

STATE OF MONTANA



MONICA J. LINDEEN
STATE AUDITOR
COMMISSIONER OF INSURANCE & SECURITIES
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.

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 virtue of 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 aforementioned 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)

BIOGRAPHICAL AFFIDAVIT

To the extent permitted by law, this affidavit will be kept confidential by the state insurance regulatory authority.

(Print or Type)

Full Name, Address and telephone number of the present or proposed entity under which this biographical statement is being required (Do Not Use Group Names). _____

In connection with the above-named entity, I herewith make representations and supply information about myself as hereinafter set forth. (Attach addendum or separate sheet if space hereon is insufficient to answer any question fully.) IF ANSWER IS "NO" OR "NONE," SO STATE.

- 1. a. Affiant's Full Name (Initials Not Acceptable). _____
b. Maiden Name (if applicable). _____
- 2. a. Have you ever had your name changed? _____ If yes, give the reason for the change and provide the full name(s).

- b. Other names used at any time (including aliases).

- 3. a. Are you a citizen of the United States?
b. Are you a citizen of any other country, if so, what country?
- 4. Affiant's Occupation or Profession. _____
- 5. Affiant's business address. _____
Business telephone. _____

Beginning/Ending
Dates (MM/YY) _____ - _____ Employers' Name _____
Address _____ City _____ State/Province _____
Country _____ Postal Code _____ Phone _____ Offices/Positions Held _____
Supervisor / Contact _____

Beginning/Ending
Dates (MM/YY) _____ - _____ Employers' Name _____
Address _____ City _____ State/Province _____
Country _____ Postal Code _____ Phone _____ Offices/Positions Held _____
Supervisor / Contact _____

10. a. Have you ever been in a position which required a fidelity bond? _____ If any claims were made on the bond, give details. _____

- b. Have you ever been denied an individual or position schedule fidelity bond, or had a bond canceled or revoked? If yes, give details. _____

11. List any professional, occupational and vocational licenses (including licenses to sell securities) issued by any public or governmental licensing agency or regulatory authority or licensing authority that you presently hold or have held in the past. For any non-insurance regulatory issuer, identify and provide the name, address and telephone number of the licensing authority or regulatory body having jurisdiction over the license (s) issued. Attach additional pages if the space provided is insufficient.

Organization/Issuer of License _____ Address _____
City _____ State/Province _____ Country _____ Postal Code _____
License Type _____ License # _____ Date Issued (MM/YY) _____
Date Expired (MM/YY) _____ Reason for Termination _____
Non-insurance Regulatory Phone Number (if known) _____

Organization /Issuer of License _____ Address _____
City _____ State/Province _____ Country _____ Postal Code _____
License Type _____ License # _____ Date Issued (MM/YY) _____
Date Expired (MM/YY) _____ Reason for Termination _____
Non-insurance Regulatory Phone Number (if known) _____

12. In responding to the following, if the record has been sealed or expunged, and the affiant has personally verified that the record was sealed or expunged, an affiant may respond “no” to the question. Have you ever:
- a. Been refused an occupational, professional, or vocational license or permit by any regulatory authority, or any public administrative, or governmental licensing agency?

 - b. Had any occupational, professional, or vocational license or permit you hold or have held, been subject to any judicial, administrative, regulatory, or disciplinary action?

 - c. Been placed on probation or had a fine levied against you or your occupational, professional, or vocational license or permit in any judicial, administrative, regulatory, or disciplinary action? _____
 - d. Been charged with, or indicted for, any criminal offense(s) other than civil traffic offenses? _____
 - e. Pled guilty, or nolo contendere, or been convicted of, any criminal offense(s) other than civil traffic offenses?

 - f. Had adjudication of guilt withheld, had a sentence imposed or suspended, had pronouncement of a sentence suspended, or been pardoned, fined, or placed on probation, for any criminal offense(s) other than civil traffic offenses? _____
 - g. Been subject to a cease and desist letter or order, or enjoined, either temporarily or permanently, in any judicial, administrative, regulatory, or disciplinary action, from violating any federal, state law or law of another country regulating the business of insurance, securities or banking, or from carrying out any particular practice or practices in the course of the business of insurance, securities or banking? _____
 - h. Been, within the last ten (10) years, a party to any civil action involving dishonesty, breach of trust, or a financial dispute? _____
 - i. Had a finding made by the Comptroller of any state or the Federal Government that you have violated any provisions of small loan laws, banking or trust company laws, or credit union laws, or that you have violated any rule or regulation lawfully made by the Comptroller of any state or the Federal Government? _____
 - j. Had a lien, or foreclosure action filed against you or any entity while you were associated with that entity?

If the response to any question above is answered “Yes”, please provide details including dates, locations, disposition, etc. Attach a copy of the complaint and filed adjudication or settlement as appropriate.

13. List any entity subject to regulation by an insurance regulatory authority that you control directly or indirectly. The term “control” (including the terms “controlling,” “controlled by” and “under common control with”) means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities, by contract other than a commercial contract for goods or non-management services, or otherwise, unless the power is the result of an official position with or corporate office held by the person. Control shall be presumed to exist if any person, directly or indirectly, owns, controls, holds with the power to vote, or holds proxies representing, ten percent (10%) or more of the voting securities of any other person.

If any of the stock is pledged or hypothecated in any way, give details. _____

14. Do [Will] you or members of your immediate family individually or cumulatively subscribe to or own, beneficially or of record, 10% or more of the outstanding shares of stock of any entity subject to regulation by an insurance regulatory authority, or its affiliates? An "affiliate" of, or person "affiliated" with, a specific person, is a person that directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, the person specified. If the answer is "Yes", please identify the company or companies in which the cumulative stock holdings represent 10% or more of the outstanding voting securities.

If any of the shares of stock are pledged or hypothecated in any way, give details.

15. Have you ever been adjudged a bankrupt? _____

16. To your knowledge has any company or entity for which you were an officer or director, trustee, investment committee member, key management employee or controlling stockholder, had any of the following events occur while you served in such capacity? If yes, please indicate and give details. When responding to questions (b) and (c) affiant should also include any events within twelve (12) months after his or her departure from the entity.

- a. Been refused a permit, license, or certificate of authority by any regulatory authority, or Governmental-licensing agency? _____
- b. Had its permit, license, or certificate of authority suspended, revoked, canceled, non-renewed, or subjected to any judicial, administrative, regulatory, or disciplinary action (including rehabilitation, liquidation, receivership, conservatorship, federal bankruptcy proceeding, state insolvency, supervision or any other similar proceeding)? _____
- c. Been placed on probation or had a fine levied against it or against its permit, license, or certificate of authority in any civil, criminal, administrative, regulatory, or disciplinary action? _____

Note: If an affiant has any doubt about the accuracy of an answer, the question should be answered in the positive and an explanation provided.

Dated and signed this _____ day of _____ at _____ I hereby certify under penalty of perjury that I am acting on my own behalf, and that the foregoing statements are true and correct to the best of my knowledge and belief.

(Signature of Affiant)

Date

State of _____ County of _____

The foregoing instrument was acknowledged before me this _____ day of _____, 20____ By _____, and:

- who is personally known to me, or
- who produced the following identification: _____

[SEAL]

Notary Public

Printed Notary Name

My Commission Expires

BIOGRAPHICAL AFFIDAVIT
Supplemental Information

(Print or Type)

To the extent permitted by law, this affidavit will be kept confidential by the state insurance regulatory authority.

Full Name, Address, and telephone number of the present or proposed entity under which this biographical statement is being required (Do Not Use Group Names).

1. a. Affiant's Full Name (Initials Not Acceptable). _____
b. Maiden Name (if applicable) _____
2. Affiant's Social Security Number _____
3. Government Identification Number if not a U.S. Citizen _____
4. Foreign Student ID# (if applicable) _____
5. Date of Birth: (MM/DD/YY) _____ Place of Birth: City _____
State/Province _____ Country _____
6. Name of Affiant's Spouse (if applicable) _____
7. List your residences for the last ten (10) years starting with your current address, giving:

Beginning/Ending

<u>Dates</u> <u>(MM/YY)</u>	<u>Address</u>	<u>City</u>	<u>State/ Province</u>	<u>Country</u>	<u>Postal Code</u>
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Dated and signed this _____ day of _____ at _____
I hereby certify under penalty of perjury that I am acting on my own behalf, and that the foregoing statements are true and correct to the best of my knowledge and belief.

(Signature of Affiant) _____ Date

State of _____ County of _____

The foregoing instrument was acknowledged before me this _____ day of _____, 20____ By _____, and:

- who is personally known to me, or
- who produced the following identification: _____

[SEAL]

Notary Public

Printed Notary Name

My Commission Expires

DISCLOSURE AND AUTHORIZATION CONCERNING BACKGROUND REPORTS*(All states except California, Minnesota and Oklahoma)*

This Disclosure and Authorization is provided to you in connection with pending or future application(s) of _____ **[insert company name]** ("Company") for licensure or a permit to organize ("Application") with a department of insurance in one or more states within the United States. Company desires to procure a consumer or investigative consumer report (or both) ("Background Reports") regarding your background for review by a department of insurance in any state where Company pursues an Application during the term of your functioning as, or seeking to function as, an officer, member of the board of directors or other management representative ("Affiant") of Company or of any business entities affiliated with Company ("Term of Affiliation") for which a Background Report is required by a department of insurance reviewing any Application. Background Reports requested pursuant to your authorization below may contain information bearing on your character, general reputation, personal characteristics, mode of living and credit standing. The purpose of such Background Reports will be to evaluate the Application and your background as it pertains thereto. To the extent required by law, the Background Reports procured under this Disclosure and Authorization will be maintained as confidential.

You may obtain copies of any Background Reports about you from the consumer reporting agency ("CRA") that produces them. You may also request more information about the nature and scope of such reports by submitting a written request to Company. To obtain contact information regarding CRA or to submit a written request for more information, contact _____ **[insert company's designated person, position, or department, address and phone]**.

Attached for your information is a "Summary of Your Rights Under the Fair Credit Reporting Act."

AUTHORIZATION: I am currently an Affiant of Company as defined above. I have read and understand the above Disclosure and by my signature below, I consent to the release of Background Reports to a department of insurance in any state where Company files or intends to file an Application, and to the Company, for purposes of investigating and reviewing such Application and my status as an Affiant. I authorize all third parties who are asked to provide information concerning me to cooperate fully by providing the requested information to CRA retained by Company for purposes of the foregoing Background Reports, except records that have been erased or expunged in accordance with law.

I understand that I may revoke this Authorization at any time by delivering a written revocation to Company and that Company will, in that event, forward such revocation promptly to any CRA that either prepared or is preparing Background Reports under this Disclosure and Authorization. This Authorization shall remain in full force and effect until the earlier of (i) the expiration of the Term of Affiliation, (ii) written revocation as described above, or (iii) twelve (12) months following the date of my signature below.

A true copy of this Disclosure and Authorization shall be valid and have the same force and effect as the signed original.

(Printed Full Name and Residence Address)

(Signature)

(Date)

State of _____ County of _____

The foregoing instrument was acknowledged before me this _____ day of _____ 20____ By _____, who is personally known to me, or _____ who produced the following identification:

[SEAL]

Notary Public

Printed Notary Name

My Commission Expires

DISCLOSURE AND AUTHORIZATION CONCERNING BACKGROUND REPORTS (Minnesota and Oklahoma)

This Disclosure and Authorization is provided to you in connection with pending or future application(s) of _____ [insert company name] (“Company”) for licensure or a permit to organize (“Application”) with a department of insurance in one or more states within the United States. Company desires to procure a consumer or investigative consumer report (or both) (“Background Reports”) regarding your background for review by a department of insurance in any state where Company pursues an Application during the term of your functioning as, or seeking to function as, an officer, member of the board of directors or other management representative (“Affiant”) of Company or of any business entities affiliated with Company (“Term of Affiliation”) for which a Background Report is required by a department of insurance reviewing any Application. Background Reports requested pursuant to your authorization below may contain information bearing on your character, general reputation, personal characteristics, mode of living and credit standing. The purpose of such Background Reports will be to evaluate the Application and your background as it pertains thereto. To the extent required by law, the Background Reports procured under this Disclosure and Authorization will be maintained as confidential.

You may request more information about the nature and scope of Background Reports produced by any consumer reporting agency (“CRA”) by submitting a written request to Company. You should submit any such written request for more information, to _____ [insert company’s designated person, position, or department, address and phone].

Attached for your information is a “Summary of Your Rights Under the Fair Credit Reporting Act.” You will be provided with a copy of any Background Report procured by Company if you check the box below.

- By checking this box, I request a copy of any Background Report from any CRA retained by Company, at no extra charge.

AUTHORIZATION: I am currently an Affiant of Company as defined above. I have read and understand the above Disclosure and by my signature below, I consent to the release of Background Reports to a department of insurance in any state where Company files or intends to file an Application, and to the Company, for purposes of investigating and reviewing such Application and my status as an Affiant. I authorize all third parties who are asked to provide information concerning me to cooperate fully by providing the requested information to CRA retained by Company for purposes of the foregoing Background Reports, except records that have been erased or expunged in accordance with law.

I understand that I may revoke this Authorization at any time by delivering a written revocation to Company and that Company will, in that event, forward such revocation promptly to any CRA that either prepared or is preparing Background Reports under this Disclosure and Authorization. This Authorization shall remain in full force and effect until the earlier of (i) the expiration of the Term of Affiliation, (ii) written revocation as described above, or (iii) twelve (12) months following the date of my signature below.

A true copy of this Disclosure and Authorization shall be valid and have the same force and effect as the signed original.

_____ (Printed Full Name and Residence Address)

_____ (Signature)

_____ (Date)

State of _____ County of _____

The foregoing instrument was acknowledged before me this _____ day of _____, 20____ By _____, who is personally known to me, or _____ who produced the following identification:

[SEAL]

_____ Notary Public

_____ Printed Notary Name

_____ My Commission Expires

DISCLOSURE AND AUTHORIZATION CONCERNING BACKGROUND REPORTS (California)

This Disclosure and Authorization is provided to you in connection with a pending application of _____ **[insert company name]** (“Company”) for licensure or a permit to organize (“Application”) with a department of insurance in one or more states within the United States. Company desires to procure a consumer or investigative consumer report (or both) (“Background Reports”) regarding your background for review by any department of insurance in such states where Company is currently pursuing an Application, because you are either functioning as, or are seeking to function as, an officer, member of the board of directors or other management representative (“Affiant”) of Company or of any business entities affiliated with Company (“Term of Affiliation”) for which a Background Report is required by a department of insurance reviewing any Application. Background Reports will be obtained through _____ **[insert name of CRA, address]** (“CRA”). Background Reports requested pursuant to your authorization below may contain information bearing on your character, general reputation, personal characteristics, mode of living and credit standing. The purpose of such Background Reports will be to evaluate the Application and your background as it pertains thereto. To the extent required by law, the Background Reports procured under this Disclosure and Authorization will be maintained as confidential.

You may request more information about the nature and scope of Background Reports produced by any consumer reporting agency (“CRA”) by submitting a written request to Company. You should submit any such written request for more information, to _____ **[insert company’s designated person, position, or department, address and phone]**.

Attached for your information is a “Summary of Your Rights Under the Fair Credit Reporting Act.” You will be provided with a copy of any Background Report procured by Company if you check the box below.

By checking this box, I request a copy of any Background Report from any CRA retained by Company, at no extra charge.

Under section 1786.22 of the California Civil Code, you may view the file maintained on you by the CRA listed above. You may also obtain a copy of this file, upon submitting proper identification and paying the costs of duplication services, by appearing at the CRA in person or by mail; you may also receive a summary of the file by telephone. The CRA is required to have personnel available to explain your file to you and the CRA must explain to you any coded information appearing in your file. If you appear in person, you may be accompanied by one other person of your choosing, provided that person furnishes proper identification.

AUTHORIZATION: I am currently an Affiant of Company as defined above. I have read and understand the above Disclosure and by my signature below, I consent to the release of Background Reports to a department of insurance in any state where Company files or intends to file an Application, and to the Company, for purposes of investigating and reviewing such Application and my status as an Affiant. I authorize all third parties who are asked to provide information concerning me to cooperate fully by providing the requested information to CRA retained by Company for purposes of the foregoing Background Reports, except records that have been erased or expunged in accordance with law.

I understand that I may revoke this Authorization at any time by delivering a written revocation to Company and that Company will, in that event, forward such revocation promptly to any CRA that either prepared or is preparing Background Reports under this Disclosure and Authorization. In no event, however, will this authorization remain in effect beyond twelve (12) months following the date of my signature below.

A true copy of this Disclosure and Authorization shall be valid and have the same force and effect as the signed original.

(Printed Full Name and Residence Address)

(Signature)

(Date)

State of _____ County of _____

The foregoing instrument was acknowledged before me this _____ day of _____, 20____ By _____, who is personally known to me, or _____ who produced the following identification:

[SEAL]

Notary Public

Printed Notary Name

My Commission Expires

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 virtue of 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.