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State Tracker: What States Allow “Working Owners” to Participate In a Fully-Insured “Large Group” Association Health Plan?*

- Under Federal law, if a “group” of employers sponsoring a health plan includes 51 or more individuals, the health plan will be regulated like a large employer health plan (known as a “large group” plan). A “large group” plan tends to have a lower cost – relative to an “individual” market policy – because the plan covers more participants. This larger “risk pool” creates “group purchasing” power, along with a larger group over which health risks can be spread.
- On June 21, 2018, the Department of Labor (DOL) issued final regulations allowing self-employed individuals that meet certain wage and hour requirements (referred to as “working owners”) to participate in a health plan sponsored by a “group” of employers. This type of health plan is known as an “Association Health Plan” (AHP).
- The following table indicates (1) whether a particular State follows the final DOL regulations, thus allowing “working owners” to participate in a fully-insured AHP and (2) whether the State treats a fully-insured AHP that covers “working owners” as a “large group” plan.
- If your State does *not* allow “working owners” to participate in a fully-insured AHP and/or does *not* treat a fully-insured AHP that covers “working owners” as a “large group” plan, we would encourage you to engage with your State Legislators, your Governor, and your State’s Department of Insurance. Below we include some questions you should consider asking your State officials.
- Please note, the final DOL regulations are currently tied up in litigation, where a District Court has recently declared that the regulations are invalid. The Court ruling has been appealed by the Trump Administration. However, the timing on whether the District Court ruling will be upheld or overturned at the Circuit Court of Appeals or Supreme Court level is unknown. In the meantime, we recommend that States codify the final DOL regulations into their State law.

* This chart was prepared by CC Law & Policy at the direction of National Association of REALTORS®. This chart was prepared for information purposes and may not be relied up as specific legal advice, nor shall the information be construed as legal advice or legal opinions on specific facts. If you are seeking further counsel on Association Health Plans (AHPs) – legal or otherwise – please contact Chris Condeluci, founder of CC Law & Policy at chris@cclawandpolicy.com, or your local legal counsel. You may also contact your State’s Department of Insurance for additional information on how your State is treating AHPs.

STATE	GUIDANCE	HOW DOES THE STATE TREAT “WORKING OWNERS” AND AHPs?
<p>Alabama</p> <p>YES to “working owners”</p> <p>YES to “large group”</p>	<p>Insurance Bulletin 2018-05</p>	<p>Final DOL Regulations: Alabama conforms to the final DOL regulations, which means Alabama allows “working owners” to participate in a fully-insured AHP. The Alabama Attorney General submitted a comment letter supporting the final DOL regulations.</p> <p>“Large Group” Plan Status: Alabama allows “working owners” to participate in a fully-insured “large group” AHP. However, due to the District Court ruling, insurance carriers in Alabama have indicated that they will not permit new “working owners” to enroll in a fully-insured “large group” AHP for the 2020 plan year. In addition, existing “working owners” participating in an AHP can only re-enroll in an “individual” market plan for the 2020 plan year.</p>
<p>Alaska</p> <p>YES to “working owners”</p> <p>YES to “large group”</p>	<p>Insurance Bulletin B-19-02</p>	<p>Final DOL Regulations: Alaska conforms to the final DOL regulations, which means Alaska allows “working owners” to participate in a fully-insured AHP.</p> <p>“Large Group” Plan Status: Alaska allows “working owners” to participate in a fully-insured “large group” AHP.</p>
<p>Arizona</p>	<p>No specific guidance has been issued in response to the release of the final DOL regulations</p>	<p>Final DOL Regulations: Arizona has not issued guidance allowing “working owners” to participate in a fully-insured AHP. However, the Arizona Legislature is considering legislation that would conform to the final DOL regulations.</p> <p>“Large Group” Plan Status: It is unclear whether Arizona will allow “working owners” to participate in a fully-insured AHP.</p> <p>Questions to Ask State Legislators and Insurance Department Officials:</p> <ul style="list-style-type: none"> • Will Arizona conform to the final DOL regulations with or without the enactment of conforming legislation? • How can we help get the conforming legislation enacted?

		<ul style="list-style-type: none"> • Will Arizona treat a fully-insured AHP that covers “working owners” as a “large group” plan with or without the conforming legislation?
Arkansas	No specific guidance has been issued in response to the release of the final DOL regulations	<p>Final DOL Regulations: Arkansas has not issued guidance allowing “working owners” to participate in a fully-insured AHP. However, the Arkansas Legislature is considering legislation that would conform to the final DOL regulations, and the Attorney General submitted a comment letter supporting the final DOL regulations.</p> <p>“Large Group” Plan Status: It is unclear whether Arkansas will allow “working owners” to participate in a fully-insured “large group” AHP.</p> <p>Questions to Ask State Legislators and Insurance Department Officials:</p> <ul style="list-style-type: none"> • Will Arkansas conform to the final DOL regulations with or without the enactment of conforming legislation? • How can we help get the conforming legislation enacted? • Will Arkansas treat a fully-insured AHP that covers “working owners” as a “large group” plan with or without the conforming legislation?
California NO to “working owners” NO to “large group”	California has not issued any guidance relating to the final DOL regulations, however, California enacted a law prohibiting “working owners” from participating in an AHP	<p>Final DOL Regulations: California has enacted legislation specifically prohibiting “working owners” from participating in AHPs, and thus, California is not following this aspect of the final DOL regulations.</p> <p>“Large Group” Plan Status: Because California enacted legislation specifically prohibiting “working owners” from participating in an AHP, “working owners” cannot participate in a fully-insured “large group” AHP.</p>

<p>Party to Lawsuit to Overturn DOL Rule</p>		<p>Questions to Ask State Legislators and Insurance Department Officials:</p> <ul style="list-style-type: none"> • If the final DOL regulations are upheld at the Circuit Court or Supreme Court level, an argument can be made that California’s State law prohibiting “working owners” from participating in an AHP is preempted by ERISA. Will the Legislature repeal its State law?
<p>Colorado</p>	<p>No specific guidance has been issued in response to the release of the final DOL regulations</p>	<p>Final DOL Regulations: Colorado has not issued guidance allowing “working owners” to participate in a fully-insured AHP. However, Colorado’s Insurance Commissioner submitted a comment letter raising substantial concerns about the final DOL regulations, while Colorado’s Attorney General submitted a comment letter supporting the final DOL regulations.</p> <p>“Large Group” Plan Status: The Colorado Insurance Department has indicated that certain AHPs are treated as “large group” plans, but it is unclear whether the State follows the final DOL regulations or whether “working owners” can participate in a fully-insured “large group” AHP.</p> <p>Questions to Ask State Legislators and Insurance Department Officials:</p> <ul style="list-style-type: none"> • If the final DOL regulations are upheld at the Circuit Court or Supreme Court level, will Colorado conform to the final DOL regulations? • Will the Colorado Legislature consider legislation conforming to the final DOL regulations? How can we help? • Will Colorado treat a fully-insured AHP that covers “working owners” as a “large group” plan with or without the conforming legislation?
<p>Connecticut</p> <p>NO to “working owners”</p>	<p>Insurance Bulletin HC-122</p>	<p>Final DOL Regulations: Connecticut announced that the State is NOT conforming to the final DOL regulations, which means “working owners” are NOT permitted to participate in a fully-insured AHP.</p>

<p>NO to “large group”</p>		<p>“Large Group” Plan Status: Connecticut has an existing State law that requires all small employers and individuals participating in an AHP to remain subject to the “small group” and “individual” market rules. As a result, Connecticut does NOT treat a fully-insured AHP as a “large group” plan.</p> <p>Questions to Ask State Legislators and Insurance Department Officials:</p> <ul style="list-style-type: none"> • If the final DOL regulations are upheld at the Circuit Court or Supreme Court level, an argument can be made that Connecticut’s State law is preempted by ERISA. Will the Legislature repeal its State law?
<p>Delaware</p> <p>It appears NO to “working owners”</p> <p>It appears NO to “large group”</p> <p>Party to Lawsuit to Overturn DOL Rule</p>	<p>Delaware issued regulations in response to the final DOL regulations. 18 Del. Admin. Code 1405</p>	<p>Final DOL Regulations: Delaware has issued emergency regulations explaining how existing AHPs may operate in the State. However, no guidance has been issued allowing “working owners” to participate in an AHP.</p> <p>“Large Group” Plan Status: Delaware has an existing State law that requires all small employers participating in an AHP to remain subject to the “small group” market rules. Although the State law does NOT indicate that “individuals” participating in an AHP must remain subject to the “individual” market rules, it is reasonable to assume that “working owners” are NOT permitted to participate in a fully insured ”large group” AHP.</p> <p>Questions to Ask State Legislators and Insurance Department Officials:</p> <ul style="list-style-type: none"> • If the final DOL regulations are upheld at the Circuit Court or Supreme Court level, will Delaware enact a State law conforming to the final DOL regulations? • How can we help get the conforming legislation enacted? • Will Delaware treat a fully-insured AHP sponsored by a “bona fide group” that covers “working owners” as a “large group” plan with or without the conforming legislation?

<p>DC</p> <p>NO to “working owners”</p> <p>NO to “large group”</p> <p>Party to Lawsuit to Overturn DOL Rule</p>	<p>DC has not issued any guidance relating to the final DOL regulations, however, the DC Council enacted a law prohibiting small employers and “working owners” from participating in an AHP</p>	<p>Final DOL Regulations: DC has enacted legislation prohibiting “working owners” from participating in an AHP.</p> <p>“Large Group” Plan Status: DC enacted a law that requires all small employers and individuals participating in an AHP to remain subject to the “small group” and “individual” market rules. As a result, DC does NOT treat a fully-insured AHP as a “large group” plan.</p> <p>Questions to Ask State Legislators and Insurance Department Officials:</p> <ul style="list-style-type: none"> • If the final DOL regulations are upheld at the Circuit Court or Supreme Court level, an argument can be made that DC’s law is preempted by ERISA. Will the DC Council repeal its State law?
<p>Florida</p>	<p>No specific guidance has been issued in response to the release of the final DOL regulations</p>	<p>Final DOL Regulations: Based on conversations with organizations located in the State of Florida, the Florida Department of Insurance approved the formation of an AHP that covered “working owners.” However, due to the District Court ruling invalidating the final DOL regulations, the insurance carrier under-writing this AHP discontinued the plan. It is unclear whether the Florida Department of Insurance’s position has changed. The Florida Legislature is considering legislation that would conform to the final DOL regulations, and the Florida Attorney General submitted a comment letter supporting the final DOL regulations.</p> <p>“Large Group” Plan Status: Until the District Court ruling invalidating the final DOL regulations was issued on March 28th, the Florida Department of Insurance treated a fully-insured AHP that covered “working owners” as a “large group” plan. Due to the Court ruling, however, it is unclear whether the Florida Department of Insurance’s position has changed.</p> <p>Questions to Ask State Legislators and Insurance Department Officials:</p> <ul style="list-style-type: none"> • Will Florida conform to the final DOL regulations with or without the enactment of conforming legislation? • How can we help get the conforming legislation enacted?

		<ul style="list-style-type: none"> Will Florida treat a fully-insured AHP that covers “working owners” as a “large group” plan with or without the conforming legislation?
Georgia	No specific guidance has been issued in response to the release of the final DOL regulations	<p>Final DOL Regulations: Georgia has not issued any formal guidance indicating that the State conforms to the final DOL regulations, nor is Georgia considering legislation that would conform to the DOL regulations. However, Georgia’s Attorney General (AG) submitted a comment letter supporting the final DOL regulations and joined an Amicus Brief prepared by 3 other AGs (Louisiana, Nebraska, and Texas) defending the final DOL regulations against the legal challenge to invalidate the rules.</p> <p>“Large Group” Plan Status: It is unclear whether Georgia allows “working owners” to participate in a fully-insured “large group” AHP.</p> <p>Questions to Ask State Legislators and Insurance Department Officials:</p> <ul style="list-style-type: none"> Will Georgia conform to the final DOL regulations with or without the enactment of conforming legislation? How can we help get the conforming legislation enacted? Will Georgia treat a fully-insured AHP that covers “working owners” as a “large group” plan with or without the conforming legislation?
Hawaii	Hawaii has not issued any guidance relating to the final DOL regulations, however, Hawaii enacted a law allowing self-insured AHPs to form in accordance with the	<p>Final DOL Regulations: Hawaii enacted legislation in 2018 that conforms to the final DOL regulations for some AHPs (i.e., those AHPs that are self-insured, not fully-insured). It is unclear whether Hawaii will allow “working owners” to participate in a fully-insured AHP.</p> <p>“Large Group” Plan Status: It is unclear whether Hawaii allows “working owners” to participate in a fully-insured “large group” AHP.</p> <p>Questions to Ask State Legislators and Insurance Department Officials:</p>

	final DOL regulations	<ul style="list-style-type: none"> • Will Hawaii conform to the final DOL regulations with or without the enactment of conforming legislation? • How can we help get the conforming legislation enacted? • Will Hawaii treat a fully-insured AHP that covers “working owners” as a “large group” plan with or without the conforming legislation?
Idaho	The Insurance Department issues FAQs on the Insurance Department’s web site	<p>Final DOL Regulations: Idaho appears to conform to some of the final DOL regulations based on an FAQ released by the Insurance Department. There is also no guidance specifically prohibiting “working owners” from participating in a fully-insured AHP.</p> <p>“Large Group” Plan Status: It is unclear whether Idaho allows “working owners” to participate in a fully-insured “large group” AHP. Idaho State law requires all small employers participating in an AHP to remain subject to the “small group” market rules, but there appears to be no provision requiring individuals participating in an AHP to remain subject to the “individual” market rules.</p> <p>Questions to Ask State Legislators and Insurance Department Officials:</p> <ul style="list-style-type: none"> • If the District Court ruling goes into effect, will Idaho continue to conform to the final DOL regulations? • How can we help get conforming legislation enacted? • How can we help get legislation enacted that specifically indicates that “working owners” can participate in a fully-insured “large group” AHP?
Illinois YES to “working owners”	Memorandum from Insurance Director, dated Sept. 19, 2018	<p>Final DOL Regulations: Illinois conforms to the final DOL regulations, which means Illinois allows “working owners” to participate in a fully-insured AHP.</p> <p>“Large Group” Plan Status: Illinois allows “working owners” to participate in a fully-insured “large group” AHP.</p>

<p>YES to “large group”</p>		
<p>Indiana</p> <p>It appears YES to “working owners”</p> <p>It appears YES to “large group”</p>	<p>Insurance Bulletin 245</p>	<p>Final DOL Regulations: Indiana’s Insurance Bulletin suggests that the State conforms to the final DOL regulations, which means it appears that Indiana allows “working owners” to participate in a fully-insured AHP. The Indiana Attorney General submitted a comment letter supporting the final DOL regulations.</p> <p>“Large Group” Plan Status: It appears that Indiana allows “working owners” to participate in a fully-insured “large group” AHP.</p>
<p>Iowa</p> <p>YES to “working owners”</p> <p>YES to “large group”</p>	<p>Iowa enacted legislation conforming to the final DOL regulations</p> <p>Iowa issued regulations in response to the final DOL regulations. 191-77.1 through 77.3(507A) and 191-77.4(507A) through 77.6(507A)</p>	<p>Final DOL Regulations: Iowa enacted legislation and issued regulations conforming to the final DOL regulations, which means Iowa allows “working owners” to participate in a fully-insured AHP.</p> <p>“Large Group” Plan Status: Iowa allows “working owners” to participate in a fully-insured “large group” AHP.</p>
<p>Kansas</p> <p>It appears YES to “working owners”</p>	<p>Kansas enacted legislation that conforms to the final DOL regulations</p>	<p>Final DOL Regulations: The Kansas Attorney General submitted a comment letter supporting the final DOL regulations. In addition, Kansas enacted legislation conforming to the final DOL regulations, but the legislation does not specifically address “working owners.” The Kansas Insurance Department has indicated that “working owners” are permitted to participate in a fully-insured AHP for the time being. However, if the District Court ruling is upheld at the Circuit Court and Supreme</p>

<p>YES to “large group”</p>		<p>Court level, the Kansas Insurance Department has indicated that “working owners” will NO longer be able to participate in a fully-insured AHP.</p> <p>“Large Group” Plan Status: Until the District Court ruling is upheld at the Circuit Court and Supreme Court level, Kansas will allow “working owners” to participate in a fully-insured “large group” AHP.</p>
<p>Kentucky</p> <p>Party to Lawsuit to Overturn DOL rule</p>	<p>No specific guidance has been issued in response to the release of the final DOL regulations</p>	<p>Final DOL Regulations: Kentucky has not issued guidance allowing “working owners” to participate in a fully-insured AHP. However, the Kentucky Legislature is considering legislation that would conform to the final DOL regulations.</p> <p>“Large Group” Plan Status: It is currently unclear whether Kentucky will allow “working owners” to participate in a fully-insured “large group” AHP.</p> <p>Questions to Ask State Legislators and Insurance Department Officials:</p> <ul style="list-style-type: none"> • Will Kentucky conform to the final DOL regulations with or without the enactment of conforming legislation? • How can we help get the conforming legislation enacted? • Will Kentucky treat a fully-insured AHP that covers “working owners” as a “large group” plan with or without the conforming legislation?
<p>Louisiana</p> <p>YES to “working owners”</p> <p>YES to “large group”</p>	<p>Insurance Advisory Letter 2018-03</p>	<p>Final DOL Regulations: Louisiana conforms to the final DOL regulations, which means Louisiana allows “working owners” to participate in a fully-insured AHP. The Louisiana Attorney General submitted a comment letter supporting the final DOL regulations.</p> <p>“Large Group” Plan Status: Louisiana allows “working owners” to participate in a fully-insured “large group” AHP.</p>

<p>Maine</p>	<p>No specific guidance has been issued in response to the release of the final DOL regulations</p>	<p>Final DOL Regulations: Maine has an existing state law prohibiting “working owners” from participating in a fully-insured AHP. Maine has not issued guidance conforming to other provisions of the final DOL regulations.</p> <p>“Large Group” Plan Status: Because of Maine’s State law, “working owners” are currently prohibited from participating in a fully-insured “large group” AHP.</p> <p>Questions to Ask State Legislators and Insurance Department Officials:</p> <ul style="list-style-type: none"> • Will Maine conform to the final DOL regulations with or without the enactment of conforming legislation? • How can we help get conforming legislation enacted that specifically allows “working owners” to participate in a fully-insured AHP? • Will Maine treat a fully-insured AHP that covers “working owners” as a “large group” plan with or without the conforming legislation?
<p>Maryland</p> <p>It is unclear on “working owners”</p> <p>NO to “large group”</p> <p>Party to Lawsuit Overturning DOL Rule</p>	<p>Insurance Bulletin 18-15</p>	<p>Final DOL Regulations: Maryland’s Insurance Bulletin does not indicate whether “working owners” can participate in a fully insured AHP.</p> <p>“Large Group” Plan Status: Maryland has an existing State law that requires all small employers participating in an AHP to remain subject to the “small group” market rules. Although the State law does NOT indicate that “individuals” participating in an AHP must remain subject to the “individual” market rules, it is reasonable to assume that “working owners” are NOT permitted to participate in a fully-insured “large group” AHP.</p> <p>Questions to Ask State Legislators and Insurance Department Officials:</p> <ul style="list-style-type: none"> • If the final DOL regulations are upheld at the Circuit Court or Supreme Court level, will Maryland enact a State law conforming to the final DOL regulations?

		<ul style="list-style-type: none"> • How can we help get the conforming legislation enacted? • Will Maryland treat a fully-insured AHP that covers “working owners” as a “large group” plan with or without the conforming legislation?
<p>Massachusetts</p> <p>NO to “working owners”</p> <p>NO to “large group”</p> <p>Party to Lawsuit Overturning DOL Rule</p>	<p>Insurance Bulletin 2018-03</p>	<p>Final DOL Regulations: Massachusetts issued guidance specifically stating that the State is NOT conforming to the final DOL regulations, and therefore, “working owners” are not permitted to participate in a fully insured AHP.</p> <p>“Large Group” Plan Status: Massachusetts has an existing State law providing that a small employer is subject to the “small group” market rules and an individual is subject to the “individual” market rules, meaning, small employers and “working owners” are prohibited from participating in a fully-insured “large group” AHP.</p> <p>Questions to Ask State Legislators and Insurance Department Officials:</p> <ul style="list-style-type: none"> • If the final DOL regulations are upheld at the Circuit Court or Supreme Court level, will Massachusetts enact a State law conforming to the final DOL regulations? • How can we help get the conforming legislation enacted? • Will Massachusetts treat a fully-insured AHP that covers “working owners” as a “large group” plan with or without the conforming legislation?
<p>Michigan</p> <p>YES to “working owners”</p> <p>YES to “large group”</p>	<p>Insurance Bulletin 2018-21</p>	<p>Final DOL Regulations: Michigan conforms to the final DOL regulations, which means Michigan allows “working owners” to participate in a fully insured AHP.</p> <p>“Large Group” Plan Status: Michigan allows “working owners” to participate in a fully-insured “large group” AHP.</p>

<p>Minnesota</p> <p>YES to “working owners”</p> <p>YES to “large group”</p>	<p>The Minnesota Commerce Department issued guidance on the Department’s web site</p>	<p>Final DOL Regulations: Minnesota conforms to the final DOL regulations, which means Minnesota allows “working owners” to participate in a fully-insured AHP.</p> <p>“Large Group” Plan Status: Minnesota allows “working owners” to participate in a fully-insured “large group” AHP.</p>
<p>Mississippi</p> <p>YES to “working owners”</p> <p>YES to “large group”</p>	<p>Insurance Bulletin 2018-8</p>	<p>Final DOL Regulations: Mississippi conforms to the final DOL regulations, which means Mississippi allows “working owners” to participate in a fully-insured AHP.</p> <p>“Large Group” Plan Status: Mississippi allows “working owners” to participate in a fully-insured “large group” AHP.</p>
<p>Missouri</p> <p>YES to “working owners”</p> <p>YES to “large group”</p>	<p>Insurance Bulletin 18-04</p>	<p>Final DOL Regulations: Missouri conforms to the final DOL regulations, which means Minnesota allows “working owners” to participate in a fully-insured AHP. The Missouri Attorney General submitted a comment letter supporting the final DOL regulations.</p> <p>“Large Group” Plan Status: Missouri allows “working owners” to participate in a fully-insured “large group” AHP.</p>
<p>Montana</p>	<p>No specific guidance has been issued in response to the release of the final AHP regulations</p>	<p>Final DOL Regulations: Montana has not issued guidance allowing small employers or “working owners” to participate in a fully-insured AHP. However, Montana’s Insurance Commissioner submitted a comment letter supporting the final DOL regulations.</p> <p>“Large Group” Plan Status: It is currently unclear whether Montana will allow “working owners” to participate in a fully-insured “large group” AHP.</p> <p>Questions to Ask State Legislators and Insurance Department Officials:</p>

		<ul style="list-style-type: none"> • Will Montana conform to the final DOL regulations with or without the enactment of conforming legislation? • How can we help get the conforming legislation enacted? • Will Montana treat a fully-insured AHP that covers “working owners” as a “large group” plan with or without the conforming legislation?
<p>Nebraska</p> <p>YES to “working owners”</p> <p>YES to “large group”</p>	<p>No specific guidance has been issued in response to the release of the final DOL regulations, however, the Nebraska Department of Insurance has approved AHPs that cover “working owners”</p>	<p>Final DOL Regulations: Although Nebraska has not issued any specific guidance relating to the final DOL regulations, Nebraska has approved two AHPs that allow “working owners” to participate in the AHP (one fully-insured AHP and one self-insured AHP). The Nebraska Attorney General submitted a comment letter supporting the final DOL regulations.</p> <p>“Large Group” Plan Status: Nebraska allows “working owners” to participate in a fully-insured “large group” AHP, evidenced by the approval of a fully-insured “large group” AHP that covers “working owners.”</p>
<p>Nevada</p> <p>YES to “working owners”</p> <p>YES to “large group”</p>	<p>No specific guidance has been issued in response to the release of the final DOL regulations, but the Department of Insurance has announced the acceptance of filings from various AHPs</p>	<p>Final DOL Regulations: Although Nevada has not issued any specific guidance relating to the final DOL regulations, Nevada has approved a number of fully-insured AHPs that conform to the final DOL regulations and allow “working owners” to participate. For example, the Nevada Association of REALTORS® and the Greater Las Vegas Real Estate Association currently offer a fully-insured AHP to their “working owner” members.</p> <p>“Large Group” Plan Status: Nevada allows “working owners” to participate in a fully-insured “large group” AHP, evidenced by the approval of a fully-insured “large group” AHP that covers “working owners.”</p>

	to operate in Nevada	
New Hampshire	Insurance Bulletin 18-045-AB	<p>Final DOL Regulations: Currently, New Hampshire does not conform to the final DOL regulations. However, legislation is currently being considered by the New Hampshire Legislature that would conform to several provisions of the final DOL regulations.</p> <p>“Large Group” Plan Status: New Hampshire does not allow “working owners” to join AHPs, but pending legislation could change that.</p> <p>Questions to Ask State Legislators and Insurance Department Officials:</p> <ul style="list-style-type: none"> • How can we help get the conforming legislation enacted?
<p>New Jersey</p> <p>NO to “working owners”</p> <p>NO to “large group”</p> <p>Party to Lawsuit Overturning DOL Rule</p>	Insurance Bulletin 2018-13	<p>Final DOL Regulations: New Jersey issued guidance specifically stating that the State is NOT conforming to the final DOL regulations, and therefore, “working owners” are not permitted to participate in an AHP.</p> <p>“Large Group” Plan Status: New Jersey has an existing State law providing that a small employer is subject to the “small group” market rules and an individual is subject to the “individual” market rules, meaning, small employers and “working owners” are prohibited from participating in a fully-insured “large group” AHP.</p> <p>Questions to Ask State Legislators and Insurance Department Officials:</p> <ul style="list-style-type: none"> • If the final DOL regulations are upheld at the Circuit Court or Supreme Court level, will Massachusetts enact a State law conforming to the final DOL regulations? • How can we help get the conforming legislation enacted?

		<ul style="list-style-type: none"> • Will Massachusetts treat a fully-insured AHP covers “working owners” as a “large group” plan with or without the conforming legislation?
New Mexico	No specific guidance has been issued in response to the release of the final DOL regulations	<p>Final DOL Regulations: New Mexico has not issued guidance allowing “working owners” to participate in a fully-insured AHP. However, New Mexico’s Insurance Commissioner submitted a comment letter opposing the final DOL regulations.</p> <p>“Large Group” Plan Status: It is currently unclear whether New Mexico will allow “working owners” to participate in a fully-insured “large group” AHP.</p> <p>Questions to Ask State Legislators and Insurance Department Officials:</p> <ul style="list-style-type: none"> • Will New Mexico conform to the final DOL regulations with or without the enactment of conforming legislation? • How can we help get the conforming legislation enacted? • Will New Mexico treat a fully-insured AHP that covers “working owners” as a “large group” plan with or without the conforming legislation?
<p>New York</p> <p>NO to “working owners”</p> <p>NO to “large group”</p> <p>Party to Lawsuit Overturning DOL Rule</p>	<p>Insurance Circular Letter 2018-10</p> <p>Supplement to Circular Letter 2018-10</p>	<p>Final DOL Regulations: New York issued guidance specifically stating that the State is NOT conforming to the final DOL regulations, and therefore, “working owners” are not permitted to participate in an AHP.</p> <p>“Large Group” Plan Status: New York has an existing State law providing that a small employer is subject to the “small group” market rules and an individual is subject to the “individual” market rules, meaning, small employers and “working owners” are prohibited from participating in a fully-insured “large group” AHP.</p> <p>Questions to Ask State Legislators and Insurance Department Officials:</p>

		<ul style="list-style-type: none"> • If the final DOL regulations are upheld at the Circuit Court or Supreme Court level, will New York enact a State law conforming to the final DOL regulations? • How can we help get the conforming legislation enacted? • Will New York treat a fully-insured AHP that covers “working owners” as a “large group” plan with or without the conforming legislation?
North Carolina	No specific guidance has been issued in response to the release of the final DOL regulations	<p>Final DOL Regulations: North Carolina has not issued guidance allowing small employers or “working owners” to participate in a fully-insured AHP. However, the North Carolina Legislature is considering legislation that would conform to the final DOL regulations.</p> <p>“Large Group” Plan Status: It is currently unclear whether North Carolina will allow “working owners” to participate in a fully-insured “large group” AHP.</p> <p>Questions to Ask State Legislators and Insurance Department Officials:</p> <ul style="list-style-type: none"> • Will North Carolina conform to the final DOL regulations with or without the enactment of conforming legislation? • How can we help get the conforming legislation enacted? • Will North Carolina treat a fully-insured AHP that covers “working owners” as a “large group” plan with or without the conforming legislation?
North Dakota YES to “working owners” YES to “large group”	<u>The Insurance Commissioner issued a “Statement” in response to the final DOL regulations</u>	<p>Final DOL Regulations: North Dakota conforms to the final DOL regulations, which means North Dakota allows “working owners” to participate in a fully-insured AHP.</p> <p>“Large Group” Plan Status: North Dakota allows “working owners” to participate in a fully-insured “large group” AHP.</p>

<p>Ohio</p> <p>YES to “working owners”</p> <p>YES to “large group”</p>	<p>The Insurance Department issued Association Health Plan FAQs, which can be found on the Department’s web site</p>	<p>Final DOL Regulations: Ohio conforms to the final DOL regulations, which means Ohio allows “working owners” to participate in a fully-insured AHP.</p> <p>“Large Group” Plan Status: Ohio allows “working owners” to participate in a fully-insured “large group” AHP.</p>
<p>Oklahoma</p> <p>YES to “working owners”</p> <p>YES to “large group”</p>	<p>The Oklahoma Legislature enacted a law conforming to the final DOL regulations</p>	<p>Final DOL Regulations: Oklahoma enacted legislation conforming to the final DOL regulations, which means Oklahoma allows “working owners” to participate in a fully-insured AHP. The Oklahoma Attorney General submitted a comment letter supporting the final DOL regulations.</p> <p>“Large Group” Plan Status: Oklahoma will allow “working owners” to participate in a fully-insured “large group” AHP.</p>
<p>Oregon</p> <p>NO to “working owners”</p> <p>YES to “large group,” but ONLY Pathway #1 Groups</p> <p>Party to Lawsuit Overturning DOL Rule</p>	<p>Financial Regulation Bulletin No. DFR 2018-07</p>	<p>Final DOL Regulations: Oregon issued guidance specifically stating that the State is NOT conforming to the final DOL regulations, and therefore, “working owners” are not permitted to participate in an AHP.</p> <p>“Large Group” Plan Status: Oregon does not allow “working owners” to participate in a fully-insured “large group” AHP.</p> <p>Questions to Ask State Legislators and Insurance Department Officials:</p> <ul style="list-style-type: none"> • If the final DOL regulations are upheld at the Circuit Court or Supreme Court level, will Oregon enact a State law conforming to the final DOL regulations? • How can we help get the conforming legislation enacted? • Will Oregon treat a fully-insured AHP that covers “working owners” as a “large group” plan with or without the conforming legislation?

<p>Pennsylvania</p> <p>NO to “working owners”</p> <p>NO to “large group”</p> <p>Party to Lawsuit Overturning DOL Rule</p>	<p>Association Health Plans In Pennsylvania, Frequently Asked Questions, dated December 4, 2018</p>	<p>Final DOL Regulations: Pennsylvania issued guidance specifically stating that the State is NOT conforming to the final DOL regulations, and therefore, “working owners” are not permitted to participate in an AHP.</p> <p>“Large Group” Plan Status: Pennsylvania does not allow “working owners” to participate in a fully-insured “large group” AHP.</p> <p>Questions to Ask State Legislators and Insurance Department Officials:</p> <ul style="list-style-type: none"> • If the final DOL regulations are upheld at the Circuit Court or Supreme Court level, will Pennsylvania enact a State law conforming to the final DOL regulations? • How can we help get the conforming legislation enacted? • Will Pennsylvania treat a fully-insured AHP that covers “working owners” as a “large group” plan with or without the conforming legislation?
<p>Rhode Island</p>	<p>No specific guidance has been issued in response to the release of the final DOL regulations</p>	<p>Final DOL Regulations: Rhode Island has not issued guidance allowing “working owners” to participate in a fully-insured AHP.</p> <p>“Large Group” Plan Status: It is currently unclear whether Rhode Island will allow “working owners” to participate in a fully-insured “large group” AHP.</p> <p>Questions to Ask State Legislators and Insurance Department Officials:</p> <ul style="list-style-type: none"> • Will Rhode Island conform to the final DOL regulations with or without the enactment of conforming legislation? • How can we help get the conforming legislation enacted?

		<ul style="list-style-type: none"> • Will Rhode Island treat a fully-insured AHP that covers “working owners” as a “large group” plan with or without the conforming legislation?
South Carolina	No specific guidance has been issued in response to the release of the final DOL regulations	<p>Final DOL Regulations: South Carolina has not issued guidance allowing “working owners” to participate in a fully-insured AHP. The South Carolina Attorney General submitted a comment letter supporting the final DOL regulations.</p> <p>“Large Group” Plan Status: It is currently unclear whether South Carolina will allow “working owners” to participate in a fully-insured “large group” AHP.</p> <p>Questions to Ask State Legislators and Insurance Department Officials:</p> <ul style="list-style-type: none"> • Will South Carolina conform to the final DOL regulations with or without the enactment of conforming legislation? • How can we help get the conforming legislation enacted? • Will South Carolina treat a fully-insured AHP that covers “working owners” as a “large group” plan with or without the conforming legislation?
South Dakota YES to “working owners” YES to “large group”	<p>AHP-friendly legislation was signed into law in Feb. 2019</p> <p>Proposed regulations implementing that AHP legislation was issued on April 29, 2019</p>	<p>Final DOL Regulations: South Dakota enacted legislation conforming to the final DOL regulations, which means South Dakota allows “worker owners” to participate in a fully-insured AHP. In addition, the South Dakota Attorney General submitted a comment letter supporting the final DOL regulations.</p> <p>“Large Group” Plan Status: South Dakota will allow “working owners” to participate in a fully-insured “large group” AHP.</p>

<p>Tennessee</p> <p>YES to “working owners”</p> <p>YES to “large group”</p>	<p>No specific guidance has been issued in response to the release of the final DOL regulations</p>	<p>Final DOL Regulations: Although Tennessee has not issued any specific guidance relating to the final DOL regulations, Tennessee has approved a fully-insured AHP for the Tennessee REALTORS, which allow “working owners” to participate in the AHP.</p> <p>“Large Group” Plan Status: Tennessee allows “working owners” to participate in a fully-insured “large group” AHP.</p>
<p>Texas</p>	<p>No specific guidance has been issued in response to the release of the final DOL regulations</p>	<p>Final DOL Regulations: Texas has not issued guidance allowing “working owners” to participate in a fully-insured AHP. However, the Texas Legislature is considering legislation that would appear to conform to the final DOL regulations.</p> <p>“Large Group” Plan Status: It is unclear whether Texas will allow “working owners” to participate in a fully-insured “large group” AHP.</p> <p>Questions to Ask State Legislators and Insurance Department Officials:</p> <ul style="list-style-type: none"> • Will Texas conform to the final DOL regulations with or without the enactment of conforming legislation? • How can we help get the conforming legislation enacted? • Will Texas treat a fully-insured AHP that covers “working owners” as a “large group” plan with or without the conforming legislation?
<p>Utah</p> <p>YES to “working owners”</p> <p>YES to “large group”</p>	<p>Insurance Bulletin 2018-5</p>	<p>Final DOL Regulations: Utah conforms to the final DOL regulations, which means Utah allows “working owners” to participate in a fully-insured AHP.</p> <p>“Large Group” Plan Status: Utah allows “working owners” to participate in a fully-insured “large group” AHP.</p>

<p>Vermont</p>	<p><u>Vermont issued guidance halting AHP formation in accordance with the final DOL regulations in light of the District Court ruling</u></p>	<p>Final DOL Regulations: While initially conforming to the final DOL regulations, in light of the District Court ruling, Vermont halted approval of AHPs formed in accordance with the final DOL rule. As a result, unless and until the District Court is overturned or the State adopts new legislation, “working owners” are NOT permitted to participate in an AHP.</p> <p>“Large Group” Plan Status: Unless and until the District Court is overturned, Vermont will NOT allow “working owners” to participate in a fully-insured “large group” AHP.</p> <p>Questions to Ask State Legislators and Insurance Department Officials:</p> <ul style="list-style-type: none"> • If the final DOL regulations are upheld at the Circuit Court or Supreme Court level, will Vermont enact a State law conforming to the final DOL regulations? • How can we help get the conforming legislation enacted? • Will Vermont treat a fully-insured AHP that covers “working owners” as a “large group” plan with or without the conforming legislation?
<p>Virginia</p> <p>NO to “working owners”</p> <p>NO to “large group”</p> <p>Party to Lawsuit Overturning DOL Rule</p>	<p>No specific guidance has been issued in response to the release of the final DOL regulations</p>	<p>Final DOL Regulations: Virginia has not issued guidance conforming to the final DOL regulations. The Governor has vetoed two pieces of legislation that would have allowed self-insured AHPs to be formed in accordance with the final DOL regulations.</p> <p>“Large Group” Plan Status: Virginia does not allow “working owners” to participate in a fully-insured “large group” AHP.</p>

<p>Washington</p> <p>YES to “working owners”</p> <p>YES to “large group”</p> <p>Party to Lawsuit Overturning DOL Rule</p>	<p>Letter from Insurance Commissioner, dated August 29, 2018</p>	<p>Final DOL Regulations: Despite being a party to the lawsuit to overturn the final DOL regulations, Washington conforms to the final DOL regulations, which means Washington allows “working owners” to participate in a fully-insured AHP.</p> <p>“Large Group” Plan Status: Washington allows “working owners” to participate in a fully-insured “large group” AHP.</p>
<p>West Virginia</p>	<p>No specific guidance has been issued in response to the release of the final DOL regulations</p>	<p>Final DOL Regulations: West Virginia has not issued guidance allowing “working owners” to participate in a fully-insured AHP.</p> <p>“Large Group” Plan Status: It is unclear whether West Virginia will allow “working owners” to participate in a fully-insured “large group” AHP.</p> <p>Questions to Ask State Legislators and Insurance Department Officials:</p> <ul style="list-style-type: none"> • Will West Virginia conform to the final DOL regulations with or without the enactment of conforming legislation? • How can we help get the conforming legislation enacted? • Will West Virginia treat a fully-insured AHP that covers “working owners” as a “large group” plan with or without the conforming legislation?
<p>Wisconsin</p>	<p>Wisconsin issued guidance halting AHP formation in accordance with the final DOL regulations in light</p>	<p>Final DOL Regulations: The Wisconsin Insurance Department has issued guidance halting approval of AHPs formed in accordance with the final DOL regulations pending the outcome of the District Court decision invalidating provisions of the final rule.</p> <p>“Large Group” Plan Status: Unless and until the District Court is overturned, Wisconsin will NOT allow “working owners” to participate in a fully-insured “large group” AHP.</p>

	<p>of the District Court ruling</p>	<p>Questions to Ask State Legislators and Insurance Department Officials:</p> <ul style="list-style-type: none"> • If the final DOL regulations are upheld at the Circuit Court or Supreme Court level, will Wisconsin enact a State law conforming to the final DOL regulations? • How can we help get the conforming legislation enacted? • Will Wisconsin treat a fully-insured AHP that covers “working owners” as a “large group” plan with or without the conforming legislation?
<p>Wyoming</p>	<p>No specific guidance has been issued in response to the release of the final AHP regulations, but the Wyoming Legislature enacted legislation relating to AHPs</p>	<p>Final DOL Regulations: Wyoming has not issued guidance allowing “working owners” to participate in a fully-insured AHP. However, the Wyoming Legislature has enacted legislation, which appears to allow AHPs to cover “working owners.”</p> <p>“Large Group” Plan Status: It is unclear whether Wyoming will allow “working owners” to participate in a fully-insured “large group” AHP.</p> <p>Questions to Ask State Legislators and Insurance Department Officials:</p> <ul style="list-style-type: none"> • Will Wyoming conform to the final DOL regulations with or without the enactment of conforming legislation? • How can we help get the conforming legislation enacted? • Will Wyoming treat a fully-insured AHP that covers “working owners” as a “large group” plan with or without the conforming legislation?