

IMPORTANT NOTICE!

RE: NOTICE! - CHANGE IN THE HRS §431K-8(a) – RESTRICTIONS ON INSURANCE PURCHASED BY PURCHASING GROUPS.

This notice was sent out to ALL REGISTERED AND PENDING PURCHASING GROUPS.

Effective July 1, 2006, the Hawaii State Legislature passed a revision to Section §431K-8(a) of the Hawaii Revised Statutes to read as follows:

(a) A purchasing group located in this State may not purchase insurance from:

- (1) A risk retention group that is not chartered in this State; or**
- (2) An insurer not authorized in this State,**

unless the purchase is made through a licensed producer acting pursuant to the surplus lines laws set forth in article 8 of chapter 431.

Therefore, this will affect ALL REGISTERED OR PENDING REGISTRATION PURCHASING GROUPS that plan to purchase insurance from a nonadmitted insurer.

In effect, Purchasing Groups must now comply with Hawaii's Surplus Lines statutes. See the statutes below. Please note that all Purchasing Groups not complying with HRS §431K-8(a) as well as §431K-11 on the next policy procurement or renewal, will be placed on **"INACTIVE STATUS."**

Previously to amendment to the law indicated compliance with the Surplus Lines statutes of the licensed producer's state of domicile.

§431K-8 Restrictions on insurance purchased by purchasing groups. (a) A purchasing group located in this State may not purchase insurance from: (1) A risk retention group that is not chartered in this State; or (2) An insurer not authorized in this State, unless the purchase is made through a licensed producer acting pursuant to the surplus lines laws set forth in article 8 of chapter 431.

(b) The terms of any liability insurance policy obtained by a purchasing group shall not provide nor be construed to provide insurance coverage prohibited by chapter 431 or declared unlawful by the highest court of this State.

(c) A purchasing group which obtains liability insurance from an insurer not authorized 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 retention group or insurer may not be subject to any insurance laws of this State.

(d) No purchasing group may purchase insurance providing for a deductible or self-insured retention unless the deductible or self-insured retention shall be the sole responsibility of each individual member of the purchasing group. [L 1987, c 180, pt of §1; am L 1989, c 272, §7; am L 1998, c 76, §1; am L 2002, c 155, §100; L 2006, c154, §42]

§431K-11 Duty of producer to obtain license and to keep records. (a) Any person acting or offering to act as a producer for a risk retention group or purchasing group which solicits members, sells insurance coverage, purchases coverage for its members located within the State, or otherwise does business in this State, before commencing any such activity shall obtain a license from the commissioner.

(b) Whenever a licensed insurance producer or surplus lines producer places business pursuant to subsection (a), the producer shall keep a complete and separate record of each policy procured from a risk retention group and for a purchasing group. The record shall be open to

examination by the commissioner. For each policy and each kind of insurance provided in the policy, the record shall include the following:

- (1) The limit of liability and peril insured;
- (2) A brief description of the property insured and its location;
- (3) The effective date of the contract and its terms;
- (4) The time period covered by the contract;
- (5) The gross premium charged;
- (6) Any return premiums paid;
- (7) The name and address of the risk retention group which issued the policy;
- (8) The name and address of the insured; and
- (9) Any additional information required by the commissioner. [L 1987, c 180, pt of §1; am L 1989, c 272, §8; am L 2001, c 216, §26]