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Hearing:
"Examining Insurance for Nonprofit Organizations"

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

Thank you for the opportunity to testify as part of the Subcommittee's Hearing on "Examining Insurance for Nonprofit Organizations" in favor of the Nonprofit Property Protection Act which would permit a certain subsection of established risk retention groups to offer property and auto physical damage insurance to their members. I am the President/CEO and founder of the Nonprofits Insurance Alliance Group, which includes Alliance of Nonprofits for Insurance, Risk Retention Group (ANI) on whose behalf I am testifying today.

ANI is part of the Nonprofits Insurance Alliance Group which currently insures more than 17,000 nonprofit organizations across the country. ANI is a 501(c)(3) tax-exempt nonprofit insurance company governed by its 501(c)(3) federally tax-exempt nonprofits, including animal rescues and shelters, volunteer centers, group homes for children, teens and the disabled, art programs, library associations, foster family agencies, Meals on Wheels, United Way, Goodwill, Boys and Girls Clubs, charter schools and others. Member-insureds of ANI include community-based nonprofit organizations such as Southeast Missouri Food Bank, Garden State German Shepherd Rescue, Community-Based Care of Brevard County, Center for the Arts Evergreen, Companion Animal Advocates, AIDS Foundation of Chicago, Education Alternatives, Domestic Abuse Services, National Alliance for the Mentally Ill, Animal Care & Control of New York, Sunnyside Home Care Project, and Riverton Community Housing. It has grown from initial capital grants of $10 million from the David and Lucile Packard Foundation and the Bill &

Melinda Gates Foundation to an insurance company rated A (Excellent) by A.M. Best, insuring more than 7,500 nonprofits in 30 states and the District of Columbia.

My written statement provides a brief description of the problem the Nonprofit Property Protection Act would solve for small and mid-sized nonprofits and explains why there is a particular insurance market failure affecting this group. It describes the research that has been conducted to discover whether there are other sources of standalone property, auto physical damage, and business interruption insurance available in a form applicable for small and mid-sized nonprofits who are members of an RRG. Without any cost to government, the Nonprofit Property Protection Act will:

- Increase capacity, choice, and market options for property and casualty insurance for small and mid-sized 501(c)(3) nonprofit organizations;
- Create a lasting solution for RRG members who are small and mid-sized nonprofits who are presently not able to find market-based solutions for their property and auto physical damage needs;
- Lower the cost of risk for RRGs owned and governed by nonprofits, by allowing them to have a broader spread of risk across different types of coverage; and
- Enable these RRGs to provide stable coverage and pricing for both liability and other lines of coverage, such as property, to insulate these small community-serving organizations from the cyclical nature of the larger commercial insurance market.

A. Liability Risk Retention Act of 1986

ANI owes its existence to the Liability Risk Retention Act (LRRA) of 1986. In the mid-1980s, the insurance industry found itself in financial difficulty and dramatically reduced its capacity for providing insurance. Nonprofits were particularly hard hit by the capacity crisis as they faced huge rate increases, mass cancellations of coverage, and the unavailability at any price of entire lines of insurance, as commercial insurers abandoned these markets. To end this crisis, Congress passed the 1986 Amendments to the LRRA, which expanded the lines of liability insurance that RRGs could offer to their member-owners in order to protect these consumers that proved the most difficult to insure in hard markets.

B. History of ANI's Service to Nonprofits

ANI is an unlikely success story whose future is now in jeopardy without the Nonprofit Property Protection Act. ANI's story is about how 17,000 small organizations, the vast majority of which have annual budgets of less than $1 million, have come together to jointly insure each other and develop specialized risk management tools through ANI and its California affiliate, so that they may serve our communities more safely and efficiently. All of the companies in the Nonprofits Insurance Alliance Group, including ANI, are themselves 501(c)(3) nonprofits.

When I speak of small and mid-sized nonprofits, I mean community-based organizations in our neighborhoods that work with the most vulnerable among us. They are homeless shelters and programs for those with Alzheimer's, victims of sexual abuse and the developmentally disabled. They are animal shelters, adoption agencies, foster family agencies, elder care services, alcohol abuse clinics and after-school art programs. They are foundations raising money for diabetes, heart disease and cancer research, and many others. These little nonprofits got into the business of insurance because the commercial carriers walked away from them. Nonprofits never wanted to be in the insurance business, but were forced into it to be able to continue to serve our communities. In fact, when I was in the process of raising money from the Ford Foundation to capitalize the first organization in our Group, the Ford Foundation told me that they really didn't want nonprofits to get into the "insurance business." They commissioned a third-party to conduct a study and told me that I was not going to get a dime unless the study showed that because of the specialized nature of the risk, and the limited appetite for this sector for most insurance companies, the only way for nonprofits to gain long-term stability and protection was to get into the insurance business ourselves. The study was conclusive and we got the money.

Why would thousands of nonprofits choose an RRG over a commercial insurance company? Why would 95% of them stay with us year after year? Why would hundreds of brokers recommend an RRG for their nonprofit clients? I can tell you, it is not for higher commission or contingent commission! And, if you are familiar with our financials and our A rating from A.M. Best, you know it is not because of prices that are unsustainably low. It is our laser focus on meeting the specialized insurance needs of these organizations, providing stability, and supporting their risk management needs. Virtually none of these organizations have a line item for "risk management" in their budgets. Virtually no foundation or government is going to fund that. So, we have found a way to efficiently be the collective "risk management" department for thousands of nonprofits by imbedding that cost in the price of insurance.

The mission of nonprofits is to enhance their communities, not hurt them. We help them to conduct their work more safely and efficiently and in the process, fewer people get injured. We offer unlimited and free driver training, both in person and online, for our member-insureds. We have three staff employment attorneys, whose only role is to provide help and advice for these nonprofits who have, on average, 15 employees. Organizations that small have no one on staff to advise them on complex employment laws. We do that for them on an unlimited basis and completely free of charge. It is simply not efficient for commercial carriers, which insure many types of risks, to focus like we do on this special group.

We have heard concerns that an RRG cannot be sufficiently strong or well-regulated to provide property insurance. Let me remind you of our history. ANI has an affiliate charitable risk pool in California which I started in 1989 with a $1 million loan for capital, and began offering $1 million liability policies. We had 300 small member-insureds and $1 million in premium at the end of our first year. We were the first to offer an affirmative sexual abuse policy, in contrast to the "silent" policies being offered by commercial carriers that allowed them to decline many claims, leaving nonprofits completely exposed. The only infusion of additional capital we have received in our history is $10 million in grants from the David & Lucile Packard Foundation and the Bill & Melinda Gates Foundation to allow us to create ANI in 2000. Insuring organizations deemed "uninsurable" by the commercial industry, these two affiliates have generated as a Group $180 million in earnings from operations that is now our surplus and we have given an additional $35 million back to nonprofits in the form of dividends. If commercial insurers had been serving this market well, we would never have been able to succeed as we have.

During the insurance crisis, most commercial insurers did not believe that they could profitably insure the complex risks of things like vans full of kids driven by volunteers and the professional risk of caring for kids who had been sexually abused; but, most commercial insurers didn't stop there. They banned all 501(c)(3) nonprofits from their underwriting appetite completely. A large number of commercial carriers specifically exclude 501(c)(3) nonprofits from their underwriting appetites even today; and, because of the specialized risks presented by these organizations, that position may actually be a prudent thing for many, if not most commercial insurers. However, the result is that many brokers and agents, especially small agents in rural areas, may have only one or two carriers who will entertain a 501(c)(3) nonprofit risk—and that only on a package and surplus lines basis.

ANI adds another option, primarily for the small to mid-sized organizations whose agents frequently have limited markets. ANI is governed by nonprofits themselves through an elected board of directors representing the members. Because ANI is an RRG, we have been limited to writing only liability lines, which are typically long tail lines. Nonetheless, you can check out our financials and our A.M. Best rating of A (Excellent) and see that we have thrived, even though we have been handed the most difficult of these risks, such as sexual abuse and professional liability, with no ability to balance these long-tail lines with short-tail property.

C. RRG Regulation

When it passed the Risk Retention Act, Congress recognized that, because of their very narrow class of business and overall market size, RRGs would not have adequate resources to be licensed and admitted in all states. These RRGs typically have a relatively small amount of premium in any one state because they can only insure liability and only for a very small subset—their members-- which are all part of a narrow group of related businesses. This narrow focus and small premium potential makes it inefficient and not feasible to support a regulatory compliance function for their members across 50 states for these specialty RRGs. The ingenious solution devised by Congress was a hybrid form of regulation – licensing in one state and registration in all others.

This hybrid approach respects the state-based regulation of insurance while introducing efficiencies to make it possible for industry-specific associations to create insurance companies to provide virtually the same specialized liability insurance and loss control to their members in all 50 states.

Over the past 30 years, it has become clear that different regulation, as it relates to RRGs, does not mean inferior regulation. Congress provided different regulation for RRGs because of the nature of the risks they are insuring and the limited market available to them in any one state. RRGs insure only commercial business. They write no personal lines and insure only their member-owners. They offer essentially the same specialty insurance products in all 50 states. They focus on only one type of business and develop highly-specialized underwriting,claims handling and loss control products specifically for that one business group.

The Model Risk Retention Act, effective January 2012, requires all states to regulate RRGs uniformly. Furthermore, effective in January 2017, new governance standards adopted by the National Association of Insurance Commissioners (NAIC) require states that regulate RRGs to comply with uniform standards for governance. The proof of the success of the regulatory structure for RRGs is in their track record of nearly 30 years.

D. Nonprofit RRG Members Need Standalone Property

Present law prohibits RRGs from offering their member-owners property insurance. If a nonprofit wishes to purchase property insurance or auto physical damage insurance, it must purchase it from a commercial insurance company in a “package” policy. For small and mid-sized nonprofits, commercial insurance companies do not sell the needed standalone property and auto physical damage coverage without simultaneously requiring the purchase of liability insurance.

Commercial insurers, when they are willing to offer coverage for the unusual risks nonprofits represent, will offer coverage to them only as a bundled package. That is, these small nonprofits must purchase the liability insurance and the property insurance together as a package, somewhat like a cable triple play package. However, by federal law, as an RRG, ANI is allowed only to offer liability insurance to our member-insureds. When insurance brokers and agents attempt to help nonprofit members of ANI purchase property insurance to go along with the liability insurance provided by us, they are told that the property is only sold if the liability is sold with it by that same commercial insurance company.

The unavailability of standalone property insurance for nonprofits is not related to a general shortage in property insurance capacity. Instead the Nonprofit Property Protection Act is about a specific type of coverage—standalone property policies for small 501(c)(3) nonprofits—that is simply not available from commercial insurers. This is because the standard practice of commercial insurance companies is to only offer property insurance combined with liability insurance as a bundled package for 501(c)(3) nonprofit clients. This prevents 501(c)(3) nonprofits, that obtain specialized liability insurance and loss prevention services from their Risk Retention Groups (RRGs), from finding satisfactory standalone property policies in the commercial market.

Thousands of nonprofits purchase specialized liability insurance, including tailored risk management services, from RRGs they own and govern. These small nonprofits are unable to purchase from the commercial market the insurance coverages they need, yet their RRG is not permitted by law to provide those coverages for them. In the absence of commercial standalone policies, many small 501(c)(3) community-based nonprofit organizations, such as programs for the disabled, homeless shelters, drug and alcohol rehabilitation facilities, day care centers for children and seniors, animal shelters and rescues, counseling centers, arts organizations and others must forgo altogether the tailored risk management of their RRGs.

E. Other Proposed Solutions Inadequate

RRGs serving nonprofit organizations have tried many solutions to this problem prior to asking for help from Congress. Nonprofit RRGs have developed group programs and used fronting companies to provide the property insurance their nonprofits need, but these solutions have proven unworkable because these standalone property policies tend to be very small in premium with minimum premiums as low as $250 per year. Even in the aggregate, with thousands of nonprofits purchasing together, the premium across 50 states is just too small to support regulatory compliance obligations making these solutions not economically viable over the long-term.

F. Third-Party Research Confirms This Market Failure

In response to requests for additional detail from Congress, several third-parties have gathered and analyzed data to confirm whether standalone property and auto physical insurance policies are available from the commercial admitted insurance market in a form needed by small and mid-sized 501(c)(3) nonprofit organizations. Summaries of those analyses are provided below.

Date of Research: Spring 2015
Party Conducting Research: Independent insurance agents and brokers representing 2,000 nonprofit clients.
Nature of Research: Email survey of 47 insurance carriers.

Findings: Only 4 carriers indicated any interest in offering standalone property, but only for larger accounts, not in all states, and with significant restrictions on habitational exposures such as domestic violence shelters, group homes, homeless shelters, and drug and alcohol rehabilitation facilities. No insurer was interested in providing standalone auto physical damage insurance.

Date of Research: May 2017
Party Conducting Research: Guy Carpenter, a Marsh & McLennan Company
Nature of Research: Determine whether the American Association of Insurance Services (AAIS) has produced for use, by its more than 700 insurance company members, a standalone property form or standalone auto physical damage form of the type needed by small and mid-sized 501(c)(3) nonprofits.
Findings: AAIS confirmed that a search of their database revealed they have not produced such a form for either property or auto physical damage. They further advised they were not aware of any independent filings of this nature made by an admitted insurance carrier.

Date of Research: May 2017
Party Conducting Research: Guy Carpenter, a Marsh & McLennan Company
Nature of Research: Determine whether the Insurance Services Office (ISO) has produced a standalone property form or standalone auto physical damage form for use by commercial insurance companies of the type needed by small and mid-sized 501(c)(3) nonprofits.
Findings: ISO confirmed that a search of their database revealed they do not presently have such a form for either property or auto physical damage. They advised they had such a property form prior to 2002; however, it was still mandatory that the insurance carrier offered the property policy and the liability policy together. They concluded, that it was more efficient to offer the property and liability on one policy and discontinued offering the standalone property form. They have never had a standalone auto physical damage offering.

Date of Research: June 2017
Party Conducting Research: Perr & Knight is an independent, leading provider of insurance support services, including Actuarial Consulting, Competitive Intelligence, Data Services, Regulatory Compliance and Insurance Technology.

Nature of Research: Perform targeted research in the states of Florida and New York looking for admitted insurance companies having filed Business Owner's Policy (BOP) programs for organizations falling under IRS Section 501(c)(3) tax-exempt nonprofits which offer standalone property insurance as well as commercial auto coverage providing standalone auto physical damage coverage.
Findings: In New York and Florida, Perr & Knight found a filing made by North American Elite Insurance Company, part of the Swiss Re Group of Cos. offering a BOP policy for 501(c)(3) tax exempt nonprofits which offers standalone property insurance at the request of the Alliance of Nonprofits for Insurance, RRG (ANI). In addition, Perr & Knight found a New York filing by Mount Vernon Fire Insurance Company, part of Berkshire Hathaway, in which a BOP policy was designed for 501(c)(3) tax-exempt nonprofits. The Mount Vernon Fire Insurance Company filing **requires both property and general liability coverage to be purchased at the same time**. They found no filings for standalone auto physical damage coverage.

G. Consumer Protections Included in Nonprofit Property Protection Act

The Nonprofit Property Protection Act would permit only well-established RRGs to provide property insurance. It would apply only to a very narrow subsector of RRGs. Specifically, only RRG members that are small and mid-sized 501(c)(3) nonprofit organizations—organizations that qualify for donations that may be deducted from personal income taxes—qualify under this bill. Additionally, the bill requires RRGs to meet the three following minimum criteria to provide property insurance to their members:

1. Have provided liability insurance for at least ten years;
2. Have at least $10 million in capital, although the domicile regulator may require more; and
3. Insure any one member for a maximum Total Insured Value (TIV) of $50 million.

RRGs are owned and governed by their members and since RRGs may only offer this benefit to 501(c)(3) nonprofit member-insureds, the only beneficiaries of this bill are the 501(c)(3) nonprofits themselves.

H. Benefits of the Nonprofit Property Protection Act

The Nonprofit Property Protection Act would allow Risk Retention Groups (RRGs) to insure the property of their small and mid-sized 501(c)(3) nonprofit members, in addition to the liability insurance they already provide. This is necessary because the standalone property insurance policies and standalone auto physical damage insurance policies that small and mid-sized nonprofits need is not available from commercial insurers. This would allow these nonprofit members of RRGs to purchase necessary coverages and make it easier and more efficient for these small nonprofits to satisfy their property and casualty insurance needs. This is more practical and well-suited regulation for a very small and specific segment of the market. The types of nonprofits for which this bill will provide relief are those providing direct services to some of the most vulnerable members of our communities. Organizations that oversee tens of thousands of foster family agencies, provide enrichment and afterschool programs for young people, create affordable housing, rescue and find homes for abandoned cats and dogs, provide daycare and enrichment for children and fragile seniors, offer enrichment through art in underserved communities, serve meals to veterans, provide foodbanks and more will directly benefit from the Nonprofit Property Protection Act, at no cost to government.

I. Conclusion

This narrow bill solves a problem limited to small and mid-sized 501(c)(3) nonprofit organizations. The only RRGs that may qualify under the Nonprofit Property Protection Act are those serving 501(c)(3) nonprofit organizations, such as Boys & Girls Clubs, domestic violence shelters, afterschool programs, animal rescues, and programs for those with disabilities. Furthermore, these RRGs may not insure any individual nonprofit for more than $50 million in real property—a cap which limits the scope of this bill to a very small part of the commercial property market. This bill specifically prohibits qualifying RRGs from providing health, life, disability or workers' compensation insurance.

The Nonprofit Property Protection Act is narrowly drafted to solve a problem for an often overlooked, but vital segment of our economy--small and mid-sized 501(c)(3) nonprofits--without in any way impacting the larger insurance industry, and the markets already being adequately served. This bill would give immediate relief to many thousands of nonprofits across the country. Eighty percent of these nonprofits have annual budgets of $1 million or less. Nonprofits are not asking for a handout. They are simply asking for the ability to solve a problem themselves.