§ 5904. Risk retention groups not chartered in this state. A risk retention group not chartered and licensed as a property/casualty insurer in this state, seeking to do business or doing business as a risk retention group in this state, shall comply with the laws of this state, as follows:

(a) Notice of operations and designation of superintendent as agent. Before offering insurance in this state, such risk retention group shall submit to the superintendent:

(1) a statement identifying the state or states in which the risk retention group is chartered and licensed as an insurance company to write liability insurance, the dates of chartering and licensing, and its principal place of business;

(2) a copy of its plan of operation or feasibility study and all revisions of such plan or study submitted to its chartering and licensing state; provided, however, that the provision relating to the submission of a plan of operation or feasibility study shall not apply with respect to any kind or classification of liability insurance which was:

(A) defined in the federal Product Liability Risk Retention Act of 1981 before October twenty-seventh, nineteen hundred eighty-six; and

(B) offered before such date by any risk retention group which had been chartered and was operating for not less than three years before such date; and

(3) a statement of registration, for which a filing fee shall be imposed in accordance with a regulation to be promulgated by the superintendent, which statement of registration shall include a power of attorney designating the superintendent as its agent for the purpose of receiving service of process in any proceeding against it on a contract delivered or issued for delivery, or on a cause of action arising, in this state.

(A) The power of attorney shall be accompanied by written designation of the name and address of the officer, agent, or other person to whom such process shall be forwarded by the superintendent or his deputy on behalf of such risk retention group. In the event such designation is changed, a new certificate of designation shall be filed with the superintendent within ten days of such change.

(B) Service of process upon a risk retention group pursuant to this

paragraph shall be made by serving the superintendent, any deputy superintendent or any salaried employee of the department whom the superintendent designates for such purpose with two copies thereof and the payment of a fee of twenty dollars. The superintendent shall forward a copy of such process by registered or certified mail to the risk retention group at the address given in its written certificate of designation, and shall keep a record of all such process served. Service of process so made shall be deemed made within the territorial jurisdiction of any court in this state.

(b) Financial condition. Any such risk retention group doing business in this state, shall submit to the superintendent:

(1) a copy of the annual financial statement submitted to the state in which the risk retention group is chartered and licensed, 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 National Association of Insurance Commissioners):

(2) a copy of each examination of the risk retention group as certified by the commissioner or public official conducting the examination;

(3) upon request by the superintendent, a copy of any audit performed with respect to the risk retention group; and

(4) such information as may be required to verify its continuing qualification as a risk retention group.

(c) Taxation. (1) Any such risk retention group shall be liable for the payment of franchise taxes and taxes on premiums and shall report to the superintendent the gross direct premiums, less returns thereon, written on risks resident or located within this state. Any such risk retention group shall be deemed to be a licensed foreign insurer for the purposes of taxation, and any applicable fines and penalties related thereto.

(2) Whenever licensed insurance agents or insurance brokers place business with a risk retention group, such licensee shall report to the superintendent the premiums of direct business for risks resident or located within this state which they have placed with such risk retention group, and such licensee 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 superintendent, as provided in section three hundred ten of this chapter. These records shall, for each policy and each kind of insurance provided thereunder, include the following:

(A) the limit of liability;

(B) the time period covered;

(C) the effective date;

(D) the name of the risk retention group which issued the policy;

(E) the gross premium charged; and

(F) the amount of return premiums, if any.

(d) Compliance with unfair claims settlement practices law. Any such risk retention group and its agents and representatives shall comply with the unfair claims settlement practices provisions as set forth in section two thousand six hundred one of this chapter, and any regulations promulgated thereunder.

(e) Deceptive, false, or fraudulent acts or practices. Any such risk retention group shall comply with the deceptive, false or fraudulent act or practices provisions set forth in article twenty-four of this chapter, and any regulations promulgated thereunder.

(f) Examination regarding financial condition. Any such risk retention group shall submit to an examination by the superintendent to determine its financial condition if the commissioner of the jurisdiction in which the group is chartered and licensed has not initiated an examination or does not initiate an examination within sixty days after a request by the superintendent. Any such examination shall be coordinated with other jurisdictions to the extent feasible in order to avoid unjustified repetition, and shall be conducted in an expeditious manner.

(g) Injunctions. Any such risk retention group shall comply with an injunction issued by a court of competent jurisdiction upon a petition by the superintendent that the risk retention group is in hazardous financial condition or financially impaired.

(h) Dissolution or article seventy-four proceedings. Any such risk retention group shall comply with any lawful order issued in a voluntary dissolution proceeding or in an article seventy-four proceeding commenced by the superintendent if there has been a finding, after an examination conducted pursuant to subsection (f) of this section, that

such risk retention group is financially impaired.

(i) Operation prior to enactment of this article. In addition to complying with the requirements of this section, any such risk retention group operating in this state prior to the enactment of this article shall, within thirty days after the effective date of this article, comply with the provisions of subsection (a) of this section.

(j) Penalties. Any such risk retention group which violates any provision of this article shall be deemed to be a licensed foreign insurer for the purposes of assessing fines and penalties and the superintendent shall also have the authority to revoke such group's right to do business in this state.