



April 26, 1993

BULLETIN #577

**RE: APPLICATION OF AB2608 AND SB~1145 TO TRANSACTIONS
INVOLVING PURCHASING GROUPS**

Attached is a letter from Mr. Dennis Ward, Chief, Enforcement Division of the California Department of Insurance clarifying the applicability of SB1145 and AB2608 to Purchasing Groups operating under the Risk Retention Act.

If you have questions, please address them to:

Mr. Dennis Ward
Chief, Enforcement Division
Department of Insurance
45 Fremont Street 24th Floor
San Francisco, CA 94105

James S. Pugh
Assistant Manager

JSP/imb

Enclosure

State of California
THE CALIFORNIA DEPARTMENT OF INSURANCE
45 Fremont Street, 24th Floor
San Francisco, CA 94105

March 29, 1993

Mr. Arthur D. Freeman, Jr.

The Surplus Line Association of California
388 Market Street
San Francisco, CA 94100

Dear Mr. Freeman:

The purpose of this letter is to clarify the application of AB 2608 and SB 1145 to transactions involving purchasing groups operating under the Risk Retention Act.

With respect to the disclosure requirements of SB 1145, this Department believes that each California member of the purchasing group should receive the disclosure statements required pursuant to Section 1764.1(a) and 1764.1(b). Further, since the insurance purchased by a purchasing group is commercial insurance coverage, the limited exemption provided in Section 1764.1(d) would apply to each member of the purchasing group. Also, to the extent a member of the purchasing group qualifies as an "industrial insured", then the provisions of Section 1764.1(c) would apply to that member.

The provisions of AB 2608 apply to the California members of any purchasing group doing business in the State of California. Thus, any purchasing group which is buying insurance on a group basis for its California members must purchase the insurance from an insurer admitted in California unless it is determined, after a diligent search of the admitted market, that the coverage is not available; in which case the coverage may be placed through a licensed surplus line broker with a nonadmitted insurer in accordance with all other laws and regulations governing the placement of surplus line insurance. Any surplus line broker participating in such a placement is responsible to ensure that a diligent search of the admitted market is conducted. When placing coverage for California members of a purchasing group, the surplus line broker is required to file the SL-1 and SL-2 forms. The SL-1 should include a copy of the declaration page of the master policy and copies of all certificates of insurance issued to the California members of the purchasing group. The SL-2 should reflect the efforts made to procure coverage with admitted carriers for the California members of the purchasing group and the results of those efforts. Only one SL-1 and SL-2 are required for each purchasing group. Any new California members added to the purchasing group's coverage during the policy term should be reported to your Association as an endorsement; and, the filing should include a copy of the certificate issued to the new member of the purchasing group. At renewal, another search of the admitted market must be conducted. If coverage is renewed with the nonadmitted insurer, then the surplus line broker must file new SL-1 and SL-2 forms.

If the purchasing group procures individual policies for its members, then each placement made on behalf of a California member of the group must comply with AB 2608. In other words, a separate SL-1 and SL-2 must be completed and filed for each California member whose coverage is placed with a nonadmitted insurer.

The provisions of AB 2608, as well as all other California surplus line laws and regulations, apply to any purchasing group which has members residing in California. If a purchasing group domiciled in another state has purchased insurance from an insurer not licensed in California, the purchasing group must still attempt to place coverage for its California members with an insurer licensed in California before seeking to place the coverage with a nonadmitted insurer.

We would appreciate your assistance in sending a bulletin to your members concerning the application of California surplus lines laws and regulations to placements made on behalf of purchasing groups. If you or your members have any questions regarding this matter, please direct them to the attention of the undersigned.

Very truly yours,
DENNIS C. WARD
Chief, Enforcement Division
DCW:gg