish policy, elect or appoint officers and committees, and make other governing decisions.

2. Director. – A natural person designated in the articles of the risk retention group, or designated, elected, or appointed by any other manner, name, or title to act as a director.
- b. Independent directors. – The board of directors of the risk retention group shall have a majority of independent directors. If the risk retention group is a reciprocal, then the attorney-in-fact would be required to adhere to the same standards regarding independence of operation and governance as imposed on the risk retention group's board of directors or subscribers advisory committee under these standards; and, to the extent permissible under State law, service providers of a reciprocal risk retention group should contract with the risk retention group and not the attorney-in-fact.
- c. Determination of independence. – No director qualifies as independent unless the board of directors affirmatively determines that the director has no material relationship, as partially specified in sub-subdivision d. of this subdivision, with the risk retention group. Each risk retention group shall disclose these determinations to the Commissioner at least annually. For the purpose of this subdivision, any person that is a direct or indirect owner of or subscriber in the risk retention group (or is an officer, director, or employee of such an owner and insured, unless some other position of such officer, director, or employee constitutes a material relationship), as contemplated by Section 3901(a)(4)(E)(ii) of the federal Liability Risk Retention Act, is considered to be "independent."
- d. Material relationship. – "Material relationship" of a person with the risk retention group includes, but is not limited to, the following:
  1. The receipt in any one 12-month period of compensation or payment of any other item of value by such person, a member of such person's immediate family, or any business with which such person is affiliated from the risk retention group or a consultant or service provider to the risk retention group is greater than or equal to five percent (5%) of the risk retention group's gross written premium for such 12-month period or two percent (2%) of its surplus, whichever is greater, as measured at the end of any fiscal quarter falling in such a 12-month period. Such person or immediate family member of such person is not independent until one year after his/her compensation from the risk retention group falls below the threshold.
  2. A relationship with an auditor as follows: a director or an immediate family member of a director who is affiliated with or employed in a professional capacity by a present or former internal or external auditor of the risk retention group is not independent until one year after the end of the affiliation, employment, or auditing relationship.
  3. A relationship with a related entity as follows: a director or immediate family member of a director who is employed as an

executive officer of another company where any of the risk retention group's present executives serve on that other company's board of directors is not independent until one year after the end of such service or the employment relationship.

(2) Service provider contracts. –

- a. The term of any material service provider contract with the risk retention group shall not exceed five years. Any such contract, or its renewal, shall require the approval of the majority of the risk retention group's independent directors. The risk retention group's board of directors shall have the right to terminate any service provider, audit, or actuarial contracts at any time for cause after providing adequate notice as defined in the contract. The service provider contract is deemed material if the amount to be paid for such contract is more than or equal to the greater of five percent (5%) of the risk retention group's annual gross written premium or two percent (2%) of its surplus.
- b. For purposes of this standard, "service providers" shall include captive managers, auditors, accountants, actuaries, investment advisors, lawyers, managing general underwriters, or other party responsible for underwriting, determination of rates, collection of premium, adjusting and settling claims, or the preparation of financial statements. Any reference to "lawyers" in the prior sentence of this sub-subdivision does not include defense counsel retained by the risk retention group to defend claims, unless the amount of fees paid to such lawyers are "material" under the standard set forth in this subdivision for a service provider contract.
- c. No service provider contract shall be entered into with a person meeting the definition of "material relationship" contained in sub-subdivision (1)d. of this subsection unless the risk retention group has notified the Commissioner in writing of its intention to enter into such transaction at least 30 days prior thereto and the Commissioner has not disapproved it within such period.

(3) Written policy. – The risk retention group's board of directors shall adopt a written policy in the plan of operation as approved by the board that requires the board to do all of the following:

- a. Assure that all owner/insureds of the risk retention group receive evidence of ownership interest.
- b. Develop a set of governance standards applicable to the risk retention group.
- c. Oversee the evaluation of the risk retention group's management including, but not limited to, the performance of the captive manager, managing general underwriter, or other party or parties responsible for underwriting, determination of rates, collection of premium, adjusting or settling claims, or the preparation of financial statements.
- d. Review and approve the amount to be paid for all material service providers.
- e. Review and approve, at least annually, all of the following:

1. Risk retention group's goals and objectives relevant to the compensation of officers and service providers.
  2. The officers' and service providers' performance in light of those goals and objectives.
  3. The continued engagement of the officers and material service providers.
- (4) Governance standards. – The board of directors shall adopt and disclose governance standards. For purposes of this subdivision, "disclose" means making such information available through electronic or other means, such as posting on the risk retention group's Web site, and providing such information to members or insureds upon request. The standards to be disclosed shall include all of the following:
- a. A process by which the directors are elected by the owner/insureds.
  - b. Director qualification standards.
  - c. Director responsibilities.
  - d. Director access to management and, as necessary and appropriate, independent advisors.
  - e. Director compensation.
  - f. Director orientation and continuing education.
  - g. The policies and procedures that are followed for management succession.
  - h. The policies and procedures that are followed for annual performance evaluation of the board.
- (5) Business conduct and ethics. – The board of directors shall adopt and disclose a code of business conduct and ethics for directors, officers, and employees and promptly disclose to the board of directors any waivers of the code for directors or executive officers. The code of business conduct and ethics shall include the following topics:
- a. Conflicts of interest.
  - b. Matters covered under the corporate opportunities doctrine as that doctrine has been interpreted by the courts of this State.
  - c. Confidentiality.
  - d. Fair dealing.
  - e. Protection and proper use of risk retention group assets.
  - f. Duty of compliance with all applicable laws, rules, and regulations.
  - g. A requirement to report any illegal or unethical behavior which affects the operation of the risk retention group.
- (6) Reporting noncompliance. – The captive manager or the president or chief executive officer of the risk retention group shall promptly notify the Commissioner in writing if either becomes aware of any material noncompliance with the governance standards set forth in this subsection. (1985 (Reg. Sess., 1986), c. 1013, s. 8; 1987, c. 310, s. 1; c. 727, s. 13; 1993, c. 452, s. 36; 1995 (Reg. Sess., 1996), c. 747, s. 8; 2013-116, s. 2; 2014-65, s. 22; 2015-146, s. 3; 2024-29, s. 1.)

**§ 58-22-20. Risk retention groups not chartered in this State.**

Risk retention groups that have been chartered in states other than this State and that seek to do business as risk retention groups in this state must observe and abide by the laws of this State as follows:

- (1) Notice of Operations and Designation of Commissioner as Agent. – Before offering insurance in this State, a risk retention group shall submit to the Commissioner:
  - a. A statement identifying the state or states in which the risk retention group is chartered and licensed as a liability insurance company, date of chartering, its principal place of business, and such other information including information on its membership, as the Commissioner may require to verify that the risk retention group is qualified under G.S. 58-22-10(10);
  - b. A copy of its plan of operations or a feasibility study and revisions of such plan or study submitted to its state of domicile; provided, however, that the provision relating to the submission of a plan of operation or a feasibility study shall not apply with respect to any line or classification of liability insurance that (i) was defined in the Product Liability Risk Retention Act of 1981 before October 27, 1986, and (ii) was offered before that date by any risk retention group that had been chartered and operating for not less than three years before that date;
  - c. The risk retention group shall submit a copy of any revision to its plan of operation or feasibility study required by G.S. 58-22-15(b) at the same time that such revision is submitted to the Commissioner of its chartering state; and
  - d. A statement of registration that designates the Commissioner as its agent for the purpose of receiving service of legal process.
- (2) Financial Condition. – A risk retention group doing business in this State shall file with the Commissioner:
  - a. A copy of the group's financial statement submitted to its state of domicile, which shall be certified by an independent public accountant and contain 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, under criteria established by the NAIC or by the Commissioner;
  - b. A copy of each examination of the risk retention group as certified by the State insurance regulator or public official conducting the examination;
  - c. Upon request by the Commissioner, a copy of any audit performed with respect to the risk retention group; and
  - d. Such information as may be required to verify its continuing qualification as a risk retention group under G.S. 58-22-10(10).
- (3) Taxation. –
  - a. All premiums paid for coverages within this State to risk retention groups shall be subject to taxation at the rate of one and eighty-five hundredths percent (1.85%) and subject to the same payment procedures and to the same interest, fines, and penalties for nonpayment



as those applicable to surplus lines insurance under Article 21 of this Chapter. Premiums paid by purchasing groups are, however, taxed as provided in G.S. 58-22-35(b).

- b. To the extent licensed insurance producers are utilized pursuant to G.S. 58-22-60, they shall report and pay the taxes for the premiums for risks that they have placed with or on behalf of a risk retention group not chartered in this State. Such insurance producer shall keep a complete and separate record of all policies procured from each such risk retention group, which record shall be open to examination by the Commissioner, as provided in G.S. 58-2-185. These records shall, for each policy and each kind of insurance provided thereunder, include the following:
    - 1. The limit of liability;
    - 2. The time period covered;
    - 3. The effective date;
    - 4. The name of the risk retention group that issued the policy;
    - 5. The gross premium charged; and
    - 6. The amount of return premiums, if any.
  - c. To the extent that insurance producers are not utilized or fail to pay the tax, each risk retention group shall pay the tax for risks insured within the State. Each risk retention group shall report to the Commissioner all premiums paid to it for risks insured within the State.
- (4) Compliance With Unfair Claims Settlement Practices Law. – A risk retention group and its agents and representatives shall comply with G.S. 58-3-100(a)(5) and G.S. 58-63-15(11).
  - (5) Deceptive, False, or Fraudulent Practices. – A risk retention group shall comply with the provisions of Article 63 of this Chapter and Chapter 75 of the General Statutes regarding deceptive, false, or fraudulent acts or practices.
  - (6) Examination Regarding Financial Condition. – A risk retention group must submit to an examination by the Commissioner to determine its financial condition if the insurance regulator of the jurisdiction in which the group is chartered has not initiated an examination or does not initiate an examination within 60 days after a request by the Commissioner. This examination shall be coordinated to avoid unjustified repetition and conducted in an expeditious manner and in accordance with the Examiner Handbook of the NAIC.
  - (7) Notice to Purchasers. – Any policy issued by a risk retention group shall contain in 10 point type and contrasting color on the front page and the declaration page, the following notice:

"NOTICE

This policy is issued by your risk retention group. Your risk retention group is not subject to all of the insurance laws and regulations of your state. In the event of the insolvency of your risk retention group, losses under this policy will not be paid by any insurance insolvency or guaranty fund in this State."

- (8) Prohibited Acts Regarding Solicitation or Sale. – The following acts by a risk retention group are prohibited:

- a. The solicitation or sale of insurance by a risk retention group to any person who is not eligible for membership in such group; and
  - b. The solicitation or sale of insurance by, or operation of, a risk retention group that is in a hazardous financial condition or is financially impaired.
- (9) **Prohibition of Ownership By An Insurance Company.** – No risk retention group shall be allowed to do business in this State if an insurance company is directly or indirectly a member or owner of such risk retention group, other than in the case of a risk retention group all of whose members are insurance companies.
  - (10) **Prohibited Coverage.** – No risk retention group may offer insurance policy coverage prohibited or not authorized by this Chapter or declared unlawful by the appellate courts of this State.
  - (11) **Delinquency Proceedings.** – A risk retention group not chartered in this State and doing business in this State must comply with a lawful order issued in a voluntary dissolution proceeding or in a delinquency proceeding commenced by a state insurance commissioner if there has been a finding of financial impairment after an examination under G.S. 58-22-20(6).
  - (12) **Penalties.** – A risk retention group that violates any provision of this Article is subject to G.S. 58-2-70. (1985 (Reg. Sess., 1986), c. 1013, s. 8; 1987, c. 310, s. 1; c. 727, ss. 1, 2; 1993, c. 452, s. 37; 1995 (Reg. Sess., 1996), c. 747, s. 9; 2004-199, s. 20(d); 2022-46, s. 14(z); 2024-29, s. 2.)

**§ 58-22-25. Compulsory association.**

(a) No risk retention group is required to join or contribute financially to any insurance insolvency or guaranty fund or similar mechanism in this State; nor shall any risk retention group or its insureds receive any benefit from any such fund for claims arising out of the operations of such risk retention group.

(b) A risk retention group may be required to participate in residual market mechanisms under Articles 37 and 42 of this Chapter. (1987, c. 310.)

**§ 58-22-30. Countersignature not required.**

A policy of insurance issued to a risk retention group or any member of that group is not required to be countersigned as otherwise provided in Articles 1 through 64 of this Chapter. (1985 (Reg. Sess., 1986), c. 1013, s. 8; 1987, c. 310.)

**§ 58-22-35. Purchasing groups; exemption from certain laws relating to the group purchase of insurance.**

(a) Any purchasing group meeting the criteria established under the provisions of 15 U.S.C. § 3901 et seq. is exempt from any law of this State relating to the creation of groups for the purchase of insurance, prohibition of group purchasing, or any law that discriminates against a purchasing group or its members. In addition, an insurer is exempt from any law of this State that prohibits providing, or offering to provide, to a purchasing group or its members, advantages based on their loss and expense experience not afforded to other persons with respect to rates, policy forms, coverages, or other matters. A purchasing group is subject to all other applicable laws of this State.

(b) Taxes on premiums paid for coverage of risks resident or located in this State by a purchasing group or any members of the purchasing group shall be:

- (1) Imposed at the same rate and subject to the same interest, fines, and penalties as those applicable to premium taxes on similar coverage from a similar insurance source by other insureds. For example, coverage provided by a surplus lines licensee is taxed under Article 21 of this Chapter, coverage provided by an insurance company is taxed under Article 8B of Chapter 105 of the General Statutes, and coverage provided by an unlicensed insurer is taxed under G.S. 58-28-5(b).
- (2) Paid first by such insurance source, and if not by such source then by the insurance producer for the purchasing group, and if not by such insurance producer then by the purchasing group, and if not by such group then by each of its members." (1987, c. 310, s. 1; c. 727, s. 9; 1995 (Reg. Sess., 1996), c. 747, s. 10; 2022-46, s. 14(aa).)

**§ 58-22-40. Notice and registration requirements of purchasing groups.**

(a) A purchasing group that intends to do business in this State shall, before doing business, furnish notice to the Commissioner that shall:

- (1) Identify the state in which the group is domiciled;
- (2) Specify the lines and classifications of liability insurance that the purchasing group intends to purchase;
- (3) Identify the insurer from which the group intends to purchase its insurance and the domicile of such insurer;
- (4) Identify the principal place of business of the group;
- (5) Provide such other information as may be required by the Commissioner to verify that the purchasing group is qualified under G.S. 58-22-10(9);
- (6) Specify the method by which and the person or persons, if any, through whom insurance will be offered to its members whose risks are resident or located in this State; and furnish such information as may be required by the Commissioner to determine the appropriate premium tax treatment; and
- (7) Identify all other states in which the group intends to do business.

(b) The purchasing group shall register with and designate the Commissioner as its agent solely for the purpose of receiving service of legal documents or process, except that such requirement does not apply in the case of a purchasing group:

- (1) That
  - a. Was domiciled before April 2, 1986, in any state of the United States; and
  - b. Is domiciled on and after October 27, 1986, in any state of the United States;
- (2) That before October 27, 1986, purchased insurance from an insurer licensed in any state; and since October 27, 1986, purchased its insurance from an insurer licensed in any state;
- (3) That was a purchasing group under the requirements of the Product Liability Retention Act of 1981 before October 27, 1986; and
- (4) That does not purchase insurance that was not authorized for purposes of an exemption under that act, as in effect before October 27, 1986.

(c) A purchasing group shall notify the Commissioner of any changes in any of the items in subsection (a) of this section within 10 days after those changes.

(d) Each purchasing group that is required to give notice under subsection (a) of this section shall also furnish such information as may be required by the Commissioner to:

- (1) Verify that the entity qualifies as a purchasing group;
- (2) Determine where the purchasing group is located; and
- (3) Determine appropriate tax treatment. (1987, c. 310, c. 727, s. 10; 1993, c. 452, s. 38.)

#### **§ 58-22-45. Restriction on insurance purchased by purchasing groups.**

(a) A purchasing group may not purchase insurance from a risk retention group that is not chartered in a state nor from an insurer not admitted in the state in which the purchasing group is located, unless the purchase is effected through a licensed producer acting pursuant to the surplus lines laws and regulations of such state.

(b) A purchasing group that obtains liability insurance from a nonadmitted insurer or from a risk retention group shall provide each member of the purchasing group that has a risk resident or located in this State with the notice specified in G.S. 58-21-45(f) or G.S. 58-22-20(7), whichever is applicable.

(c) No purchasing group may purchase insurance that provides for a deductible or for a self-insured retention applicable to the group as a whole; provided, however, that coverage may provide for a deductible or for self-insured retention applicable to members of the group. (1987, c. 310, s. 1; c. 727, s. 11; 2022-46, s. 14(bb).)

#### **§ 58-22-50. Administrative and procedural authority regarding risk retention groups and purchasing groups.**

The Commissioner is authorized to make use of any of the powers established under Articles 1 through 64 of this Chapter to enforce the laws of this State as long as those powers are not specifically preempted by the Product Liability Risk Retention Act of 1981, as amended by the Risk Retention Act of 1986. This includes, but is not limited to, the Commissioner's administrative authority to investigate, issue subpoenas, conduct depositions and hearings, issue orders, and seek or impose penalties. With regard to any investigation, administrative proceeding, or litigation, the Commissioner can rely on the procedural law and regulations of the State. The injunctive authority of the Commissioner in regard to risk retention groups is restricted by the requirement that any injunction be issued by a court of competent jurisdiction. (1987, c. 310.)

#### **§ 58-22-55. Penalties.**

A risk retention group that violates any provision of this Article is subject to G.S. 58-2-70. (1985 (Reg. Sess., 1986), c. 1013, s. 8; 1987, c. 310.)

#### **§ 58-22-60. Duty of agents or brokers to obtain license.**

Any person acting, or offering to act, as an agent or broker for a risk retention group or purchasing group, that solicits members, sells insurance coverage, purchases coverage for its members located within the State, or otherwise does business in this State shall, before commencing any such activity, obtain an insurance producer license from the Commissioner. (1987, c. 310, s. 1; 2022-46, s. 14(cc).)

**§ 58-22-65. Binding effect of orders issued in U.S. District Court.**

An order issued by any district court of the United States enjoining a risk retention group from soliciting or selling insurance, or operating, in any state, or in all states or in any territory or possession of the United States, upon a finding that such a group is in a hazardous financial condition, is enforceable in the courts of this State. (1987, c. 310.)

**§ 58-22-70. Registration and renewal fees.**

Every risk retention group and purchasing group that registers with the Commissioner under this Article shall pay the following fees:

Risk retention group registration.....	\$ 500.00
Purchasing group registration.....	500.00
Risk retention group renewal.....	1,500.00
Purchasing group renewal.....	100.00

Registration fees shall not be prorated and must be submitted with the application for registration. Renewal fees shall not be prorated and shall be paid on or before January 1 of each year. (1989 (Reg. Sess., 1990), c. 1069, s. 12; 1995, c. 507, s. 11A(c); 1999-435, s. 3; 2009-451, s. 21.12(a).)