United Educators

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The Subcommittee on Housing and Insurance
The Committee on Financial Services
United States House of Representatives

Hearing:
"Legislative Proposals to Reform Domestic Insurance Policy"

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Mr. Chairman, Ranking Member Capuano, and Members of the Subcommittee:

Thank you for the opportunity to testify as part of the Subcommittee's Hearing on "Legislative Proposals to Reform Domestic Insurance Policy" in favor of the Risk Retention Modernization Act of 2014, which would permit established risk retention groups (RRGs) to offer additional forms of commercial insurance coverage to their members (other than group health, life, or disability insurance or workers compensation insurance). I am a Vice President of United Educators Insurance, a Reciprocal Risk Retention Group (United Educators) and am testifying on behalf of United Educators as well as The Alliance of Nonprofits for Insurance, Risk Retention Group (ANI) and The National Catholic Risk Retention Group, Inc. (National Catholic).

I am happy to report that the legislation also is supported by The Vermont Captive Insurance Association (VCIA) and the Risk and Insurance Management Society (RIMS). The VCIA is composed of nearly 500 member companies and is the largest captive insurance trade association in the world. RIMS, a not-for-profit organization, is the largest organization of risk management professionals in the world, representing over 11,000 members from more than 3,500 entities. RIMS membership includes the commercial buyers of insurance, and represents public and private entities, both large and small, from a variety of industries such as high-tech, real estate, financial, healthcare, energy, transportation, education, and defense.

We are pleased that the leading trade associations representing property casualty insurance companies, captive insurers, and risk management professionals see the wisdom in the modernization of the 1986 Liability Risk Retention Act (LRRA).

My written statement provides a brief description of the missions of the three risk retention groups (RRGs) I'm representing, reviews the Congressional intent behind the 1986 LRRA, discusses the successes of the LRRA, and explains how modernization of the LRRA to include other forms of commercial insurance such as property, auto physical damage, business interruption, and cyber risk insurance will:

- Increase capacity, choice, and market competition for lines of commercial insurance coverage, such as property, auto physical damage, business interruption, and cyber risk;
- Create efficiencies for members of RRGs who will no longer be forced to seek coverage elsewhere for commercial lines that RRGs cannot offer;
- Enable independent brokers and agents to gain efficiencies by offering package policies for all property and casualty exposures to churches, nonprofits, schools and universities and other organizations that typically buy package policies that don't include tailored risk management programs;
- Facilitate improved coverage and risk management for other lines of commercial insurance for the churches, educational institutions, nonprofits, medical groups, and others who purchase insurance through RRGs;
- Lower the overall cost of risk to RRGs and their members; and

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- Enable RRGs to provide stable coverage and pricing for other lines of commercial insurance and insulate these lines from the cyclical nature of the larger commercial insurance market.

A. About United Educators, ANI, and National Catholic

United Educators, ANI, and National Catholic all owe their existence to the LRRA of 1986. The worst hard market in the history of American insurance began in 1984 and persisted through most of 1987. The property and casualty insurance market was so bad that *Time* magazine's cover on March 24, 1986 read: "Sorry America, Your Insurance Has Been Cancelled."

In response to skyrocketing insurance rates and, in some instances, a complete inability to obtain coverage, United Educators was created in 1987 by educational institutions for educational institutions with the sole purpose of providing a stable, high-quality, specialized alternative to commercial insurance. Today, United Educators is owned and governed by its 1,200 member schools, colleges, and universities throughout the United States, including Abilene Christian University, Saint Louis University, the Claremont University Consortium, Harvard University, St. Francis College, Rockhurst University, Davis and Elkins College, Fairleigh Dickinson University, University of Missouri, Emory University, Hofstra University, University of Minnesota, Pepperdine University, Ferrum College, Medical College of Wisconsin, Columbus State Community College, Central State University, Lakeland Community College, University of Nevada-Las Vegas, Dallas County Community College, Westmont College, and the University of Alabama System.

United Educators' 27-year history and solid financial track record demonstrate successful execution of the LRRA concept. The selection of United Educators as a 2013 Ward 50 top performing insurance company (making it one of the top 2% of property and casualty insurance companies in the nation) and its A.M. Best rating of A (Excellent) provides external validation of United Educators' financial strength, strong governance, and expert staff. Its consistent retention rate of at least 96 percent - the highest in the industry - confirms United Educators' strength and value to its member insureds.

ANI is part of the Nonprofits Insurance Alliance Group which currently insures more than 13,500 nonprofit organizations nationwide. ANI is a 501(c)(3) tax-exempt nonprofit insurance company governed by its 501(c)(3) federally tax-exempt nonprofits, including animal shelters, volunteer centers, group homes, art programs, library associations, foster family agencies, Meals on Wheels, United Way, Goodwill, Boys and Girls Clubs, and charter schools. Member insureds of ANI include community-based nonprofit organizations such as Southeast Missouri Food Bank, Community-Based Care of Brevard County, Evergreen Center for the Arts, Goodwill of Delaware and Delaware County, Companion Animal Advocates, United Cerebral Palsy of Arkansas, AIDS Foundation of Chicago, Education Alternatives, Pennsylvania CASA Association, Domestic Abuse Services, National Alliance for the Mentally Ill, Jewish Community Center of Northern Virginia, Big Brothers Big Sisters of Puget Sound, Animal Care & Control of New York City, Sunnyside Home Care Project, and Riverton Community Housing. It has grown from initial capital grants of $10 million from the David & Lucile Packard Foundation and the Bill & Melinda Gates Foundation to an insurance company rated A (Excellent) by A.M. Best, insuring more than 5,000 nonprofits in 30 states and the District of Columbia.

National Catholic was incorporated in 1987 as a stock insurance company, with eligible shareholders comprised of Catholic archdioceses, dioceses, religious institutions, Catholic risk pooling trusts, and Catholic entities listed or eligible for listing in The Official Catholic Directory published by P.J. Kenedy & Sons. National Catholic is a 501(c)(3) nonprofit tax-exempt organization and its members include parishes, grade schools and high schools, colleges and universities, cemeteries, and Catholic charities services.

National Catholic consistently has provided the Catholic Church with one of the broadest, most comprehensive insurance and risk management programs available nationwide. In all of its endeavors, it is guided by the commitment to its fiduciary duty as a steward of the assets of the Catholic Church. With a renewal rate in excess of 99%, National Catholic has only lost one member since its inception.

As risk retention groups, United Educators, ANI, and National Catholic share an identical mission: to provide their members with a long-term, stable alternative to the cyclical unavailability and erratic pricing of commercial insurance. Our only business is to meet the risk management and insurance needs of our own industries. Since inception, each of our risk retention groups consistently has provided stable and affordable insurance, responsive to our insureds' unique needs, through all market conditions.

B. The Goals of the Risk Retention Act Amendments of 1986

During the mid-1980s, the United States was shaken by a crisis in the availability and affordability of commercial liability insurance. This crisis did not discriminate between commercial entities, on the one hand, and churches, charities, and educational institutions on the other. Among the entities particularly hard hit were nonprofits, universities, municipalities, child care centers, health care providers, and small businesses. These entities faced huge rate increases, mass cancellations of coverage, and the unavailability, at any price, of entire lines of insurance. Crucial charitable, educational, and religious services these entities offered were endangered.

As insurance premiums skyrocketed regardless of loss history, educational institutions became one casualty of this disaster. Schools and colleges had difficulty finding liability insurance, and the little that was available was astronomically expensive and ill-suited to their needs.

Charities were casualties as well. ANI's President & CEO, Pamela Davis, testified about her graduate research before the California Assembly in 1987:

> Between 1984 and 1986, general liability insurance premiums increased 200 percent or more for one out of four charitable nonprofit organizations in California. During that same period, insurance companies canceled or refused to renew the general liability policies of one out of five California charitable nonprofits. Some important human service programs, such as childcare, foster care, group homes and health service were forced to dramatically cut services or close because they couldn't find affordable insurance.

Congress passed the 1986 Amendments to the Risk Retention Act to address the challenges nonprofits, charities, churches, universities, and small businesses were facing in obtaining liability insurance. The House Committee on Energy and Commerce vividly described the bleak national landscape for insurance:

> During the 99th Congress, the country has been shaken by a crisis in the availability and affordability of commercial liability insurance. Congress has been besieged with complaints regarding huge rate increases, mass cancellations of coverage, and entire lines of insurance virtually unavailable at any price. Crucial activities and services have been hard hit. Such activities include, among others, those of municipalities, universities, child daycare centers, health care providers, corporate directors and officers, hazardous waste disposal firms, small businesses generally, and many others.

House Report 99-8655, page 7.

The answer to this crisis was an expanded role for RRGs, which are unique, industry-specific groups of similarly-situated entities, with similar risk exposures, that pool their risk to self-insure their liability risks on a group basis. Initially, RRG's were authorized to offer product liability insurance in 1981. In passing the 1986 Amendments permitting RRGs to offer all lines of liability insurance (save for workers' compensation insurance), Congress recognized that RRGs could increase the nation's insurance capacity and moderate the dramatic cycles of commercial insurance.

Supporters of the 1986 Amendments expressed the belief that allowing risk retention groups to provide all types of commercial liability insurance would foster rational underwriting and insurance pricing. They anticipated a positive, overall increase in the nation's insurance capacity and some moderation of the painful cycles in the availability of insurance from commercial carriers.

The House Committee report explained the expected benefits of the proposed amendments:

> Since a risk retention group is simply a group of businesses or others who join together to set up their own insurance company only to issue insurance policies to themselves, it was believed that by encouraging such groups, the subjective element in underwriting could be reduced. The risk retention group would know its own loss experience and could adhere closely to it in setting rates. It was also believed that the 1981 Act, by providing alternatives to traditional

insurance, would promote greater competition among insurers to "encourage private insurers to set rates to reflect experience as accurately as possible."

House Report 97-190, page 4.

> …the Committee believes that creation of self-insurance groups can provide much-needed new capacity. Additionally, according to the Department of Commerce, "[t]he knowledge that substantial insurance buyers can create their own alternative insurance mechanisms will be an incentive to commercial insurers to avoid sharp peaks and valleys in their costs."

July 17, 1986, Congressional Record, pages S9229-S9230, letter of Douglas A. Riggs, General Counsel, Department of Commerce, dated June 25, 1986.

C. The LRRA Success Story

Congress was correct in assuming that RRGs would add capital to the insurance market, successfully moderate insurance pricing and provide a stable source of insurance coverage for universities, nonprofits, professionals and small businesses. In the more than a quarter century since the 1986 LRRA Amendments, more than 250 risk retention groups have aggregated more than $2.5 billion in gross written premiums. RRGs have, in the intervening time, written liability coverages for focused markets, garnering strong industry knowledge and employing state-of-the-art risk management and training programs that have lowered risk and limited loss.

The focused approach of RRGs has resulted in aggregate operating performances that are, according to rating agency A.M. Best, "consistently better than that of their peer group in commercial insurers." A.M. Best found that RRGs outperformed their commercial counterparts in incurred loss and loss-adjustment expense ratios, combined ratios, and net investment ratios.

1. RRGs Provide Tailored Coverage with Stable Pricing for Their Industry's Unique Risks

Since its inception, National Catholic has demonstrated leadership in the insurance industry by the creation and provision of insurance coverage tailored to the needs of Catholic Church ministries. For example, when some Catholic Social Services entities were unable to find appropriate coverage for low income housing they were rehabilitating, National Catholic created policies that covered risks associated with lead and fungal pathogens. Other unique but necessary lines of coverage created by National Catholic include teaching and research laboratory pollution coverage, chemical and agricultural drift pollution coverage, limited professional health care services coverage, diocesan review board coverage, innocent person defense costs reimbursement coverage, volunteer attorney errors and omissions liability coverage, computer-related liability coverage, and sexual misconduct limited coverage (which no carrier was underwriting when National Catholic first offered its full policy limits for this exposure).

When National Catholic initiated operations, there were literally less than a handful of insurers that would underwrite nonprofit entity directors' & officers' (D&O) coverage, and the premiums charged by those carriers were unaffordable. By contrast, at the time, National Catholic offered D&O Coverage as a "throw-in" at no additional premium charge.

Many Catholic Churches host a myriad of athletic events, including sports camps, Catholic Youth Organization (CYO) leagues, cheerleading, and physical education classes. At the time of National Catholic's inception, athletic participation coverage was largely unavailable and unaffordable. However, National Catholic offered full limits coverage with no related surcharge.

In addition, National Catholic offered employment practices liability (EPL) coverage from its first day of operation in 1988 even though the overall insurance industry did not start broadly writing this coverage until about 1994. Finally, in its 27-year history, National Catholic has never restricted or reduced previously granted coverage in National Catholic policy forms – it has only expanded its coverage terms and conditions.

Similarly, a standard liability package through United Educators provides coverage for risks such as sexual assault, sexual molestation, international study, and sports injuries, which is often unavailable through other insurers but critical to educational institutions. United Educators also offers an educators legal liability policy, which provides broad protection against a wide range of potential claims that are unique to education such as denial of tenure and failure to educate. Likewise, ANI offers general liability, improper sexual conduct liability, auto liability, social services professional liability, and directors and officers liability, including employment practices - - insurance coverage essential to tax-exempt organizations. All three RRGs have had their share of large "shock losses", ranging from sexual abuse by trusted figures to fatal van accidents and the deaths of children in foster care. Traditional carriers opportunistically come in and out of these markets, creating instability and inefficiencies. In contrast, all three of these RRGs are strong and consistently continuing to meet the ever-changing needs of their members.

2. RRGs Deliver Industry-specific Risk Management Services

Because RRGs serve a single industry, unlike a traditional insurance carrier that must serve many industries, RRGs are able to develop risk management practices and materials that are tailored to their members.

Since its inception, United Educators has been a thought leader in addressing risks that are unique to education. For example:

- When the Virginia Tech mass shooting set a new bar for risk management and student safety, United Educators immediately conducted a telephone roundtable on random violence in education settings and held a symposium featuring an interdisciplinary panel of experts who developed recommendations about threat assessment programs, student mental health, and key crisis response issues.
- Recently, Robb Jones, United Educators Senior Vice President and General Counsel for Claims Management, and two United Educators Board members were among the 60 policy experts, students, and survivors of sexual assault invited to the White House as part of the work of the White House Task Force to Protect Students from Sexual Assault. This Task Force was created by Executive Order on April 22, 2014, and is co-chaired by the Office of the Vice President and the White House Council on Women and Girls. It is charged with sharing best practices and increasing transparency, enforcement, public awareness, and interagency coordination to prevent violence and support survivors.
- United Educators is also a leader in the effort to raise awareness of traumatic brain injury (TBI) in sports, to change behavior, to keep student athletes safe and, ultimately, to reduce TBI claims.

United Educators members have access to a wide variety of practical, education-specific resources, including online courses and other risk management tools, to improve their awareness of liability issues and to strengthen their ability to avoid or control losses. United Educators risk management advice often bridges liability and property issues, which are often intertwined. For example, United Educators helped educational institutions devastated by Hurricane Katrina. And United Educators risk management training led to the successful evacuation of students during wildfires on the Westmont College campus in California, keeping students safe and reducing the damage to campus buildings.

Like United Educators, ANI provides free risk management services to its nonprofit members, including driver training, employment-related and pre-termination consultations, a treasure trove of online risk management materials, an audiovisual library, webinars, and online board tools. It also offers other essential services to nonprofits such as background checks, disaster recovery and planning, drug screening, and motor vehicle record checks at cost or at a substantial discount.

National Catholic, owned by its shareholder Catholic entities, also employs highly-experienced professionals who understand and share the values of the Catholic Church as they develop sound solutions for optimal risk management. Its VIRTUS® programs are the foundation of the risk management initiatives undertaken by National Catholic on behalf of its shareholders and the broader Catholic Church. Its programs continue to lead the industry with a wide variety of innovative products, positioning itself as the foremost provider of safe environment services for the Catholic Church in the United States and as an emerging force for good internationally.

National Catholic offers free risk management and legal defense workshops to numerous dioceses throughout the country. Its annual winter meeting features seminars on risk management topics of critical importance to the Church. These workshops and the annual winter meeting are provided free for all Church representatives, both diocesan employees and religious institute members and employees, even if they are not associated with a National Catholic shareholder.

National Catholic also offers its Critical Conversations™ program, an educational training and prevention program that presents case studies for priests, deacons, and lay ministers. In addition, it provides its members with specialized risk management materials relating to athletic participation, crisis planning, and business continuity.

D. The Time is Right for Congress to Act Again

Now is the time for Congress to take the next step and increase insurance capacity by modernizing the LRRA to include other lines of commercial insurance such as property, fleet auto physical damage, business interruption, and cyber risk insurance.

Doing so would increase market competition for property and other types of coverage and facilitate more effective, segment-specific pricing. Too often, churches, charities, educational institutions, and other organizations find themselves under-insured when the typical commercial carrier fails to understand the issues RRGs handle on a regular basis – such as swimming pools on campus, stadiums, and the use of vehicles by students or volunteers.

Moreover, entities insured by RRGs that must buy property insurance from traditional carriers may be adversely affected by trends involving natural disasters such as tornadoes. Traditional commercial carriers understandably react to changing weather patterns and consequent catastrophic losses with much higher pricing, deductibles, or even refusal to continue to provide coverage for certain natural disasters in certain geographic zones.

In contrast, as member-owned entities, RRGs proactively address tough coverage realities through risk-based research, actuarial-based pricing, and coverage levels that are designed to be sustainable. And, any resulting profits are passed on to members, keeping their operating expenses down.

Property: The focus of an RRG on an industry's unique risks means that the RRG will understand the property risks of its members better than conventional insurance carriers will. For example, National Catholic understands the church buildings and artifacts owned by churches, just as United Educators understands the physical plant of a school or university; this level of understanding often is not available from traditional insurance carriers.

Examples of ways that property coverages for churches, nonprofits, and educational institutions differ from other commercial enterprises include:

- ***Budgeting***: A property carrier may demand certain changes within 90 days. If the demand, though, covers an issue such as retrofitting churches or dormitories with sprinklers, the church's or college's budget process and occupancy schedules generally cannot operate on a 90-day schedule.
- ***Coverage***: Existing business interruption coverage is generally ill-suited to churches, nonprofits, and tuition and state-supported educational institutions.
- ***Property valuation***: Many churches and campuses have one or more historic buildings, for which property coverage at restoration value may be more appropriate than replacement cost.
- ***Varying deductibles by department***: Various academic departments use different types of equipment. The biology department may need a low deductible on expensive laboratory equipment that would have to be replaced out of its own budget; the English department would not be faced with such high replacement costs for equipment.

Other Property Coverages: The same principle applies when churches, educational institutions, nonprofits and other RRG members have to obtain separate policies to cover embezzlement, computer equipment, and office furniture. It is inefficient and unnecessary to force these entities to obtain these coverages in one or more separate, stand-alone policies, unless they choose to forego the tailored coverage and focused risk management that an RRG can provide them.

Cyber Risk: In February 2014, the Department of Homeland Security (Homeland Security) launched its C3 Voluntary Program, a public-private partnership aligning business enterprises as well as federal, state, and local governments. The C3 Voluntary Program was designed to assist Homeland Security in using the recently-released National Institute of Standards and Technology Cybersecurity Framework (NIST Framework) to manage cyber risks as part of an all-hazards approach to enterprise risk management (ERM). So far this year, Homeland Security has held four workshops with the insurance industry, risk managers, and security experts. According to Homeland Security, although insurance companies offer coverage for the liability side of cyber risk (such as notification and credit monitoring), there is a large market void for the property portion of the risk.

The goal of the workshops was to find ways to conduct cyber risk consequence analysis and to model risk so that insurers can understand cyber risk and price it. The workshops have attempted to identify ways to share cyber incident information in an anonymous way to build actuarial tables for underwriters to price coverage and for risk managers to develop programs to minimize cyber risk. Although many large corporations are adopting the NIST Framework in light of the recent security breach of a major national retailer, Homeland Security is concerned about its ability to reach small- to medium-sized businesses.

RRGs, with their dual mission of providing insurance and industry-specific risk management, can reach many of those small businesses and nonprofits that Homeland Security hopes to reach. For example, if RRGs were permitted to write the other commercial components of cyber risk such as property and business interruption insurance, RRGs could reach many of those smaller businesses and nonprofits by not only providing cyber risk insurance covering property and liability risks, but by providing industry-specific ERM pursuant to the NIST Framework.

E. The Case for Modernization of the LRRA

A recent survey of insurance agents revealed that 83% were convinced that United Educators could price its products to a loss ratio that was below market due to its excellent risk management and education tools if it were permitted to write the full line of commercial products such as property and auto physical damage.

Permitting established RRGs with adequate capital and surplus to offer other forms of commercial insurance to their members, such as property, auto physical damage, business interruption insurance, and cyber risk, will add capital to, and increase competition in, the property and casualty insurance market. Nonprofits, small schools, churches, and other small businesses that are accustomed to purchasing package insurance policies will be able to obtain package policies without foregoing the customized coverage and risk management services offered by RRGs. These small entities, as well as their independent brokers and agents, will gain efficiencies through the availability of package policies from RRGs.

Because RRGs have a deep understanding of the unique risks facing their members, modernization of the LRRA will facilitate improved coverage and superior risk management for other lines of commercial insurance for churches, educational institutions, nonprofits, medical groups, and others who purchase insurance through RRGs. Allowing RRGs to write additional lines of commercial insurance also will reduce the overall cost of risk for these organizations that have shown a commitment to each other and to risk management. Finally, modernization of the LRRA will insulate members of RRGs from the cyclical nature of the property insurance market.

There may be some misunderstanding about what the LRRA modernization legislation will do and won't do. The discussion draft before the Subcommittee today would modernize the LRRA to permit only established RRGs with adequate capital and surplus to offer other forms of commercial insurance, beyond the commercial liability insurance currently permitted under the LRRA.

Our bill would permit RRGs to offer other forms of commercial insurance only if:

1. The RRG has been chartered or licensed as an insurance company under the laws of a state and authorized to engage in the business of insurance pursuant to that state's law;

2. The RRG has provided commercial liability insurance pursuant to such charter or licensing for a period of not less than five (5) consecutive years; and

3. The RRG maintains capital and surplus of at least $5,000,000.

As drafted, the LRRA modernization legislation will ensure that the RRGs that qualify and decide to offer other forms of commercial insurance will do so to the benefit of their members, but only their members. The modernization provisions included in the discussion draft will create efficiencies for members of RRGs that will no longer be forced to seek additional coverage elsewhere and will insulate members of the RRGs from rate volatility associated with the cyclical nature of the larger commercial insurance market.

We know that there are traditional insurance companies and some insurance commissioners that see RRGs as a threat. This argument was made in 1986 and in some quarters continues to be made. However, RRGs are an innovative and highly-specialized way to offer small businesses and nonprofits more choice. They bring new capital to the market, keep prices down, and are rooted in stated-based regulations. We believe in the capitalism system and competition. While we acknowledge some might not like new entrants into the market, if they are well managed, well capitalized, and serving customers, we say this is the American way and we want to be part of it.

We are aware that some organizations that are concerned about the increased competition that modernization of the LRRA will create have labeled this competition as “unfair” competition. However, the truth is that the modernization legislation will add capital to the market and increase competition by offering more choice to the small portion of the market that RRGs serve such as nonprofits, churches, and small educational institutions.

Our bill is about increasing the availability of coverage and tailored risk management services to specific industry segments. It does so without giving RRGs any unfair advantage. RRGs have flourished not because of a lack of multi-state regulation. Instead, they have succeeded at a rate higher than conventional insurance carriers because of their mission-driven focus, tailored coverages, increased levels of specialized risk management, and their ownership by their members.

To the best of my knowledge, major conventional stock and mutual property insurance carriers have not chosen to sell to single industries. Traditional stock and mutual insurance property casualty insurance carriers serve any and all customers from any and all industries, while RRGs cannot. Lacking public shareholders, RRGs are limited to a concentrated focus on a single industry with an obligation to its owner insureds.

Given that RRGs are not seeking the ability to insure multiple industries, expansion of the LRRA to include other commercial coverages does not create any unfair advantage. Instead, it maintains all the checks and balances that Congress put in place in 1986 when it authorized groups of similarly-situated insureds to join together to insure their own risks as an RRG.

It is also important to note that RRGs are now subject to the National Association of Insurance Commissioners (NAIC) state accreditation requirements. To be accredited, a state must have in place and in force laws and regulations that relate to financial solvency. All states are now accredited by the NAIC. Accordingly, RRGs are subject to the same accreditation standards as other insurance companies.

The LRRA modernization legislation does not seek to upend the LRRA. The proposed legislation does not:

- Authorize RRGs to offer personal lines of insurance;
- Authorize RRGs to offer group health, life, or disability insurance or workers' compensation insurance;
- Authorize RRGs to be subject to guaranty fund coverage;
- Alter domiciliary state solvency regulations nor state accreditation standards;
- Alter non-domiciliary state solvency regulations imposed on non-domiciled RRGs registered in those states or in any way alter a non-domiciliary state's current ability to call for an examination of an RRG nor call for compliance with any lawful orders of delinquency should an RRG be found to be financially impaired;
- Absolve an RRG's responsibility to comply with an injunction issued by a court upon the petition by a state insurance commissioner if an RRG is found to be in a hazardous financial condition or financially impaired;
- Waive an RRG's responsibility to comply with state laws regarding deceptive, false, or fraudulent acts or practices;
- Affect an RRGs current requirement to comply with unfair claims settlement practices laws; or
- Absolve an RRG from payment of applicable state premium taxes.

Instead, the amendments proposed to the LRRA by the modernization legislation will simply permit RRGs to offer their members – and only their members – the same comprehensive commercial insurance packages that are the norm in today's commercial marketplace, particularly for nonprofits and small educational institutions, without foregoing the customized coverage and risk management services offered by RRGs.

Some suggest that the unavailability today of certain lines of commercial insurance (or of typical commercial insurance package policies) for smaller entities like nonprofits and certain educational institutions does not rise to the same crisis level of the hard market of the 1980's. However, if RRGs truly were only a response to a crisis in capacity for liability insurance market, the industry would have shrunk when more capacity came into that market. That has been far from the case.

RRGs have demonstrated that, for certain types of organizations, collectively insuring each other is superior to relying on the traditional commercial insurance sector. RRGs can bring more capital to the current property casualty insurance market, thereby filling the unique needs of nonprofits, educational institutions, and churches while fostering healthy competition.

F. Conclusion

The genius of Congress' enactment of the LRRA is vividly demonstrated by the successes of United Educators, ANI, National Catholic and other risk retention groups, including the Housing Authority Risk Retention Group, ALPS, ALAS, and many others. RRGs have succeeded because Congress recognized that commercial insurance purchasers know better than anyone else their own risks and needs. In requiring that risk retention groups be owned and controlled by their policyholders who are homogenous groups, Congress also assured that the operation of the risk retention groups would consistently be in the best interests of their members.

Risk retention groups cannot solve all of the problems that exist in the commercial insurance market in America today. They are not a solution for homeowners and will not instantaneously provide coverage for all coastal institutions. Nevertheless, modernization of the Liability Risk Retention Act to include other commercial insurance lines such as property, fleet auto physical damage, business interruption, and cyber risk will create additional capacity to deal with natural as well as man-made catastrophes. Appropriate underwriting, capital, and risk management - fortes of RRGs - will continue to be in place to ensure long-term viability.

Thank you very much for the opportunity to address the Subcommittee on this important issue.