Chapter 284-92 WAC
LIABILITY RISK RETENTION

WAC

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GENERAL

WAC 284-92-010 Definitions. The definitions in chapter 48.92 RCW apply in this regulation unless otherwise specified or unless the context clearly requires otherwise.

(1) "Domestic purchasing group" means a purchasing group formed under the laws of this state.

(2) "Domestic risk retention group" means a risk retention group formed under the laws of this state.

(3) "State" includes any state of the United States or the District of Columbia.

[Statutory Authority: RCW 48.02.060 and 48.92.140. 93-19-006 (Order R 93-10), § 284-92-010, filed 9/1/93, effective 10/2/93.]

WAC 284-92-020 Preexisting registrations. Registrations of purchasing groups effected before the date this regulation becomes effective are cancelled as of 11:59 p.m. on December 31, 1993. This date may be extended by the commissioner in a particular case or class of cases for good cause shown. After that date, or after the extended date, no purchasing group is registered unless registered after the effective date of this regulation.

[Statutory Authority: RCW 48.02.060 and 48.92.140. 93-19-006 (Order R 93-10), § 284-92-020, filed 9/1/93, effective 10/2/93.]

PURCHASING GROUPS

WAC 284-92-210 Registration required. No purchasing group may provide insurance, offer to provide insurance, or solicit or invite applications for insurance, as to Washington residents, or otherwise transact insurance in Washington or with respect to Washington residents, until it is registered.

[Statutory Authority: RCW 48.02.060 and 48.92.140. 93-19-006 (Order R 93-10), § 284-92-210, filed 9/1/93, effective 10/2/93.]

WAC 284-92-220 Registration effective upon notice by commissioner. No purchasing group is registered until it has been notified by the commissioner that it is registered. There is no "deemer."

[Statutory Authority: RCW 48.02.060 and 48.92.140. 93-19-006 (Order R 93-10), § 284-92-220, filed 9/1/93, effective 10/2/93.]

WAC 284-92-230 Appointment for service of process. (1) Except as provided by RCW 48.92.080, the request for registration must include an appointment of the commissioner as agent for service of process, as provided in chapter 48.92 RCW.

(2) The doing of business as a purchasing group in Washington, or as to Washington residents, in itself constitutes such an appointment of the commissioner. This automatic appointment is effective whether or not an explicit appointment was made or was valid or effective. This automatic appointment does not apply to a purchasing group not required so to appoint the commissioner under RCW 48.92.-080.

[Statutory Authority: RCW 48.02.060 and 48.92.140. 93-19-006 (Order R 93-10), § 284-92-230, filed 9/1/93, effective 10/2/93.]

WAC 284-92-240 Suspension and revocation of registration. The grounds for suspension or revocation mentioned in this section are in addition to those mentioned elsewhere in this regulation or in other applicable law or regulation. The registration of a purchasing group may be suspended or revoked:

(1) If any basis exists on which, if the purchasing group were an insurer, or insurance producer, its certificate of authority or its license could be suspended or revoked.

(2) If any insurer issuing policies for the purchasing group is subject, or would be subject if it were an authorized insurer, to suspension or revocation of its certificate of authority under RCW 48.05.140.

(3) If any insurer issuing policies for or to the purchasing group has any order of supervision, receivership, conservation, or liquidation, or any order similar to such an order, entered against it in any state or country by a court or insurance commissioner (or equivalent supervisory official).

(4) If the purchasing group solicits or accepts, or permits the solicitation or acceptance, of insurance applications by a person not licensed in Washington as an insurance producer or surplus line broker; or does or permits any other act, by a person not licensed as an insurance producer or surplus line broker, if that act may be performed only by one so licensed.

(5) If the purchasing group fails to reply fully, accurately, and in writing to an inquiry of the commissioner.

[Statutory Authority: RCW 48.02.060 (3)(a) and 48.17.010(5). 11-01-159 (Matter No. R 2010-09), § 284-92-240, filed 12/22/10, effective 1/22/11. Statutory Authority: RCW 48.02.060 and 48.92.140. 93-19-006 (Order R 93-10), § 284-92-240, filed 9/1/93, effective 10/2/93.]

WAC 284-92-250 Insurers and agents. (1) Insurance for a purchasing group may be provided only by one or more of the following: An insurer holding a certificate of authority to transact the relevant line of business in Washington; a risk retention group registered in Washington; or an insurer acting lawfully in accordance with chapter 48.15 RCW and the regulations thereunder (except as provided in chapter 48.92 RCW or this regulation). Insurance for a domestic purchasing group may be provided only by an insurer holding a Washington certificate of authority to transact that type of insurance.

(2) Chapters 48.15 and 48.17 RCW require that certain acts and functions be performed only by a person licensed thereunder. Those requirements apply equally to transactions involving purchasing groups, except as provided in RCW 48.92.120(3) and WAC 284-15-100.

[Statutory Authority: RCW 48.02.060 and 48.92.140. 93-19-006 (Order R 93-10), § 284-92-250, filed 9/1/93, effective 10/2/93.]

WAC 284-92-260 Forms. (1) The requirements for filing and approval of policy rates and forms apply to forms issued to or in connection with purchasing groups to the same extent as they apply in other situations.

(2) Notwithstanding subsection (1) of this section, forms that have been properly issued in Washington before the effective date of this regulation may continue to be issued or renewed until February 1, 1994, or such later date as the commissioner approves. After that date, those forms are subject to subsection (1) of this section.

[Statutory Authority: RCW 48.02.060 and 48.92.140. 93-19-006 (Order R 93-10), § 284-92-260, filed 9/1/93, effective 10/2/93.]

WAC 284-92-270 Disclosure that there is no guaranty association coverage and that some laws may not apply. (1) Under RCW 48.92.050 (3) and (4), in some situations there is no coverage by the Washington Insurance Guaranty Association for some insurance obtained by a purchasing group. Under RCW 48.92.090(2), the purchasing group must inform its members of the lack of that protection and that the insurer or risk retention group may not be subject to all insurance laws and regulations of this state. In any such situation, the disclosure must be in writing. It must be given when the application is taken. The disclosure must be reasonably calculated to make the individual aware of the lack of guaranty coverage and the inapplicability of some laws and regulations. The lack of coverage and that inapplicability may not be presented as an advantage or as a technical oddity, nor may it be downplayed by references to the solvency of the insurer or otherwise.

(2) If the insurance is to be issued by a risk retention group, compliance with WAC 284-92-700 and RCW 48.92.040(7) is sufficient compliance with this rule and with RCW 48.92.090(2).

(3) The insurer, for a domestic purchasing group on risks located in Washington, must be an insurer holding a Washington certificate of authority for that type of insurance, or a registered risk retention group.

[Statutory Authority: RCW 48.02.060 and 48.92.140. 93-19-006 (Order R 93-10), § 284-92-270, filed 9/1/93, effective 10/2/93.]

WAC 284-92-280 Notice of changes. If any information included in the request for registration, or otherwise provided to the commissioner, changes or is found to have been incorrect when submitted, the commissioner must be notified within ten days of the change or the discovery of the inaccuracy.

[Statutory Authority: RCW 48.02.060 and 48.92.140. 93-19-006 (Order R 93-10), § 284-92-280, filed 9/1/93, effective 10/2/93.]

WAC 284-92-290 Domestic purchasing groups. (1) No domestic purchasing group will be registered unless the purchasing group has and maintains in Washington the records applicable to its business, including records as to insured persons, financial matters, and the like. There must also be resident in Washington an officer of the purchasing group who is able and qualified to present, interpret, and explain those records to the commissioner or the commissioner's representative on demand.

(2) Each domestic purchasing group shall submit an annual report to the commissioner. That report shall state the number of policies, amount of insurance coverage, and amount of premium provided, the number and types of insured persons, and such other matters as the commissioner shall direct. The report shall be submitted for each calendar year, and shall be submitted no later than January 31 of the following year unless the commissioner allows a later filing. Any other information requested by the commissioner shall be promptly provided.

[Statutory Authority: RCW 48.02.060 and 48.92.140. 93-19-006 (Order R 93-10), § 284-92-290, filed 9/1/93, effective 10/2/93.]

RISK RETENTION GROUPS

WAC 284-92-410 Registration required. No risk retention group may provide insurance, offer to provide insurance, or solicit or invite applications for insurance, as to Washington residents, or otherwise transact insurance in Washington or with respect to Washington residents, until it is registered.

[Statutory Authority: RCW 48.02.060 and 48.92.140. 93-19-006 (Order R 93-10), § 284-92-410, filed 9/1/93, effective 10/2/93.]

WAC 284-92-420 Registration effective upon notice by commissioner. No risk retention group is registered until it has been notified by the Commissioner that it is registered. There is no "deemer."

[Statutory Authority: RCW 48.02.060 and 48.92.140. 93-19-006 (Order R 93-10), § 284-92-420, filed 9/1/93, effective 10/2/93.]

WAC 284-92-430 Registration—Appointment for service of process. (1) The request for registration must include an appointment of the commissioner as agent for service of process, as provided in chapter 48.92 RCW.

(2) The doing of business as a risk retention group in Washington, or as to Washington residents, in itself constitutes such an appointment of the commissioner. This automatic appointment operates in all cases, whether or not an explicit appointment was made or was valid or effective.

[Statutory Authority: RCW 48.02.060 and 48.92.140. 93-19-006 (Order R 93-10), § 284-92-430, filed 9/1/93, effective 10/2/93.]

WAC 284-92-440 Suspension and revocation of registration. The grounds for suspension or revocation mentioned in this section are in addition to those mentioned elsewhere in this regulation or in other applicable law or regulation. In addition, a domestic risk retention group is subject to the same sanctions, on the same grounds, as a domestic insurer, including revocation of its certificate of authority. The registration of a risk retention group may be suspended or revoked if:

(1) Any basis exists on which, if the risk retention group were an authorized insurer, its certificate of authority could be suspended or revoked, under chapter 48.05 RCW or otherwise.

(2) If the risk retention group has any order of supervision, receivership, conservation, or liquidation, or any order similar to such an order, entered against it in any state or country by a court or insurance commissioner (or equivalent supervisory official); or any such court or official finds that the risk retention group is in a hazardous financial or financially impaired condition.

(3) If the risk retention group solicits or accepts, or permits the solicitation or acceptance, of insurance applications by anyone not appropriately licensed as an insurance producer or surplus line broker; or does or permits any other act by a person not appropriately licensed as an insurance producer or surplus line broker, if that act may be performed only by one so licensed.

(4) An order is entered by a court enjoining the risk retention group from soliciting or selling insurance, or operating.

(5) If the risk retention group fails to respond fully, accurately, and in writing to an inquiry of the commissioner.

[Statutory Authority: RCW 48.02.060 (3)(a) and 48.17.010(5). 11-01-159 (Matter No. R 2010-09), § 284-92-440, filed 12/22/10, effective 1/22/11. Statutory Authority: RCW 48.02.060 and 48.92.140. 93-19-006 (Order R 93-10), § 284-92-440, filed 9/1/93, effective 10/2/93.]

WAC 284-92-450 Insurance producers. Only appropriately licensed insurance producers or surplus line brokers may solicit or accept applications for insurance to be issued by a risk retention group.

[Statutory Authority: RCW 48.02.060 (3)(a) and 48.17.010(5). 11-01-159 (Matter No. R 2010-09), § 284-92-450, filed 12/22/10, effective 1/22/11. Statutory Authority: RCW 48.02.060 and 48.92.140. 93-19-006 (Order R 93-10), § 284-92-450, filed 9/1/93, effective 10/2/93.]

WAC 284-92-460 Tax. The premium tax under chapter 48.14 RCW applies to insurance issued by risk retention groups. Failure to pay the tax when due is grounds for suspension or revocation of the registration of the risk retention group, in addition to other fines, penalties, interest, and other consequences provided by law or regulation.

[Statutory Authority: RCW 48.02.060 and 48.92.140. 93-19-006 (Order R 93-10), § 284-92-460, filed 9/1/93, effective 10/2/93.]

WAC 284-92-470 Notice of changes. If any information included in the request for registration, or otherwise provided to the commissioner, changes or is found to have been incorrect when submitted, the commissioner must be notified within ten days of the change or the discovery of the inaccuracy.

[Statutory Authority: RCW 48.02.060 and 48.92.140. 93-19-006 (Order R 93-10), § 284-92-470, filed 9/1/93, effective 10/2/93.]

WAC 284-92-480 Reports. Each registered risk retention group shall submit to the commissioner copies of any annual statements or reports, or other reports on operations and financial results or condition, that are filed by it with the insurance regulatory official of its state of domicile or with the National Association of Insurance Commissioners. Quarterly and other reports are not required and should not be submitted unless requested by the commissioner. See WAC 284-92-710 as to reports required of domestic risk retention groups. Reports shall be on disk as well as in paper form. These reports are in addition to those required by RCW 48.92.030(2).

[Statutory Authority: RCW 48.02.060 and 48.92.140. 93-19-006 (Order R 93-10), § 284-92-480, filed 9/1/93, effective 10/2/93.]

WAC 284-92-490 Required disclosure "notice." The "notice" requirement of RCW 48.92.040(7) is to be applied as follows:

(1) On an application form, the notice must appear on the first page. On a policy, the notice must appear both on the first page and on the declaration page; if the declaration page is the first page, one appearance of the notice suffices.

(2) The notice or a similar disclosure may be repeated elsewhere.

(3) The disclosure and the information in it may not be presented as an advantage or as a technical oddity, nor downplayed by references to the solvency of the insurer or otherwise.

[Statutory Authority: RCW 48.02.060 and 48.92.140. 93-19-006 (Order R 93-10), § 284-92-490, filed 9/1/93, effective 10/2/93.]

WAC 284-92-500 Domestic risk retention groups—Formation. A domestic risk retention group must be formed in compliance with chapter 48.06 RCW. It must meet the capital and surplus requirements applicable under RCW 48.05.340 to insurers transacting the kind or kinds of insurance that the domestic risk retention group proposes to transact. It must comply with the other requirements for domestic insurers and with chapter 48.92 RCW.

[Statutory Authority: RCW 48.02.060 and 48.92.140. 93-19-006 (Order R 93-10), § 284-92-500, filed 9/1/93, effective 10/2/93.]

WAC 284-92-510 Domestic risk retention groups—Reports. Domestic risk retention groups shall file the reports required by RCW 48.92.030. In addition, domestic risk retention groups shall file quarterly financial reports and any other statements or reports required by the commissioner for such groups in general or for any one or more such groups. The commissioner may require any reports from any one or more

risk retention groups, at any time and from time to time. Reports shall be both on paper and on diskette.

[Statutory Authority: RCW 48.02.060 and 48.92.140. 93-19-006 (Order R 93-10), § 284-92-510, filed 9/1/93, effective 10/2/93.]