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Future Legislation May Impact Risk Retention Groups

Burlington, VT – Potential legislation on both the federal and state level promises to make this year an interesting one for risk retention groups.

On the federal level, the Obama administration continues to drive its healthcare agenda very hard. Even a stripped down version of federal healthcare reform may negatively affect RRGs, potentially repealing parts of the McCarran-Ferguson Act and limiting the ability of RRGs to collect credible experience data.

Until Congress reaches agreement on some version of bipartisan healthcare reform, other federal changes will remain on the back burner. These issues include proposed legislation allowing the underwriting of property risks, adopting Government Accountability Office (GAO) recommendations from its 2005 report and the creation of a dispute resolution process.

State Developments

While many states encourage the creation of RRGs within their borders, they also face pressures, specifically from the GAO and the National Association of Insurance Commissioners (NAIC) to tighten operating standards. For example,

- South Carolina plans to bring certain RRGs under its Insurance Holding Company Regulatory Act, requiring them to comply with more stringent NAIC accreditation standards as of January of 2011.
- RRGs may have to adjust their policy terms after Colorado's Department of Public Health and Environment amended its definition of a qualifying insurance policy for health care institutions by prohibiting co-pays or deductibles.
- California will not permit the underwriting of contract liability in the state, regardless of an RRG's domicile, even as most authorities agree that RRG-enabling legislation tacitly includes contract liability. A recent case involving an auto dealership RRG domiciled in Montana could have brought this matter to a head, but was dropped due to the projected cost of litigation.

If you have questions about these or other risk issues that affect your RRG, contact us at the phone numbers or email addresses below. The Towner Management Group has the experience, independence and expertise to help you meet your RRG's needs.