

a proceeding after notice of a finding of financial impairment under subparagraph (G).

(c) Application of exemptions

The exemptions specified in subsection (a) of this section apply to—

- (1) pollution liability insurance coverage provided by a risk retention group for—
 - (A) such group; or
 - (B) any person who is a member of such group;
- (2) the sale of pollution liability insurance coverage for a risk retention group; and
- (3) the provision of insurance related services or management services for a risk retention group or any member of such a group.

(d) Agents or brokers

A State may require that a person acting, or offering to act, as an agent or broker for a risk retention group obtain a license from that State, except that a State may not impose any qualification or requirement which discriminates against a nonresident agent or broker.

(Pub. L. 96-510, title IV, §403, as added Pub. L. 99-499, title II, §210(a), formerly §210, Oct. 17, 1986, 100 Stat. 1717; renumbered §210(a), Pub. L. 99-563, §11(c)(1), Oct. 27, 1986, 100 Stat. 3177.)

§ 9674. Purchasing groups

(a) Exemption

Except as provided in this section, a purchasing group is exempt from the following:

- (1) A State law, rule, or order which prohibits the establishment of a purchasing group.
- (2) A State law, rule, or order which makes it unlawful for an insurer to provide or offer to provide insurance on a basis providing, to a purchasing group or its member, advantages, based on their loss and expense experience, not afforded to other persons with respect to rates, policy forms, coverages, or other matters.
- (3) A State law, rule, or order which prohibits a purchasing group or its members from purchasing insurance on the group basis described in paragraph (2) of this subsection.
- (4) A State law, rule, or order which prohibits 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.
- (5) A State law, rule, or order which requires that a purchasing group must have a minimum number of members, common ownership or affiliation, or a certain legal form.
- (6) A State law, rule, or order which requires that a certain percentage of a purchasing group must obtain insurance on a group basis.
- (7) A State law, rule, or order which requires that any insurance policy issued to a purchasing group or any members of the group be countersigned by an insurance agent or broker residing in that State.
- (8) A State law, rule, or order which otherwise discriminate¹ against a purchasing group or any of its members.

¹ So in original. Probably should be "discriminates".

(b) Application of exemptions

The exemptions specified in subsection (a) of this section apply to the following:

- (1) Pollution liability insurance, and comprehensive general liability insurance which includes this coverage, provided to—
 - (A) a purchasing group; or
 - (B) any person who is a member of a purchasing group.
- (2) The sale of any one of the following to a purchasing group or a member of the group:
 - (A) Pollution liability insurance and comprehensive general liability coverage.
 - (B) Insurance related services.
 - (C) Management services.

(c) Agents or brokers

A State may require that a person acting, or offering to act, as an agent or broker for a purchasing group obtain a license from that State, except that a State may not impose any qualification or requirement which discriminates against a nonresident agent or broker.

(Pub. L. 96-510, title IV, §404, as added Pub. L. 99-499, title II, §210(a), formerly §210, Oct. 17, 1986, 100 Stat. 1718; renumbered §210(a), Pub. L. 99-563, §11(c)(1), Oct. 27, 1986, 100 Stat. 3177.)

§ 9675. Applicability of securities laws

(a) Ownership interests

The ownership interests of members of a risk retention group shall be considered to be—

- (1) exempted securities for purposes of section 77e of title 15 and for purposes of section 78l of title 15; and
- (2) securities for purposes of the provisions of section 77q of title 15 and the provisions of section 78j of title 15.

(b) Investment Company Act

A risk retention group shall not be considered to be an investment company for purposes of the Investment Company Act of 1940 (15 U.S.C. 80a-1 et seq.).

(c) Blue sky law

The ownership interests of members in a risk retention group shall not be considered securities for purposes of any State blue sky law.

(Pub. L. 96-510, title IV, §405, as added Pub. L. 99-499, title II, §210(a), formerly §210, Oct. 17, 1986, 100 Stat. 1719; renumbered §210(a), Pub. L. 99-563, §11(c)(1), Oct. 27, 1986, 100 Stat. 3177.)

REFERENCES IN TEXT

The Investment Company Act of 1940, referred to in subsec. (b), is title I of act Aug. 22, 1940, ch. 686, 54 Stat. 789, as amended, which is classified generally to subchapter I (§80a-1 et seq.) of chapter 2D of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see section 80a-51 of Title 15 and Tables.

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