CATCHING UP WITH RISK PURCHASING GROUPS

by Karrie Hyatt

Risk Purchasing Groups (RPGs) rarely make the news but they are one of the most utilized forms of self-insurance in the United States. RPGs, like risk retention groups, were enabled by the Liability Risk Retention Act in the mid-1980s. The federal law allows for operation across state lines and has become a convenient way for groups with similar risk to purchase bulk liability insurance.

During the first 15 years of their existence RPGs' numbers fluctuated widely. According to the *Risk Retention Reporter*, a monthly journal that has monitored RPGs since 1987, during the last decade, RPG numbers have been climbing and are set to break a record in the coming months.

Some Background

A risk purchasing group is a self-insurance entity organized solely to purchase liability insurance for individuals or organizations that share similar liabilities—physicians purchasing medical liability, insurance agents purchasing professional liability. RPGs typically operate on a multi-state basis to purchase insurance coverage as enabled by the Liability Risk Retention Act (LRRA). The LRRA preempts various aspects of state regulation and extends the preemptions to PG members and also to their insurers, as well as to agents and brokers or others representing the PG.

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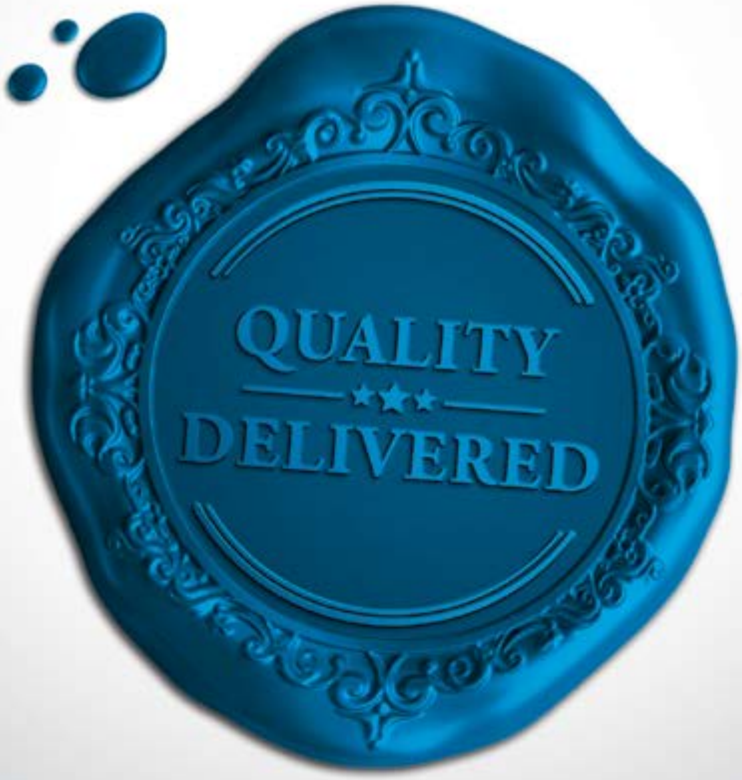

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Congress passed the LRRA in 1986 in response to the lengthy hard market of the 1980s. The LRRA allows businesses, professionals, nonprofit organizations, and governmental agencies to establish two types of self-insurance pools—those which retained risk, risk retention groups (RRGs), or those that purchase liability insurance on a group basis (RPGs).

The main difference between RRGs and RPGs is that a RRG is an actual insurance company owned by their members. RPGs are not insurance companies, but groups of insurance buyers who band together to purchase liability insurance coverage on a group basis from a qualified insurance company. While RRGs, as insurers, typically retain a certain amount of risk and look to reinsurers to offset the rest, RPGs transfer risk and are not usually concerned about reinsurance.

RPGs require no capital contributions from members. This makes it easier to form RPGs and they can be up and running in a matter of months, while RRGs typically take at least a year to 18 months to organize before they become operational.

RPGs are required to register in every state in which they will operate using registration forms either developed by the state or uniform registration forms developed by the National Association of Insurance Commissioners (NAIC). Each state has different requirements for PGs operating in their state, whether domiciled or registered. Some states require an initial fee and some states require taxes to be paid on premium (usually by the RPG's insurers).

The definition of liability in the LRRA excludes workers compensation and property. Where commercial insurance buyers require other types of coverage, such as workers' compensation and property that cannot be covered in the RPG, some RPGs utilize wrap-around or parallel programs to meet the needs of RPG members. RPGs can also be used for the cross-selling of other products and services.

What's So Great About RPGs?

RPGs have the ability to obtain tailor-made coverage for its members no matter which state they reside in. With almost 1,000 established RPGs, this alternative risk transfer (ART) mechanism insures many different types of groups. Trade associations, unions, franchise owners, business groups, and physicians are only some of the types of groups that obtain liability insurance through RPGs.

The ability to obtain customized insurance for its members is one of the key benefits of belonging to a risk purchasing group. With the bargaining power provided by group purchase, the RPG is typically able to secure broader coverage and better policy terms while using their group purchasing power to negotiate more favorable rates insurers than would be possible on an individual basis, or even in some other kind of group-buying arrangement.

An advantage for insurers of RPGs is that they can carve out profitable market niches and can realize economies of scale which gives them a greater ability to compete in the marketplace. Agents and brokers, in helping insurance buyers in developing insurance programs that are tailored to their needs and provide relevant coverage, have a better chance of success in a competitive marketplace.

State over-regulation, complex business arrangements, set liability parameters, and market volatility can be challenges for RPGs and their related companies.

Despite the intention of the LRRA, RPGs, similar to risk retention groups, face burdensome regulation in non-domiciliary states. RPG managers, for 30 years now, have been vocal in their criticism of excessive regulation in the shape of forms, fees, and taxes from non-domiciliary states. The LRRA intended for risk purchasing groups to only have to give notice to states where they would be doing business and to be regulated only by their state of domicile.

The *Risk Retention Reporter* publishes a quarterly update on the state of risk purchasing group state requirements in the *Purchasing Group Users' Handbook*. The most recent update shows that 31 states require fees from RPGs doing business in their states, with 10 only requiring initial fees and 21 requiring both initial and annual fees. Fees range from $25 to $500 with most states requiring $100 to $200 in initial or annual fees. Taxes on premium, which in most cases is paid by the insurer, range from 0.5% to 6%.

Another detraction from risk purchasing groups is the fact that they are limited to only offering liability insurance. If members require more coverage than just liability—such as property and workers' compensation—RPGs utilize cross-selling arrangements. While a perfectly adequate work-around, it contributes to another issue—complex business arrangements. As RPGs involve at least three key parties—insurance buyers, insurance companies, and agents/brokers—it is essential that all parties understand, agree to, and perform their respective roles and responsibilities. If any of the parties do not fulfill their part of the operation, it could undermine the whole enterprise.

RPGs in 2017

According to the *Risk Retention Reporter*, as of July, there were 992 risk purchasing groups domiciled in 48 states and the District of Columbia. The only two states with no RPGs domiciled are Alaska and New Mexico. The states that have domiciled the most RPGs are Delaware, with 193, and Illinois, with 182. California comes in a distant third with 79 groups domiciled.

RPG numbers have been steadily climbing since 2004. Prior to that, RPGs had been at the mercy of market forces—with numbers declining during soft markets and growing during hard markets. For more than a decade RPGs have shown themselves to be resilient to the insurance market and are getting ready to hit a record 1,000 groups which may happen before the end of the year.

Healthcare is the largest business area that risk purchasing groups operate in, similar to risk retention groups. But where RRGs operate in a limited number of business areas, RPGs are more wide-ranging in the business areas they represent. After healthcare, property development is the largest sector. Property development covers the subsectors of contractors, home inspectors and security, landowners and developers, property owners and managers, and real estate professionals. The ART mechanism is especially popular with property owners.

The professional services (insurance brokers, attorneys, consultants, etc.), manufacturing & commerce (energy, distributors, wholesalers and retailers, etc.), and transportation (trucking, commercial vehicles) sectors are all heavily represented with risk purchasing groups. Unlike risk retention groups, there are a lot of RPGs in the leisure, government & institutions, and hospitality sectors. The business area of leisure is mostly represented by companies involved in sports and recreation—hobbyist clubs, fitness, and event companies are represented here. In government & institutions, day care operators, non-profits, religious institutions, law enforcement, education groups, and government employees all have RPGs. Currently, there are no risk retention groups represented in the hospitality business sector. Restaurants, hotels, and liquor providers all make use of risk purchasing groups in this area.

Since RPGs have proved resilient to market forces, offer the power of bulk insurance buying, and serve a wide range of business and institutions, even when they reach 1,000 groups the number is likely to keep growing still, providing access to comprehensive liability insurance through the power of group purchasing. ■

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