

STATE OF MONTANA



MATTHEW M. ROSENDALE, SR
COMMISSIONER OF INSURANCE & SECURITIES
MONTANA STATE AUDITOR
840 Helena Avenue
Helena, Montana 59601
(406) 444-2040

PURCHASING GROUP
REGISTRATION
APPLICATION

1. List the exact name of the Purchasing Group.

2. Indicate the form of organization or incorporation. FEIN # _____

3. The Purchasing Group is domiciled in the State of: _____
4. The date of Registration in the domicile state is: _____
(a copy of the domiciliary state's approval must be attached to this application)
5. a. List the complete physical address of the Purchasing Group.

_____ email address: _____
b. List the principal address of the Purchasing Group, if different from the physical address.

_____ email address: _____
6. List any other names under which the Purchasing Group is or may be doing business in this state or any other state if different than above.

7. Identify the states in which the Purchasing Group intends to do business.

8. List the name, address, and telephone of the contact person regarding the registration of the Purchasing Group.

_____ email address: _____
9. List the name, address, and telephone number of the principal staff person or officer of the Purchasing Group who has knowledge of its insurance program, including membership criteria, coverage's, and key personnel including membership criteria, coverage's, and key personnel of the Group's Administrator and Insurance Carrier.

State of Montana Use Only

Examiner: _____
Date Review Completed: _____
Chief Examiner: _____
Date Review Completed: _____ () Approved () Disapproved

10. List the names, addresses, and occupations of the principal officers and directors of the Purchasing Group. Attach additional pages if necessary.

Title	Principal Officers Name	Principal Directors Name

11. Complete the attached biographical information for the person or persons controlling the activities of the Purchasing Group. <http://csimt.gov/wp-content/uploads/NAIC-Biographical-Affidavit-Form-2015.pdf>

12. A purchasing group is composed of members whose business or activities are similar or related with respect to the liability to which members are exposed by related, similar or common business trade; product, services, or common premises or operations. Give a general description of the business or activities engaged in by the purchasing group members:

13. The Purchasing Group has as one of its purposes, the purchase of liability insurance on a purchasing group basis. ____yes ____no

14. The Purchasing Group purchases such liability insurance only for its members and only to cover their similar or liability exposure, as described in item #12 above. ____yes ____no

15. The Purchasing Group intends to purchase the following lines and classifications of liability insurance.

16. The Purchasing Group intends to purchase the liability insurance described in item #12, from the following company or companies.

Name: _____

Address: _____

Contact: _____

State of Domicile: _____

FEIN #: _____ NAIC #: _____

Name: _____

Address: _____

Contact: _____

State of Domicile: _____

FEIN #: _____ NAIC #: _____

Name: _____

Address: _____

Contact: _____

State of Domicile: _____

FEIN #: _____ NAIC #: _____

(Attach other sheets as necessary)

17. Indicate whether the insurer is:
 a) insurer admitted and licensed in Montana _____
 b) eligible surplus lines insurer in Montana _____
 c) authorized (RRG's must be registered in Montana, see item #20) risk retention group _____
18. A person acting or offering to act as a producer for the Purchasing Group that solicits members, sells insurance coverage, purchases coverage for its members located within the State of Montana, or otherwise does business in Montana shall, before commencing such activity, obtain an insurance producer license and if required, a surplus lines insurance producer license from the Montana Commissioner of Insurance.

19. Provide the applicable information for each Montana Insurance Producer

Name: _____
 Address: _____
 MT Insurance Producer License # _____; MT Surplus Lines Producer License # _____

The insurance producer must be appointed to the insurance company listed in item #16, unless the insurance company is a surplus lines company. The producer must be licensed to sell surplus lines insurance in Montana. Is the insurance producer appointed to the insurance company listed in item #16 _____yes _____no

Name: _____
 Address: _____
 MT Insurance Producer License # _____; MT Surplus Lines Producer License # _____

The insurance producer must be appointed to the insurance company listed in item #16, unless the insurance company is a surplus lines company. The producer must be licensed to sell surplus lines insurance in Montana. Is the insurance producer appointed to the insurance company listed in item #16 _____yes _____no

Name: _____
 Address: _____
 MT Insurance Producer License # _____; MT Surplus Lines Producer License # _____

The insurance producer must be appointed to the insurance company listed in item #16, unless the insurance company is a surplus lines company. The producer must be licensed to sell surplus lines insurance in Montana. Is the insurance producer appointed to the insurance company listed in item #16 _____yes _____no

20. If purchasing from a risk retention group, the risk retention group must be registered with the Montana Insurance Commissioner. Please provide the Montana registration number: _____
21. The Purchasing Group has designated the Montana Commissioner of Insurance to be its agent solely for the purpose of receiving service of legal documents or process. _____yes _____no

We do hereby swear and affirm that the statements and information are true and correct.

 (Name of Purchasing Group)

By: _____
 Its: _____

Sworn before me this _____ day of _____ 20____.
 Notary Public, State of _____
 My Commission Expires: _____

APPOINTMENT OF ATTORNEY TO ACCEPT SERVICE OF PROCESS

_____ (hereinafter "Group"), duly organized under the laws of the State of _____ appoints THE DULY ELECTED STATE AUDITOR AND COMMISSIONER OF INSURANCE OF THE STATE OF MONTANA to be its lawful Attorney to receive service of legal process issued against it in the State of Montana. The Group authorizes the Commissioner, or, in the Commissioner's absence, an employee of the Commissioner, to acknowledge service of legal process on behalf of the Group in this state. The Group consents and agrees that any lawful process against it that is served upon the Commissioner as appointed attorney shall have the same legal force and validity as if served upon the Group and hereby waives all claim or right of error by reason of such acknowledgement of service.

This authority may be withdrawn only upon a written notice of revocation and in any case, shall continue in effect so long as any liability arising out of this appointment remains outstanding in the State Montana and binds the assets or liabilities of the Group or any success in interest. This instrument is executed pursuant to, and shall be construed to constitute full compliance with, Title 33, Chapter 11 of the Montana Code Annotated.

IN WITNESS WHEREOF, the said Group, pursuant to a resolution duly adopted by its Board of Directors, has caused this instrument to be executed in its name by its President and Secretary, and its corporate seal to be affixed, at the City of _____, State of _____ this _____ day of _____, 20____.

President / Attorney-in-fact

Secretary / Attorney-in-fact

Name and address of the person to whom Service of Process is to be forwarded.

(GROUP.SP)

CHAPTER 11

LIABILITY RISK RETENTION AND PURCHASING GROUPS

Part 1

General Provisions

33-11-101. Purpose. The purpose of this part is to regulate the formation and operation of risk retention groups and purchasing groups in this state formed pursuant to the provisions of the federal Liability Risk Retention Act of 1986 (15 U.S.C. 3901, et seq.).

History: En. Sec. 1, Ch. 249, L. 1987.

33-11-102. Definitions. As used in this part, the following definitions apply:

(1) "Completed operations liability" means:

(a) liability arising out of the installation, maintenance, or repair of any product at a site that is not owned or controlled by:

(i) a person who performs that work; or

(ii) a person who hires an independent contractor to perform that work; and

(b) liability for activities that are completed or abandoned before the date of the occurrence giving rise to the liability.

(2) "Domicile", for purposes of determining the state where a purchasing group is domiciled, means:

(a) for a corporation, the state where the purchasing group is incorporated; and

(b) for an unincorporated entity, the state of its principal place of business.

(3) "Hazardous financial condition" means that, based on its present or reasonably anticipated financial condition, a risk retention group, although not yet financially impaired or insolvent, is unlikely to be able to:

(a) meet obligations to policyholders with respect to known claims and reasonably anticipated claims; or

(b) pay other obligations in the normal course of business.

(4) "Insurance" means primary insurance, excess insurance, reinsurance, surplus line insurance, and any other arrangement for shifting and distributing risk that is determined to be insurance under the laws of this state.

(5) (a) "Liability" means legal liability for damages, including costs of defense, legal costs and fees, and other claims expenses, because of injuries to other persons, damage to their property, or other damage or loss to other persons resulting from or arising out of:

(i) a business, whether profit or nonprofit, trade, product, service (including professional service), premises, or operation; or

(ii) an activity of any state or local government or an agency or political subdivision of state or local government.

(b) The term does not include personal risk liability or an employer's liability with respect to its employees other than legal liability under the federal Employers' Liability Act, 45 U.S.C. 51 through 60. As used in this subsection, "personal risk liability" means liability for damages because of injury to any person, damage to property, or other loss or damage resulting from personal, familial, or household responsibilities or activities rather than from responsibilities or activities referred to in subsection (5)(a).

(6) "Plan of operation or a feasibility study" means an analysis that presents the expected activities and results of a risk retention group, including at a minimum:

(a) the coverages, deductibles, coverage limits, rates, and rating classification systems for each line of insurance the group intends to offer;

(b) historical and expected loss experience of the proposed members and national experience of similar exposures to the extent this experience is reasonably available;

(c) pro forma financial statements and projections;

(d) appropriate opinions by a qualified independent casualty actuary, including a determination of minimum premium or participation levels required to commence operations and to prevent a hazardous financial condition;

(e) identification of management, underwriting procedures, managerial oversight methods, and investment policies; and

(f) other matters as may be prescribed by the commissioner for liability insurance companies authorized by the insurance laws of the state where the risk retention group is chartered.

(7) "Purchasing group" means a group that:

(a) has as one of its purposes the purchase of liability insurance on a group basis;

(b) purchases liability insurance only for its group members and only to cover their similar or related liability exposure, as described in subsection (7)(c);

(c) is composed of members whose businesses or activities are similar or related with respect to the liability to which members are exposed by any related, similar, or common business, trade, product, service, premises, or operation; and

(d) is domiciled in any state.

(8) "Risk retention group" means a corporation or other limited liability association formed under the laws of any state, Bermuda, or the Cayman Islands:

(a) whose primary activity consists of assuming and spreading all or any portion of the liability exposure of its group members;

(b) that is organized for the primary purpose of conducting the activity described under subsection (8)(a);

(c) (i) that is chartered and licensed as a liability insurance company and authorized to engage in the business of insurance under the laws of any state; or

(ii) that, before January 1, 1985, was chartered or licensed and authorized to engage in the business of insurance under the laws of Bermuda or the Cayman Islands and, before that date, had certified to the insurance regulatory official of at least one state that it satisfied the capitalization requirements of that state. However, the group is considered to be a risk retention group only if it has been engaged in business continuously since January 1, 1985, and only for the purpose of continuing to provide insurance to cover product liability or completed operations liability. For purposes of this subsection (8), "product liability" means liability for damages because of any personal injury, death, emotional harm, consequential economic damage, or property damage, including damages resulting from the loss of use of property, arising out of the manufacture, design, importation, distribution, packaging, labeling, lease, or sale of a product but does not include the liability of any person for those damages if the product involved was in the possession of that person when the incident giving rise to the claim occurred.

(d) that does not exclude any person from membership in the group solely to provide to members of the group a competitive advantage over the person;

(e) (i) that has as its members only persons who have an ownership interest in the group and that has as its owners only persons who are members and who are provided insurance by the risk retention group; or

(ii) that has as its sole member and sole owner an organization that is owned by persons who are provided insurance by the risk retention group;

(f) whose members are engaged in businesses or activities that are similar or related with respect to the liability to which the members are exposed by virtue of any related, similar, or common business, trade, product, service, premises, or operation;

(g) whose activities do not include the provision of insurance other than:

(i) liability insurance for assuming and spreading all or any portion of the liability of its group members; and

(ii) reinsurance with respect to the liability of any other risk retention group or member of the other group that is engaged in businesses or activities so that the group or member meets the requirement described in subsection (8)(f) for membership in the risk retention group that provides the reinsurance; and

(h) whose name includes the phrase "risk retention group".

(9) "State" means any state of the United States or the District of Columbia.

History: En. Sec. 2, Ch. 249, L. 1987; amd. Sec. 41, Ch. 379, L. 1995.

33-11-107. Purchasing groups -- exemption from certain laws relating to group purchase of insurance. A purchasing group meeting the criteria established under the provisions of the federal Liability Risk Retention Act of 1986 (15 U.S.C. 3901, et seq.) is exempt from any law of this state relating to the formation of groups for the purchase of insurance, prohibition of group purchasing, or any law that would discriminate against a purchasing group or its members. In addition, an insurer is exempt from any law of this state that prohibits providing or offering to provide to a purchasing group or its members advantages based on their loss and expense experience not afforded to other persons with respect to rates, policy forms, coverages, or other matters. A purchasing group is subject to all other applicable laws of this state.

History: En. Sec. 7, Ch. 249, L. 1987.

33-11-108. Notice and registration requirements of purchasing groups. (1) A purchasing group that intends to do business in this state shall furnish notice to the commissioner that:

(a) identifies the state where the group is domiciled and all other states in which the group intends to do business;

(b) specifies the lines and classifications of liability insurance that the purchasing group intends to purchase;

(c) identifies the insurer from which the purchasing group intends to purchase its insurance and the domicile of that insurer;

- (d) identifies the Montana-licensed insurance producer or Montana-licensed surplus lines insurance producer through which the purchasing group intends to place its business;
- (e) identifies the principal place of business of the purchasing group;
- (f) provides information required by the commissioner to verify that the purchasing group is qualified under 33-11-102(7); and
- (g) identifies the person or persons controlling the activities of the group and includes biographical information on the person or persons.

(2) The purchasing group shall register with and designate the commissioner as its agent solely for the purpose of receiving service of legal documents or process. However, the requirements do not apply in the case of a purchasing group:

- (a) (i) that was domiciled before April 2, 1986, in any state of the United States; and
- (ii) that was domiciled on and after October 27, 1986, in any state of the United States;
- (b) (i) that, before October 27, 1986, purchased insurance from an insurer licensed in any state; and
- (ii) that, since October 27, 1986, purchased its insurance from an insurer licensed in any state;
- (c) that was a purchasing group under the requirements of the federal Product Liability Risk Retention Act of 1981 (15 U.S.C. 3901 through 3904) before it was amended by Public Law 99-563, approved on October 27, 1986; and
- (d) that does not purchase insurance that was not authorized for purposes of an exemption under the federal Product Liability Risk Retention Act of 1981, as in effect before October 27, 1986.

(3) Upon completion of registration requirements, the commissioner shall issue a proper certificate of registration to the purchasing group.

History: En. Sec. 8, Ch. 249, L. 1987; amd. Sec. 3, Ch. 180, L. 1991; amd. Sec. 15, Ch. 451, L. 1993; amd. Sec. 66, Ch. 596, L. 1993; amd. Sec. 43, Ch. 379, L. 1995.

33-11-109. Restriction on insurance purchased by purchasing groups. (1) A purchasing group may not purchase insurance from a risk retention group that is not chartered in a state or from an insurer not authorized in the state where the purchasing group is located, unless the purchase is effected through a licensed insurance producer acting pursuant to the surplus lines laws and regulations of that state.

(2) For purposes of subsection (1), the state where a purchasing group is located is each state where a member of the purchasing group has a risk resident, located, or to be performed.

(3) A purchasing group that obtains liability insurance from an insurer not admitted in this state or from a risk retention group shall inform each of the members of the group who have a risk resident or located in this state that the risk is not protected by an insurance insolvency guaranty fund in this state and that the insurer or risk retention group may not be subject to all insurance laws and regulations of this state.

(4) A purchasing group may not purchase insurance that provides for a deductible or self-insured retention applicable to the group as a whole. Coverage may provide for a deductible or self-insured retention applicable to individual members.

(5) Purchases of insurance by purchasing groups are subject to the same standards regarding aggregate limits that are applicable to all purchases of group insurance.

History: En. Sec. 9, Ch. 249, L. 1987; amd. Sec. 1, Ch. 713, L. 1989; amd. Sec. 67, Ch. 596, L. 1993.

33-11-110. Taxation of purchasing group. Premium taxes and taxes on premiums paid for coverage of risks resident or located in this state by a purchasing group or any members of the purchasing group must be:

(1) imposed at the same rate and subject to the same interest, fines, and penalties as those applicable to premium taxes and taxes on premiums paid to surplus lines insurers and authorized insurers, pursuant to 33-2-311 and 33-2-705, respectively; and

(2) paid by the authorized or surplus lines insurers and, if not paid by them, paid by the insurance producer for the purchasing group and, if not paid by the insurance producer, paid by the purchasing group and, if not paid by the purchasing group, paid by each of its members.

History: En. Sec. 34, Ch. 596, L. 1993.

33-11-111 through 33-11-120 reserved.

33-11-121. Administrative and procedural authority regarding risk retention groups and purchasing groups. The commissioner is authorized to use any powers established under this title to enforce the laws of this state so long as those powers are not specifically preempted by the federal Liability Risk Retention Act of 1986 (15 U.S.C. 3901, et seq.). The commissioner's powers include but are not limited to the commissioner's administrative authority to investigate, issue subpoenas, conduct depositions and hearings, issue orders, and impose penalties. With regard to any investigation, administrative proceedings, or litigation, the commissioner may rely on the procedural law and regulations of the state. The injunctive authority of the commissioner in regard to risk retention groups is restricted by the requirement that any injunction be issued by a court of competent jurisdiction.

History: En. Sec. 10, Ch. 249, L. 1987.

33-11-123. Duty of insurance producers to obtain license. A person acting or offering to act as an insurance producer for a risk retention group or purchasing group that solicits members, sells insurance coverage, purchases coverage for its members located within the state, or otherwise does business in this state shall, before commencing such activity, obtain a license from the commissioner.

History: En. Sec. 12, Ch. 249, L. 1987; amd. Sec. 1, Ch. 713, L. 1989.

33-11-125. Rules and regulations. The commissioner may make and amend any reasonable rules relating to risk retention groups and purchasing groups necessary or desirable to carry out the provisions of this part.

History: En. Sec. 14, Ch. 249, L. 1987.