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INSURANCE CODE - INS

DIVISION 1. GENERAL RULES GOVERNING INSURANCE [100 - 1879.8] (*Division 1 enacted by Stats. 1935, Ch. 145.*)

PART 1. THE CONTRACT [100 - 679.75] (*Part 1 enacted by Stats. 1935, Ch. 145.*)

CHAPTER 1.5. Risk Retention [125 - 140] (*Chapter 1.5 added by Stats. 1990, Ch. 1521, Sec. 1.*)

[125.](#) This chapter shall be known and may be cited as the California Risk Retention Act of 1991.

(Amended by Stats. 1991, Ch. 1040, Sec. 3.)

[126.](#) The Legislature finds and declares that the provisions of this chapter are for the purpose of providing a means for a bona fide for-profit or nonprofit association or individual business to insure against liability and those obligations imposed by statute.

(Added by Stats. 1990, Ch. 1521, Sec. 1.)

[127.](#) Unless the context otherwise requires, the general provisions hereinafter set forth shall govern the application of this chapter and supersede any other provisions of law in conflict.

(Added by Stats. 1990, Ch. 1521, Sec. 1.)

[128.](#) The purposes of this chapter are as follows:

(a) To regulate the formation and operation of risk retention groups and purchasing groups in this state formed pursuant to the federal Liability Risk Retention Act of 1986, to the extent permitted by that law.

(b) To promote the formation and operation of risk retention groups and purchasing groups in this state. Californians who are experiencing difficulty in obtaining liability coverage are encouraged to form and operate risk retention and purchasing groups in this state.

(c) To authorize the formation of a risk retention group for directors and officers of corporations, whether for profit or nonprofit, who are engaged in the same line of business with respect to the liability risks faced by those officers and directors within the meaning of the federal Liability Risk Retention Act of 1986.

(Added by Stats. 1990, Ch. 1521, Sec. 1.)

[130.](#) The following definitions govern this chapter:

(a) "Commissioner" means the Insurance Commissioner of this state or the commissioner, director, or superintendent of insurance of any other state.

(b) "Domicile," for purposes of determining the state in which a purchasing group is domiciled, means the following:

(1) For a corporation, the state in which the purchasing group is incorporated and registered to do business pursuant to the federal Liability Risk Retention Act (15 U.S.C. Sec. 3901 and following).

(2) For an unincorporated entity, the state of its principal place of business and in which it is registered to do business under the federal Liability Risk Retention Act (15 U.S.C. 3901 and following).

(c) "Hazardous financial condition" means that, based on its present or reasonably anticipated financial condition, a risk retention group is unlikely to be able to do either of the following:

(1) Meet obligations to policyholders with respect to known claims and reasonably anticipated claims.

(2) Pay other obligations in the normal course of business.

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

(e) (1) "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 the other persons resulting from or arising out of any of the following:

(A) Any business, whether profit or nonprofit, trade, product, services, including professional services, premises, or operations.

(B) Any activity of any state or local government, or any agency or political subdivision thereof.

(2) "Liability" includes financial responsibility required by the state for any activity for which an individual is required to obtain a license or certificate to provide a service. For purposes of this subdivision, a state agency has discretion to accept or deny proof of financial responsibility.

(3) "Liability" 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. Sec. 51 et seq.).

(f) "Personal risk liability" means liability for damages because of injury to any person, damage to property, or other loss or damage resulting from any personal, familial, or household responsibilities or activities, rather than from responsibilities or activities referred to in subdivision (f).

(g) "Plan of operation or a feasibility study" with respect to risk retention groups chartered in California includes analysis which presents the expected activities and results of a risk retention group including, at a minimum, all of the following:

(1) Information to demonstrate that its members are engaged in businesses or activities similar or related with respect to the liability to which those members are exposed by virtue of any related, similar, or common business, trade, product, services, premises, or operations.

(2) For each state in which it intends to operate, the coverages, deductibles, coverage limits, rates, and rating classification systems for each line of insurance the group intends to offer.

(3) Historical and expected loss experience of the proposed members and national experience of similar exposures, to the extent that this experience is reasonably available.

(4) Pro forma financial statements and projections.

(5) 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.

(6) Identification of management, underwriting and claims procedures, marketing methods, managerial oversight methods, investment policies and reinsurance agreements.

(h) "Public entity" includes the state, the Regents of the University of California, a county, city, district, public authority, public agency, and any other political subdivision or public corporation in the state.

(i) "Purchasing group" means any group which does all of the following:

(1) Has as one of its purposes the purchase of liability insurance on a group basis.

(2) Purchases that insurance only for its group members and only to cover their similar or related liability exposure, as described in paragraph (3).

(3) Is composed of members whose businesses or activities are similar or related with respect to the liability to which members are exposed by virtue of any related, similar, or common business, trade, product, services, premises, or operations.

(4) Is domiciled in any state.

(j) "Risk Retention Administration Account" means an account within the Insurance Fund to be used as a depository of moneys received under this chapter or appropriated by the Legislature for the purpose of administering this chapter.

(k) "Risk retention group" means any corporation, public entity, or other limited liability association formed under the laws of any state, Bermuda, or the Cayman Islands that meets all of the following criteria:

(1) Whose primary activity consists of assuming and spreading all, or any portion, of the liability exposure of its group members.

(2) Which is organized for the primary purpose of conducting the activity described under paragraph (1).

(3) Which is either of the following:

(A) Chartered and licensed as a liability insurance company and authorized to engage in the business of insurance under the laws of any state.

(B) 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, has certified to the insurance commissioner of at least one state that it satisfied the capitalization requirements of that state, except that any group is considered to be a risk retention group only if it has been engaged in business continuously since that date and only for the purpose of continuing to provide insurance to cover product liability or completed operations liability as those terms were defined in the Product Liability Risk Retention Act of 1981 before the date of the enactment of the federal Liability Risk Retention Act of 1986.

(4) Does not exclude any person from membership in the group solely to provide for members of the group a competitive advantage over that person.

(5) Has as its members only persons who comprise the membership of the risk retention group and as its owners only persons who comprise the membership of the risk retention group and who are provided insurance by that group.

(6) Whose members are engaged in businesses or activities similar or related with respect to the liability of which those members are exposed by virtue of any related, similar, or common business trade, product, services, premises, or operations.

(7) Whose activities do not include the provision of insurance other than for the following:

(A) Liability insurance for assuming and spreading all or any portion of the liability of its group members.

(B) Reinsurance with respect to the liability of any other risk retention group or any members of that other group that is engaged in businesses or activities so that the group or member meets the requirement described in paragraph (6) from membership in the risk retention group that provides that reinsurance.

(8) The name of which includes the phrase "risk retention group."

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

(Amended by Stats. 1995, Ch. 352, Sec. 1. Effective January 1, 1996.)

131. (a) An entity seeking to be licensed in this state as a risk retention group shall be organized under the laws of this state and licensed as a liability insurance company pursuant to Article 3 (commencing with Section 699) of Chapter 1 of Part 2.

(b) An entity that has not completed its chartering and licensing as a risk retention group in its domiciliary state is subject to the requirements of Article 8 (commencing with Section 820) of Chapter 1 of Part 2.

(c) In addition to the requirements of Article 3 (commencing with Section 699) of Chapter 1 of Part 2, a risk retention group licensed in this state shall submit to the commissioner a feasibility study or plan of operations and all other documentation required by the federal Liability Risk Retention Act of 1986 (15 U.S.C. Sec. 3901 et seq.) to be submitted by a risk retention group to a nonchartering state.

(d) In addition to the requirements of Article 3 (commencing with Section 699) of Chapter 1 of Part 2, a risk retention group licensed in this state shall comply with all of the following at the time of licensure, and thereafter:

(1) (A) The "board of directors" or "board," as used in this section, means the governing body of the risk retention group elected by the shareholders or members to establish policy, elect or appoint officers and committees, and make other governing decisions.

(B) "Director," as used in this section, means a natural person designated in the articles of the risk retention group, or designated, elected, or appointed by any other manner, name, or title to act as a director.

(2) (A) The board of directors of the risk retention group shall have a majority of independent directors. If the risk retention group is a reciprocal risk retention group, the attorney-in-fact shall be required to adhere to the same standards regarding independence of operation and governance as imposed on the risk retention group's board of directors and subscribers' advisory committee under these standards, and, to the extent permissible under this state's laws, service providers of a reciprocal risk retention group shall contract with the risk retention group and not the attorney-in-fact.

(B) No director qualifies as "independent" unless the board of directors affirmatively determines that the director has no "material relationship" with the risk retention group. Each risk retention group shall disclose these determinations to its domestic regulator, at least annually. For this purpose, any person that is a direct or indirect owner of, or subscriber in, the risk retention group, or is an officer, director, or employee, or all three, of an owner and insured, as contemplated by 15 U.S.C. Section 3901(a)(4)(E)(ii) of the federal Liability Risk Retention Act of 1986, is considered to be "independent," unless some other position of that officer, director, or employee constitutes a "material relationship."

(C) "Material relationship" of a person with the risk retention group includes, but is not limited to, any of the following:

(i) The receipt in any one 12-month period of compensation or payment of any other item of value by that person, a member of that person's immediate family, or any business with which that person is affiliated from the risk retention group or a consultant or service provider to the risk retention group that is greater than, or equal to, 5 percent of the risk retention group's gross written premium for that 12-month period or 2 percent of its surplus, whichever is greater, as measured at the end of any fiscal quarter falling in a 12-month period. The person or immediate family member of that person is not independent until one year after his or her compensation from the risk retention group falls below the threshold.

(ii) A relationship with an auditor as follows: a director or an immediate family member of a director who is affiliated with, or employed in, a professional capacity by a present or former internal or external auditor of the risk retention group is not independent until one year after the end of the affiliation, employment, or auditing relationship.

(iii) A relationship with a related entity as follows: a director or immediate family member of a director who is employed as an executive officer of another company where any of the risk retention group's present executives serve on that other company's board of directors is not independent until one year after the end of that service or the employment relationship.

(3) The term of any material service provider contract with the risk retention group shall not exceed five years. Any contract, or its renewal, shall require the approval of the majority of the risk retention group's independent directors. The risk retention group's board of directors shall have the right to terminate any service provider, audit, or actuarial contracts at any time for cause after providing adequate notice as defined in the contract. The service provider contract is deemed material if the amount to be paid for that contract is greater than, or equal to, 5 percent of the risk retention group's annual gross written premium or 2 percent of its surplus, whichever is greater.

(A) For purposes of this standard, "service providers" shall include captive managers, auditors, accountants, actuaries, investment advisers, attorneys, and managing general underwriters or any other party responsible for underwriting, determination of rates, collection of premium, adjusting and settling claims, or the preparation of financial statements. Any reference to "attorneys" does not include defense counsel retained by the risk retention group to defend claims, unless the amount of fees paid to those attorneys are "material" as referenced in this paragraph.

(B) A service provider contract meeting the definition of "material relationship" pursuant to paragraph (2) shall not be entered into unless the risk retention group has notified the commissioner in writing of its intention to enter into the transaction at least 30 days prior thereto, and the commissioner has not disapproved the transaction within that period.

(4) The risk retention group's board of directors shall adopt a written policy in the plan of operation as approved by the board that requires the board to do all of the following:

(A) Ensure that all owners or insureds, or both, of the risk retention group receive evidence of ownership interest.

(B) Develop a set of governance standards applicable to the risk retention group.

(C) Oversee the evaluation of the risk retention group's management, including, but not limited to, the performance of the captive manager, managing general underwriter, or other parties responsible for underwriting, determination of rates, collection of premium, adjusting or settling claims, or the preparation of financial statements.

(D) Review and approve the amount to be paid for all material service providers.

(E) Review and approve, at least annually, all of the following:

(i) The risk retention group's goals and objectives relevant to the compensation of officers and service providers.

(ii) The officers' and service providers' performance in light of those goals and objectives.

(iii) The continued engagement of the officers and material service providers.

(5) The risk retention group shall have an audit committee composed of at least three independent board members as defined in paragraph (2). A nonindependent board member may participate in the activities of the audit committee, if invited by the members, but cannot be a member of that committee.

(A) The audit committee shall have a written charter that defines the committee's purpose, which, at a minimum, shall be to do all of the following:

(i) Assist in board oversight of the integrity of the financial statements, the compliance with legal and regulatory requirements, and the qualifications, independence, and performance of the independent auditor and actuary.

- (ii) Discuss the annual audited financial statements and quarterly financial statements with management.
- (iii) Discuss the annual audited financial statements with its independent auditor and, if advisable, discuss its quarterly financial statements with its independent auditor.
- (iv) Discuss policies with respect to risk assessment and risk management.
- (v) Meet separately and periodically, either directly or through a designated representative of the committee, with management and independent auditors.
- (vi) Review with the independent auditor any audit problems or difficulties and management's response.
- (vii) Set clear hiring policies of the risk retention group as to the hiring of employees or former employees of the independent auditor.
- (viii) Require the external auditor to rotate the lead or coordinating audit partner having primary responsibility for the risk retention group's audit as well as the audit partner responsible for reviewing that audit, so that neither individual performs audit services for more than five consecutive fiscal years.
- (ix) Report regularly to the board of directors.

(B) If an audit committee is not designated by the insurer, the insurer's entire board of directors shall constitute the audit committee.

(6) The board of directors shall adopt and disclose governance standards by making the information available through electronic means, such as posting the information on the risk retention group's Internet Web site, or other means, and providing that information to members and insureds upon request. The information shall include all of the following:

- (A) A process by which the directors are elected by the owners, insureds, or both.
- (B) Director qualification standards.
- (C) Director responsibilities.
- (D) Director access to management and, as necessary and appropriate, independent advisers.
- (E) Director compensation.
- (F) Director orientation and continuing education.
- (G) The policies and procedures that are followed for management succession.
- (H) The policies and procedures that are followed for the annual performance evaluation of the board.

(7) The board of directors shall adopt and disclose a code of business conduct and ethics for directors, officers, and employees and promptly disclose to the board of directors any waivers of the code for directors or executive officers, including all of the following topics:

- (A) Conflicts of interest.
- (B) Matters covered under the corporate opportunity doctrine under the state of domicile.
- (C) Confidentiality.
- (D) Fair dealing.
- (E) Protection and proper use of risk retention group assets.
- (F) Compliance with all applicable laws, rules, and regulations.
- (G) Requiring the reporting of any illegal or unethical behavior that affects the operation of the risk retention group.

(8) The captive manager, president, or chief executive officer of the risk retention group shall promptly notify the domestic regulator, in writing, if he or she becomes aware of any material noncompliance with any of these governance standards.

(e) Domestic risk retention groups, licensed as of December 31, 2013, shall be governed by subdivision (d) on and after January 1, 2015.

(Amended by Stats. 2013, Ch. 321, Sec. 1. (AB 1391) Effective January 1, 2014.)

132. Risk retention groups chartered, incorporated, or licensed in states other than this state and seeking to do business as a risk retention group in this state shall file a notice of operation with the commissioner of its intention to do business in this state. The notice shall be filed with the commissioner within 60 days of the filing by the group of any notice filed with its chartering state of its intention to do business in this state, but in no event may a notice of intended operation be filed with the commissioner less than 60 days prior to the group commencing business in this state. In doing business in this state the risk retention group shall observe and abide by the laws of this state including the following:

(a) A risk retention group shall submit to the commissioner all of the following:

(1) A statement identifying the state or states in which the risk retention group is chartered and licensed as a liability insurance company, date of chartering, its principal place of business, and other information, including information on its membership, as the commissioner of this state may require to verify that the risk retention group is qualified under subdivision (k) of Section 130.

(2) A copy of its plan of operations or a feasibility study and revisions of the plan or study submitted to the state in which the risk retention group is chartered and licensed. However, the provision relating to the submission of a plan of operation or a feasibility study does not apply with respect to any line or classification of liability insurance that (A) was defined in the Product Liability Risk Retention Act of 1981 before October 27, 1986, and (B) was offered before that date by any risk retention group that had been chartered and operating for not less than three years before that date.

(3) A statement of registration that designates the commissioner as its agent for the purpose of receiving service of legal documents or process.

(4) A registration filing fee of one thousand one hundred ninety-six dollars (\$1,196) shall accompany the statement of registration, which shall be deposited in the Risk Retention Administration Account, which is hereby created within the Insurance Fund. Notwithstanding Section 13340 of the Government Code, moneys in the account are continuously appropriated to the department for purposes of this chapter.

(b) Any risk retention group within this state shall submit to the commissioner all of the following:

(1) Upon commencement of business within this state and annually thereafter, a copy of the group's 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.

(2) Upon request by the commissioner, a copy of each examination of the risk retention group as certified by the commissioner or public official conducting the examination and all documentation received as part of the examination.

(3) Upon request by the commissioner, a copy of any outside audit performed with respect to the risk retention group.

(c) (1) As authorized under the federal Liability Risk Retention Act of 1986 (15 U.S.C. Sec. 3902 (a)(1)(B)), each risk retention group is liable for the payment of premium taxes and taxes on premiums for business done or located within this state, and shall report to the commissioner the gross premiums written, less returned premiums, on business done within this state. The risk retention group is subject to taxation, and any applicable fines and nonconformance fees related thereto, on the same basis as a foreign admitted insurer. Nonconformance fees shall be paid to the department and deposited in the Risk Retention Administration Account within the Insurance Fund.

(2) To the extent licensed surplus line brokers are utilized pursuant to Chapter 6 (commencing with Section 1760) of Part 2, they shall report to the commissioner the premiums for direct business for risks resident or located within this state that those licensees have placed with or on behalf of, a risk retention group not chartered in this state.

(d) Any risk retention group and its agents and representatives shall comply with Article 6.5 (commencing with Section 790) of Chapter 1 of Part 2.

(e) Any risk retention group shall comply with the laws of this state regarding deceptive, false, or fraudulent acts or practices. However, if the commissioner seeks an injunction regarding that conduct, the injunction shall be obtained from a court of competent jurisdiction.

(f) Any risk retention group shall submit to an examination upon request by the commissioner 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 60 days after a request by the commissioner of this state.

(g) Every application form for insurance from a risk retention group and every policy issued by a risk retention group shall contain in 10-point type on the front page and the declaration page, the following notice:

"NOTICE

This policy is issued by your risk retention group. Your risk retention group may not be subject to all of the insurance laws and regulations of your state. State insurance insolvency guaranty funds are not available for your risk retention group."

(h) The following acts by a risk retention group are hereby prohibited:

(1) The solicitation or sale of insurance by a risk retention group to any person who is not eligible for membership in that group.

(2) The solicitation or sale of insurance by, or operation of, a risk retention group that is in a hazardous financial condition.

(i) A risk retention group may not offer insurance policy coverage prohibited by Section 533.5 or declared unlawful by the Supreme Court of California.

(j) The risk retention group shall make its initial registration by filing the materials specified in subdivision (a). The initial registration is valid until December 31 of the year in which it was made, as long as the risk retention group is in compliance with this chapter. To maintain the registration in force, the risk retention group shall continue in compliance with this chapter and shall file the following items with the commissioner on or before December 31 of each year:

(1) An annual reporting statement on a form prescribed by the commissioner.

(2) An annual renewal fee to be determined by the commissioner, limited to the actual cost of administering this section, not to exceed three hundred dollars (\$300).

(3) Any other information required by the commissioner to determine whether the risk retention group is in compliance with the requirements of this chapter.

(k) The risk retention group shall notify the commissioner in writing of any changes in the information provided according to subdivision (a) within 30 days of the effective date of the change.

(Amended by Stats. 2017, Ch. 534, Sec. 2. (AB 1699) Effective January 1, 2018.)

133. (a) No risk retention group shall be required or permitted to join or contribute financially to any insurance insolvency guaranty fund, or similar mechanism, in this state, nor shall any risk retention group, or its insureds or claimants against its insureds, receive any benefit from any such fund for claims arising under the insurance policies issued by that risk retention group.

(b) When a purchasing group obtains insurance covering its members' risks from an insurer not authorized in this state or a risk retention group, no such risks, wherever located, shall be covered by any insurance guaranty fund or similar mechanism in this state.

(c) When a purchasing group obtains insurance covering its members' risks from an authorized admitted insurer, only risks located in this state shall be covered by the state insurance guaranty fund.

(d) A risk retention group shall not participate in this state's joint underwriting associations, California Automobile Assigned Risk Plan, Fair Access to Insurance Requirements Plan, and market assistance plans.

(Added by Stats. 1990, Ch. 1521, Sec. 1.)

134. (a) A purchasing group that intends to do business in this state shall, prior to doing business, furnish to the commissioner notice, doing all of the following:

(1) Identify the state in which the group is domiciled.

(2) Specify the lines and classifications of liability insurance that the purchasing group intends to purchase.

(3) Identify the insurance company or companies from which the group intends to purchase its insurance and the domicile of that company.

(4) Specify the method by which, and the person or persons, if any, through whom, insurance will be offered to its members whose risks are resident or located in this state.

(5) Identify the principal place of business of the group.

(6) Provide other information that may be required by the commissioner to verify that the purchasing group is qualified under subdivision (i) of Section 130.

(b) 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, for which a filing fee in the amount of five hundred forty dollars (\$540) shall be submitted to the commissioner for deposit in the Risk Retention Administration Account within the Insurance Fund, except that these requirements do not apply in the case of a purchasing group that did all of the following:

- (1) Was domiciled before April 1, 1986, and is domiciled on and after October 27, 1986, in any state of the United States.
- (2) Before October 27, 1986, purchased insurance from an insurance carrier licensed in any state, and since October 27, 1986, purchased its insurance from an insurance carrier licensed in any state.
- (3) Was a purchasing group under the requirements of the Product Liability Risk Retention Act of 1981 (15 U.S.C. Sec. 3901 et seq.) before October 27, 1986.
- (4) Does not purchase insurance that was not authorized for purposes of an exemption under that act, as in effect before October 27, 1986.

(c) Any purchasing group that was doing business in this state prior to the enactment of this chapter shall, within 30 days after January 1, 1990, furnish notice to the commissioner pursuant to subdivision (a) and furnish information that may be required pursuant to subdivisions (b) and (c).

(d) Each purchasing group that is required to give notice pursuant to subdivision (a) shall also furnish information that may be required by the commissioner to:

- (1) Verify that the entity qualifies as a purchasing group.
- (2) Determine where the purchasing group is located.
- (3) Determine appropriate tax treatment.
- (4) Verify that the purchasing group is in compliance with this chapter.

(e) Any purchasing group that intends to do business in this state shall make its initial registration by submitting to the commissioner the materials listed in subdivision (a). The registration is valid until December 31 of the year in which it was made, as long as the purchasing group is in compliance with this chapter. To maintain the registration, the purchasing group shall continue to comply with this chapter. Additionally, the purchasing group shall file the following documents with the commissioner on or before January 31 of each year:

- (1) An annual reporting statement on a form prescribed by the commissioner.
- (2) An annual renewal fee, to be determined by the commissioner, limited to the actual cost of administering this section, not to exceed two hundred dollars (\$200).
- (3) Any other information required by the commissioner to determine whether the purchasing group is in compliance with this chapter or other applicable provisions of this code.

(f) The purchasing group shall notify the commissioner in writing of any changes in the information provided according to subdivision (a) within 30 days of the effective date of the change.

(Amended by Stats. 2017, Ch. 534, Sec. 3. (AB 1699) Effective January 1, 2018.)

135. (a) No purchasing group may offer insurance policy coverage prohibited by Section 533.5 or declared invalid by the Supreme Court of California.

(b) A purchasing group which obtains liability insurance from an insurer not admitted in this state or a risk retention group shall inform each of the members of the group which have a risk resident or located in this state all of the following:

- (1) The risk is not protected by an insurance insolvency guaranty fund in this state.
- (2) The risk retention group or such insurer may not be subject to all insurance laws and regulations of this state.

(Amended by Stats. 1991, Ch. 1040, Sec. 5.)

136. The powers authorized by this chapter shall only be exercised to the extent these powers are not preempted by the Product Liability Risk Retention Act of 1981, as amended by the Risk Retention Amendments of 1986.

(Added by Stats. 1990, Ch. 1521, Sec. 1.)

137. (a) No person, firm, association, or corporation shall act or aid in any manner in soliciting, negotiating, or procuring liability insurance in this state from a risk retention group unless that person, firm, association, or corporation is licensed as a casualty broker-agent in accordance with Chapter 5 (commencing with Section 1621) of Part 2 and is authorized to act as an insurance broker; except salaried employees or officers of a risk retention group, provided no part of the compensation of that person is on a commission basis or otherwise based on production of business.

(b) No person, firm, association, or corporation shall act or aid in any manner in soliciting, negotiating, or procuring liability insurance from an insurer not authorized to do business in this state on behalf of a purchasing group located in this state unless that person, firm, association, or corporation is licensed as a surplus line broker in accordance with Chapter 6 (commencing with Section 1760) of Part 2. A nonresident person may be licensed as a surplus line broker for purposes of placing insurance on behalf of a purchasing group.

(c) Any person, firm, association, or corporation licensed pursuant to Chapter 5 (commencing with Section 1621) of Part 2, on business placed with risk retention groups or written through a purchasing group, shall inform each prospective insured of the provisions of the notice required by subdivision (g) of Section 132 in the case of a risk retention group and subdivision (b) of Section 135 in the case of a purchasing group.

(Amended by Stats. 2011, Ch. 411, Sec. 2. (AB 1416) Effective January 1, 2012.)

138. There shall be no civil liability on the part of any agent or broker who places liability insurance coverage on behalf of any risk retention group which is incorporated and licensed in this state in the event of an insolvency by the risk retention group.

(Added by Stats. 1990, Ch. 1521, Sec. 1.)

140. The commissioner may order a purchasing group or risk retention group to cease and desist from the solicitation or sale of insurance by, or the operations of, a risk retention group or purchasing group whose officers, organizers, or directors have engaged in any of the acts or omissions set forth in subdivision (a) of Section 1668.5. That order shall be made in accordance with the procedures set forth in Article 14.5 (commencing with Section 1065.1) of Chapter 1 of Part 2.

(Amended by Stats. 1991, Ch. 1040, Sec. 7.)