

Chapter 94. Liability Risk Retention.

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Subchapter 1. General Provisions.

[Reserved]

Subchapter 2. Registration and Regulation.

23-94-201. Title.

This subchapter may be cited as the "Risk Retention and Purchasing Groups Act".

23-94-202. Purpose.

The purpose of this subchapter 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 ("RRA 1986"), to the extent permitted by such law.

23-94-203. Definitions.

As used in this subchapter:

- A. "Commissioner" means the Insurance Commissioner of this state or the commissioner, director or superintendent of insurance in any other state;
- B. "Completed operations liability" means liability arising out of the installation, maintenance or repair of any product at a site which is not owned or controlled by
 - (1) Any person who performs that work; or
 - (2) Any person who hires an independent contractor to perform that work; but shall include liability for activities which are completed or abandoned before the date of the occurrence giving rise to the liability;
- C. "Domicile", for purposes of determining the state in which a purchasing group is domiciled, means:
 - (1) For a corporation, the state in which the purchasing group is incorporated; and
 - (2) For an unincorporated entity, the state of its principal place of business;
- D. "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
 - (1) To meet obligations to policyholders with respect to known claims and reasonably anticipated claims; or
 - (2) To pay other obligations in the normal course of business;
- E. "Insurance" means primary insurance, excess insurance, reinsurance, surplus lines insurance, and any other arrangement for shifting and distributing risk which is determined to be insurance under the laws of this state;
- F. "Liability"
 - (1) 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 such other persons resulting from or arising out of
 - (a) Any business, whether profit or nonprofit, trade, product, services, including professional services, premises, or operations; or
 - (b) Any activity of any state or local government, or any agency or political subdivision thereof; and
 - (2) Does not include personal risk liability and an employer's liability with respect to its employees other than legal liability under the Federal Employers' Liability Act (45 U.S.C. § 51 et seq.);
- G. "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 of this section;
- H. "Plan of operation" or "feasibility study" means an analysis which presents the expected activities and results of a risk retention group including, at a minimum;
 - (1) Information sufficient to verify that its members are engaged in businesses or activities similar or related with respect to the liability to which such 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;
 - (7) Identification of each state in which the risk retention group has obtained, or sought to obtain, a charter and license, and a description of its status in each such state; and
 - (8) Such other matters as may be prescribed by the commissioner of the state in which the risk retention group is chartered for liability insurance companies authorized by the insurance laws of that state;
- I. "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 such a person when the incident giving rise to the claim occurred;
- J. "Purchasing group" means any group which:
- (1) Has as one of its purposes the purchase of liability insurance on a group basis;
 - (2) Purchases such insurance only for its group members and only to cover their similar or related liability exposure, as described in subdivision J(3) of this section;
 - (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; and
 - (4) Is domiciled in any state;
- K. "Risk retention group" means any corporation or other limited liability association:
- (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 subdivision K(1) of this section;
 - (3) Which
 - (a) 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

- (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 such date, had certified to the insurance commissioner of at least one state that it satisfied the capitalization requirements of such state, except that any such group shall be 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 such terms were defined in the Product Liability Risk Retention Act of 1981 before the date of the enactment of the Liability Risk Retention Act of 1986;
- (4) Which does not exclude any person from membership in the group solely to provide for members of such a group a competitive advantage over such a person;
- (5) Which
 - (a) Has as its owners only persons who comprise the membership of the risk retention group and who are provided insurance by such group; or
 - (b) Has as its sole owner an organization which has as
 - (i) Its members only persons who comprise the membership of the risk retention group; and
 - (ii) Its owners only persons who comprise the membership of the risk retention group and who are provided insurance by such group;
- (6) Whose members are engaged in businesses or activities similar or related with respect to the liability of which such 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
 - (a) Liability insurance for assuming and spreading all or any portion of the liability of its group members; and
 - (b) Reinsurance with respect to the liability of any other risk retention group, or any members of such other group, which is engaged in businesses or activities so that the group or member meets the requirement described in subdivision K(6) of this section from membership in the risk retention group which provides such reinsurance; and
- (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;
- M. "Department" means the State Insurance Department.

23-94-204. Domestic risk retention groups.

A.(1) To be organized as a risk retention group in this state, the group must be organized and licensed to write only casualty insurance pursuant to this subchapter and, except as provided elsewhere in this subchapter, must comply with all of the laws, rules, regulations and requirements applicable to such insurers licensed in this state and with § 23-94-205 to the extent such requirements are not a limitation on laws, rules, regulations or requirements of this state. The commissioner shall issue a certificate of registration to a risk retention group organized, formed, or domiciled under the laws of this state when the commissioner is satisfied that the applicant group has fully complied with the provisions of this subchapter. No risk retention group organized, formed, or domiciled

under the laws of this state shall transact business in this state unless so authorized by a subsisting certificate of registration issued by the commissioner.

- (2) Notwithstanding any other provision to the contrary, all risk retention groups domiciled in this state shall file, annually on or before March 1, or within any extension of time therefor which the commissioner for good cause may have granted, with the Department and the National Association of Insurance Commissioners (NAIC), an annual statement in a form prescribed by the NAIC and in diskette form, if required by the commissioner and completed in accordance with its instructions and the NAIC Accounting Practices and Procedures Manual.
- B. Before it may offer insurance in any state, each risk retention group shall also submit for approval to the commissioner of this state a plan of operation or feasibility study. The risk retention group shall submit an appropriate revision in the event of any subsequent material change in any item of the plan of operation or feasibility study, within ten (10) days of any such change. The group shall not offer any additional kinds of casualty insurance, in this state or in any other state, until a revision of such plan or study is approved by the commissioner.
- C. At the time of filing its application for a certificate of registration, the risk retention group shall provide to the commissioner in summary form the following information: the identity of the initial members of the group, the identity of those individuals who organized the group or who will provide administrative services or otherwise influence or control the activities of the group, the amount and nature of initial capitalization, the coverages to be afforded, and the states in which the group intends to operate. Upon receipt of this information, the commissioner shall forward such information to the National Association of Insurance Commissioners. Providing notification to the National Association of Insurance Commissioners is in addition to and shall not be sufficient to satisfy the requirements of § 23-94-205 or any other sections of this subchapter.

23-94-205. Foreign risk retention groups.

Risk retention groups chartered and licensed in states other than this state and seeking to do business as a risk retention group in this state must apply for and obtain a certificate of registration from the commissioner using the forms prescribed by the department. The commissioner shall issue a certificate of registration to risk retention groups chartered and licensed under the laws of other states when the commissioner is satisfied that the applicant groups have complied with the provisions of this subchapter. No risk retention group chartered and licensed in states other than this state shall transact business in this state unless so authorized by a subsisting certificate of registration issued by the commissioner. Each such group shall comply with the laws of this state as follows:

A. Notice of Operations and Designation of Commissioner as Agent.

- (1) Before offering insurance in this state, a risk retention group shall submit to the commissioner on a form prescribed by the NAIC:
 - (a) A statement identifying the state or states in which the risk retention group is chartered and licensed as a liability insurance company, charter date, its principal place of business, and such other information, including information on its membership, as the commissioner may require to verify that the risk retention

group is qualified under § 23-94-203K;

(b) A copy of its plan of operation or feasibility study and revisions of such plan or study submitted to the state in which the risk retention group is chartered and licensed; provided, however, that the provision relating to the submission of a plan of operation or feasibility study shall not apply with respect to any line or classification of liability insurance which:

- (i) Was defined in the Product Liability Risk Retention Act of 1981 before October 27, 1986; and
 - (ii) Was offered before that date by any risk retention group which had been chartered and operating for not less than three (3) years before that date; and
- (2) The risk retention group shall submit a copy of any revision to its plan of operation or feasibility study required pursuant to § 23-94-204B at the same time that such revision is submitted to the commissioner of its chartering state.
 - (3) The risk retention group shall submit a statement of registration, for which a filing fee shall be determined by the commissioner, which designates the commissioner as its agent for the purpose of receiving service of legal documents or process.

B. **Financial Condition.** Any risk retention group doing business in this state shall submit to the commissioner annually on or before March 1, or within any extension of time therefor which the commissioner for good cause may have granted, an annual statement in a form prescribed by the NAIC and completed in accordance with the instructions and the NAIC Accounting Practices and Procedures Manual. Additional information that must be submitted to the commissioner by the risk retention group doing business in this state shall include all of the following:

- (1) A copy of the group's 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 under criteria established by the National Association of Insurance Commissioners;
- (2) A copy of each examination of the risk retention group as certified by the commissioner or public official conducting the examination;
- (3) Upon request by the commissioner, a copy of any information or document pertaining to any outside audit performed with respect to the risk retention group; and
- (4) Such information as may be required to verify its continuing qualification as a risk retention group under § 23-94-203K.

C. **Agent and Broker Records.** To the extent that insurance agents or brokers are utilized pursuant to § 23-94-213, such agent or broker shall keep a complete and separate record of all policies procured from each such risk retention group, which record shall be open to examination by the commissioner. These records shall, for each policy and each kind of insurance provided thereunder, include the following:

- (1) The limit of liability;
- (2) The time period covered;

- (3) The effective date;
 - (4) The name of the risk retention group which issued the policy;
 - (5) The gross premium charged; and
 - (6) The amount of return premiums, if any.
- D. **Compliance with Trade Practices Act.** Any risk retention group, its agents and representatives shall comply with the provisions of the Trade Practices Act, § 23-66-201 et seq., and other pertinent provisions of the Arkansas Insurance Code, § 23-60-101 et seq. Any risk retention group, its agents and representatives shall comply with the provisions of the claims settlement practices in § 23-66-206(9) and (10) and other pertinent provisions of the Arkansas Insurance Code. Any risk retention group shall comply with the provisions of Arkansas law regarding deceptive, false, or fraudulent acts or practices. If the commissioner seeks an injunction regarding deceptive, false or fraudulent conduct, the injunction must be from a court of competent jurisdiction.
- E. **Examination Regarding Financial Condition.** Any risk retention group must submit to an examination 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 sixty (60) days after a request by the commissioner of this state. Any such examination shall be coordinated to avoid unjustified repetition and conducted in an expeditious manner and in accordance with the most current edition of the NAIC's Examiner Handbook.
- F. **Notice to Purchasers.** Every application form for insurance from a risk retention group, and every policy on its front and declaration pages issued by a risk retention group, shall contain in ten (10) point type 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.

- G. **Prohibited Acts Regarding Solicitation or Sale.** 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 such group; and
 - (2) The solicitation or sale of insurance by, or operation of, a risk retention group that is in hazardous financial condition or financially impaired.
- H. **Prohibition on Ownership by an Insurance Company.** No risk retention group shall be allowed to do business in this state if an insurance company is directly or indirectly a member or owner of such risk retention group, other than in the case of a risk retention group all of whose members are insurance companies.
- I. **Prohibited Coverage.** The terms of any insurance policy issued by any risk retention group shall not provide, or be construed to provide, coverage prohibited generally by statute of this state or declared unlawful by the highest court of this state whose law applies to such policy.
- J. **Delinquency Proceedings.** A risk retention group not chartered in this state and doing

business in this state shall comply with a lawful order issued in a voluntary dissolution proceeding or in a delinquency proceeding commenced by a state insurance commissioner if there has been a finding of financial impairment after an examination under subdivision E of this section.

- K. **Penalties.** A risk retention group that violates any provision of this subchapter will be subject to fines and penalties, including revocation of its right to do business in this state, applicable to licensed insurers generally.
- L. **Operation Prior to Enactment of This Subchapter.** In addition to complying with the requirements of this section, any risk retention group operating in this state prior to March 14, 1995, shall, within thirty (30) days after March 14, 1995, comply with the provisions of subdivision A(1) of this section.

23-94-206. Compulsory associations.

- 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 a 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 resident or 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 insurer, only risks resident or located in this state shall be covered by the appropriate state guaranty fund.

23-94-207. Purchasing groups - Exemption from certain laws.

A purchasing group and its insurer or insurers shall be subject to all applicable laws of this state, except that a purchasing group and its insurer or insurers shall be exempt, in regard to liability insurance for the purchasing group, from any law that would:

- A. Prohibit the establishment of a purchasing group;
- B. Make it unlawful for an insurer to provide or offer to provide insurance on a basis providing, 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;
- C. Prohibit a purchasing group or its members from purchasing insurance on a group basis described in subsection B of this section;
- D. Prohibit a purchasing group from obtaining insurance on a group basis because the group has not been in existence for a minimum period of time or because any member has not belonged to the group for a minimum period of time;
- E. Require that a purchasing group must have a minimum number of members, common ownership or affiliation, or certain legal form;
- F. Require that a certain percentage of a purchasing group must obtain insurance on a group basis;

- G. Otherwise discriminate against a purchasing group or any of its members; or
- H. Require that any insurance policy issued to a purchasing group or any of its members be countersigned by an insurance agent or broker residing in this state.

23-94-208. Notice and registration requirements of purchasing groups.

- A. A purchasing group which intends to do business in this state must obtain a certificate of registration from the commissioner. The commissioner shall issue a certificate of registration to a purchasing group organized and formed under the laws of any state when the commissioner is satisfied that the applicant group has fully complied with the provisions of this subchapter. Each purchasing group which intends to do business in this state shall, prior to doing business, furnish notice to the commissioner which shall, on forms prescribed by the NAIC:
 - (1) Identify the state in which the group is domiciled;
 - (2) Identify all other states in which the group intends to do business;
 - (3) Specify the lines and classifications of casualty insurance which the purchasing group intends to purchase;
 - (4) Identify the insurance company or companies from which the group intends to purchase its insurance and the domicile of such company;
 - (5) 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;
 - (6) Identify the principal place of business of the group; and
 - (7) Provide such other information as may be required by the commissioner to verify that the purchasing group is qualified for a certificate of registration.
- B. A purchasing group shall, within ten (10) days, notify the commissioner of any changes in any of the items set forth in subsection A of this section.
- C. 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 shall be determined by the commissioner, except that such requirements shall not apply in the case of a purchasing group which only purchases insurance that was authorized under the federal Products Liability Risk Retention Act of 1981, and:
 - (1) Which in any state of the United States
 - (a) Was domiciled before April 1, 1986; and
 - (b) Is domiciled on and after October 27, 1986;
 - (2) Which
 - (a) Before October 27, 1986 purchased insurance from an insurance carrier licensed in any state; and
 - (b) Since October 27, 1986 purchased its insurance from an insurance carrier licensed in any state; or
 - (3) Which was a purchasing group under the requirements of the Product Liability Risk Retention Act of 1981 before October 27, 1986.
- D. Each purchasing group that is required to give notice pursuant to subsection A of this section shall also furnish such information as 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; and
 - (3) Determine appropriate tax treatment.
- E. Any purchasing group which was doing business in this state prior to March 14, 1995, shall, within thirty (30) days after March 14, 1995, furnish notice to the commissioner pursuant to the provisions of subsection A of this section and furnish such information as may be required pursuant to subsections B and C of this section.

23-94-209. Restrictions on insurance purchased by purchasing groups.

- A. A purchasing group may not purchase insurance from a risk retention group that does not hold a certificate of registration in this state or from an insurer not admitted in the state in which the purchasing group is located, unless the purchase is effected through a licensed agent or broker acting pursuant to the surplus line laws and regulations of such state.
- 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 that the risk is not protected by an insurance insolvency guaranty fund in this state, and that the risk retention group or insurer may not be subject to all insurance laws and regulations of this state.
- C. No purchasing group may purchase insurance providing for a deductible or self-insured retention applicable to the group as a whole; however, coverage may provide for a deductible or self-insured retention applicable to individual members.
- D. Purchases of insurance by purchasing groups are subject to the same standards regarding aggregate limits which are applicable to all purchases of group insurance.

23-94-210. Taxation.

- A. Each authorized risk retention group shall, on or before March 1 of each year, file with the commissioner on forms prescribed by the commissioner a statement for the preceding calendar year showing all premiums paid to the risk retention group for risks insured within this state.
- B. Coincident with the filing of the report, each authorized risk retention group shall submit to the Treasurer of State through the commissioner, as a tax imposed for the privilege of transacting business as a risk retention group within this state, a tax of four percent (4%) on all premiums paid for coverages within this state to the risk retention group within the preceding calendar year as shown by the annual statement filed with the commissioner.
- C. Agents or brokers shall report in an annual statement and pay the four percent (4%) tax on or before March 1 of each year for the premiums for risks which they have placed within the preceding calendar year with or on behalf of a risk retention group not authorized to do business in this state by a subsisting certificate of registration issued by the commissioner.
- D. Any risk retention group, agent, or broker who fails to file the annual statement or fails to remit the tax as provided by law on March 1 when the tax is due shall be liable for a fine of one hundred dollars (\$100) for each day of delinquency commencing with March 1. However, for good cause shown, the commissioner, after

a written request, may grant a reasonable extension of time within which the statement may be filed and the tax paid. The tax may be collected by distraint, or the tax and fine may be covered by an action instituted by the commissioner in any court of competent jurisdiction. The commissioner shall pay to the Treasurer of State any fine so collected.

23-94-211. License fees.

The provisions as to fees for obtaining and continuing licenses for insurers, agents, and brokers under § 23-61-401 shall be applicable to risk retention groups, purchasing groups, risk retention group agents and purchasing group brokers, resident surplus line brokers, and non-resident surplus line purchasing group brokers under the provisions of this subchapter and § 23-65-301 et seq., except as they conflict with the provisions of the Federal Liability Risk Retention Act of 1986.

23-94-212. Administrative and procedural authority regarding risk retention groups and purchasing groups.

The commissioner is authorized to make use of any of the powers established under the Insurance Code of this state to enforce the laws of this state not specifically preempted by the Risk Retention Act of 1986 including the commissioner's administrative authority to investigate, issue subpoena, conduct depositions and hearings, issue orders, impose penalties and seek injunctive relief. With regard to any investigation, administrative proceedings or litigation, the commissioner can rely on the procedural laws of this 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.

23-94-213. Duty of agents or brokers to obtain license. [Effective until July 1, 2002 - provisional date.]

A. **Risk Retention Group Agents.** Any person acting, or offering to act, as an agent or broker for a registered risk retention group which solicits members, sells insurance coverage, or otherwise does business in this state shall, before commencing any such activity, obtain a resident or nonresident risk retention group agent license from the commissioner upon completion of the licensing provisions as to resident and nonresident agents or brokers under § 23-64-101 et seq. and § 23-64-201 et seq., except as they conflict with the provisions of the Federal Liability Risk Retention Act of 1986.

B. **Purchasing Group Brokers.**

(1) Any person acting, or offering to act, as an agent or broker for a registered purchasing group which solicits members, sells insurance coverage, purchases coverage for its members located within the state, or otherwise doing business in this state shall, before commencing any such activity, obtain a resident or nonresident purchasing group broker license from the commissioner upon completion of the licensing provisions as to resident and nonresident agents or brokers under § 23-64-101 et seq. and § 23-64-201 et seq., except as they conflict with the provisions of the Federal Liability Risk Retention Act of 1986, before

- securing the purchasing group's coverage with an authorized insurer or a registered risk retention group. This requirement shall not be applicable to property and casualty agents or brokers duly licensed by this state as to the authorized insurer or risk retention group issuing the purchasing group's coverage, so long as these licenses comply with other provisions of this chapter.
- (2) Any person acting, or offering to act, as an agent or broker for a purchasing group registered in Arkansas and procuring insurance from an approved non-admitted surplus line insurer shall either:
 - (a) First obtain a property and casualty agent or broker's license or purchasing group broker's license from this state, prior to placing the group's coverage through a surplus line broker duly licensed by the State of Arkansas, or
 - (b) First obtain a resident Arkansas surplus line broker's license, or a nonresident Arkansas surplus line broker's license, prior to placing the group's coverage with the surplus line insurer.
 - (3) The provisions of this section shall be in conformity with the provisions of this subchapter, § 23-64-101 et seq., § 23-64-201 et seq., and the surplus line laws of this state, § 23-65-301 et seq., except as they conflict with the provisions of the Federal Liability Risk Retention Act of 1986.

23-94-213. Duty of agents or brokers to obtain license. [Effective July 1, 2002 - provisional date.]

- A. Risk Retention Group Agents. Any person acting, or offering to act, as an agent or broker for a registered risk retention group which solicits members, sells insurance coverage, or otherwise does business in this state shall, before commencing any such activity, obtain a resident or nonresident risk retention group agent license from the commissioner upon completion of the licensing provisions as to resident and nonresident agents or brokers under §§ 23-64-101 et seq., 23-64-201 - 23-64-229, and 23-64-501 et seq., except as they conflict with the provisions of the Federal Liability Risk Retention Act of 1986.
- B. Purchasing Group Brokers.
 - (1) Any person acting, or offering to act, as an agent or broker for a registered purchasing group which solicits members, sells insurance coverage, purchases coverage for its members located within the state, or otherwise doing business in this state shall, before commencing any such activity, obtain a resident or nonresident purchasing group broker license from the commissioner upon completion of the licensing provisions as to resident and nonresident agents or brokers under §§ 23-64-101 et seq., 23-64-201 - 23-64-229, and 23-64-501 et seq., except as they conflict with the provisions of the Federal Liability Risk Retention Act of 1986, before securing the purchasing group's coverage with an authorized insurer or a registered risk retention group. This requirement shall not be applicable to property and casualty agents or brokers duly licensed by this state as to the authorized insurer or risk retention group issuing the purchasing group's coverage, so long as these licenses comply with other provisions of this chapter.
 - (2) Any person acting, or offering to act, as an agent or broker for a purchasing group registered in Arkansas and procuring insurance from an approved non-admitted surplus line insurer shall either:

- (a) First obtain a property and casualty agent or broker's license or purchasing group broker's license from this state, prior to placing the group's coverage through a surplus line broker duly licensed by the State of Arkansas, or
- (b) First obtain a resident Arkansas surplus line broker's license, or a nonresident Arkansas surplus line broker's license, prior to placing the group's coverage with the surplus line insurer.
- (3) The provisions of this section shall be in conformity with the provisions of this subchapter, §§ 23-64-101 et seq., 23-64-201 - 23-64-229, and 23-64-501 et seq., and the surplus line laws of this state, § 23-65-301 et seq., except as they conflict with the provisions of the Federal Liability Risk Retention Act of 1986.

23-94-214. Binding effect of orders issued in United States District Court.

An order issued by any district court of the United States enjoining a risk retention group from soliciting or selling insurance, or operating in any state, or in all states or in any territory or possession of the United States, upon a finding that such a group is in hazardous financial or financially impaired condition shall be enforceable in the courts of the state.

23-94-215. Rules and regulations.

The commissioner may establish and from time to time amend such rules relating to risk retention groups as may be necessary or desirable to carry out the provisions of this subchapter.

**Subchapter 3.
Exemptions.**

§ 23-94-301 - 23-94-303. [Repealed.]