

MEMORANDUM

TO: All Purchasing Groups Proposing to Transact Business in Nebraska

FROM: Department of Insurance

SUBJECT: Requirements Under Liability Risk Retention Act of 1986 and Nebraska Risk Retention Act

The Nebraska Risk Retention Act, hereafter "NRRA" and codified under Neb. Rev. Stat. §44-4401 et seq., became effective May 6, 1987, and is intended to be consistent with and complementary to the Federal Liability Risk Retention Act of 1986, hereafter "LRRRA". NRRA is substantially the same as the December 10, 1986 NAIC Model Risk Retention Act draft. The following outlines Nebraska's requirements regarding purchasing groups.

I. Notice of Intent to do Business

A purchasing group which intends to do business in Nebraska shall furnish notice of such intention to the Director of Insurance using the National Association of Insurance Commissioners standard purchasing group registration form. Such notice shall, among other things:

- (1) Identify the state in which the purchasing group is domiciled;
- (2) Specify the lines and classifications of liability insurance which the purchasing group intends to purchase;
- (3) Identify the insurance company from which the group intends to purchase its insurance and the domicile of such company;
- (4) Identify the principal place of business of the group;
- (5) Provide a general description of business or activities engaged in by group members;
- (6) Provide copies of any organizational documents of the purchasing group, such as Articles of Incorporation/Association or By-Laws;
- (7) Written verification from the State Department of Insurance where the purchasing group is domiciled that the purchasing group is properly registered in that state;
- (8) Provide name and address of agents or brokers licensed by the Nebraska Department of Insurance through whom purchases in Nebraska will be effected;
- (9) Designate the Director of Insurance of Nebraska as agent solely for purposes of receiving service of legal process in accordance with the requirements of LRRRA;
- (10) An initial registration fee of \$100.00 will be required and a \$100.00 annual renewal due October 1 of each year will be required to continue the registration.

II. Agents and Brokers

Persons, other than licensed surplus lines agents, acting or offering to act as an agent or broker for a purchasing group which solicits members, sells insurance coverage, purchases insurance coverage for its members located within this State or otherwise does business in this State shall, before commencing any such activity, obtain a license from the Director pursuant to the Insurance Producer's Licensing Act, Neb. Rev. Stat. §44-4001 et seq. The requirements imposed on non-resident agents and brokers shall be the same as the requirements imposed on resident agents or brokers. In any event, there is no requirement that any insurance policy issued to a purchasing group or any members of the group be countersigned by an insurance agent or broker residing in Nebraska.

A purchasing group may not purchase insurance for risks or exposures located in Nebraska from any risk retention group which does not meet the requirements of LRRRA or NRRRA. Moreover, a purchasing group may not purchase insurance for any risk or exposure located in Nebraska from an insurer not admitted to transact business in Nebraska, unless the purchase is effected through a licensed surplus lines agent in accordance with the requirements of Nebraska law, Neb. Rev. Stat. §44-139 et seq. However, such surplus lines agents and brokers need not be residents of Nebraska. A purchasing group having members or exposures located in Nebraska shall be subject to all applicable Nebraska laws which do not discriminate against a purchasing group or its members.

III. Reporting Requirements and Taxes

1. Insurer Licensed in Nebraska:

If the purchasing group purchases insurance from an insurance company licensed in Nebraska, such insurer shall report and pay premium taxes on insurance coverage it provides to purchasing group risks resident or located in Nebraska. Such business shall be disclosed on the insurer's annual statement and premium taxes thereon shall be paid in accordance with regular procedures for insurance companies admitted in Nebraska.

2. Insurer Not Licensed in Nebraska:

If the purchasing group purchases insurance for risks resident or located in Nebraska from an insurer not licensed in Nebraska, a surplus lines agent licensed by the Nebraska Department of Insurance must be utilized and such surplus lines agent shall be responsible for reporting such business and paying taxes thereon in accordance with Nebraska law (See II. above).

Questions regarding Nebraska's requirements for purchasing groups intending to do business in Nebraska can be addressed to doi.companylicensing@nebraska.gov.