

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas  
2 83rd General Assembly  
3 Regular Session, 2001  
4

# A Bill

Act 1239 of 2001  
HOUSE BILL 1871

5 By: Representative Glover  
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## For An Act To Be Entitled

9 AN ACT TO AMEND ARKANSAS CODE TITLE 23, CHAPTER 61,  
10 TO ALLOW THE ARKANSAS INSURANCE COMMISSIONER TO HAVE  
11 THE POWER TO ENACT ADDITIONAL RULES AND REGULATIONS;  
12 AND TO ALLOW THE ARKANSAS INSURANCE COMMISSIONER TO  
13 ENTER INTO REGULATORY COOPERATION AND COORDINATION  
14 AGREEMENTS TO EFFICIENTLY AND EFFECTIVELY REGULATE  
15 THE BUSINESS OF INSURANCE; AND FOR OTHER PURPOSES.  
16

## Subtitle

17 TO GRANT THE COMMISSIONER THE POWER TO  
18 PROMULGATE ADDITIONAL RULES AND  
19 REGULATIONS AND TO ENTER INTO REGULATORY  
20 COOPERATION AND COORDINATION AGREEMENTS.  
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24 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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26 SECTION 1. Arkansas Code 23-61-108 is amended to read as follows:

27 23-61-108. Rules and regulations.

28 (a) The commissioner may make reasonable rules and regulations  
29 necessary for or as an aid to the effectuation of any provision of this code.

30 (1) No rule or regulation shall extend, modify, or conflict with  
31 any law of this state or the reasonable implications thereof.

32 (2) Any rule or regulation affecting persons or matters other  
33 than the personnel or the internal affairs of the commissioner's office shall  
34 be made or amended only after a hearing thereon of which notice was given as  
35 required by § 23-61-304.

36 (3) If reasonably possible, the commissioner shall set forth the

1 proposed rule or regulation or amendment in or with the notice of hearing.

2 (4) No rule or regulation as to which a hearing is required  
3 under this subsection shall be effective until after it has been on file as a  
4 public record in the commissioner's office, and otherwise as provided by law,  
5 for at least ten (10) days.

6 (b)(1) The Commissioner shall have the authority to promulgate rules  
7 and regulations necessary for the effective regulation of the business of  
8 insurance or as required for this state to be in compliance with federal  
9 laws.

10 (2) The commissioner shall have the authority to coordinate  
11 regulatory activities and administration with other states and their  
12 appropriate regulatory officials and with the federal government with respect  
13 to the regulation of insurance.

14 ~~(b)(c)~~ In addition to any other penalty provided, willful violation of  
15 any rule or regulation shall subject the violator to such denial, suspension,  
16 or revocation of certificate of authority or license as may be applicable  
17 under this code for violation of the provision to which the rule or  
18 regulation relates.

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20 SECTION 2. Arkansas Code 23-61-103 is amended to read as follows:

21 23-61-103. Insurance Commissioner - Powers and duties.

22 (a) The Insurance Commissioner shall enforce the provisions of this  
23 code and shall execute the duties imposed upon him by this code.

24 (b) The commissioner shall have the powers and authority expressly  
25 conferred upon him by or reasonably implied from the provisions of this code.

26 (c) The commissioner is authorized to enter into regulatory  
27 cooperation and coordination agreements with other governmental regulatory  
28 agencies within and outside of this state with respect to the regulation of  
29 the business of insurance, including, but not limited to:

- 30 (1) Licensing of insurance companies;
- 31 (2) Licensing of producers;
- 32 (3) Regulation of premium rates and policy forms;
- 33 (4) Regulation of insurer solvency and insurance receiverships;

34 and

35 (5) Other matters relating to the effective regulation of the  
36 business of insurance.

1           ~~(e)~~(d)(1) The commissioner may conduct such examinations and  
2 investigations of insurance matters, in addition to examinations and  
3 investigations expressly authorized, as he may deem proper to determine  
4 whether any person has violated any provision of this code or to secure  
5 information useful in the lawful administration of any such provision. The  
6 cost of these additional examinations or investigations shall be borne by the  
7 state.

8           (2) Notwithstanding any other provision of law, active  
9 investigatory or examination files as maintained by the State Insurance  
10 Department shall be deemed confidential and privileged and shall not be made  
11 open to the public until:

12                   (A) The matter under investigation or examination is  
13 deemed closed by the commissioner; or

14                   (B) Referred to any law enforcement authority and made  
15 subject to public disclosure by such authority.

16           (3) At such time that any matter investigated or examined has  
17 been set for an administrative hearing pursuant to § 23-61-304 or § 25-15-  
18 208, investigation or examination information shall be made available as  
19 provided in § 25-15-208.

20           (4) Unless otherwise exempted by ~~§ 23-61-103(c)(5)~~ § 23-61-  
21 103(d)(5), actuarial formulas and assumptions certified by a qualified  
22 actuary are confidential and privileged when submitted to comply with a rate  
23 or form filing requirement of the department, including but not limited to  
24 any actuarial report required, submitted, or attached to any filing made to  
25 the department under § 23-67-211, for rate and form filings of an insurer, or  
26 to those submitted under § 23-63-216 for annual statements of an insurer, or  
27 any actuarial report submitted to the department to comply with any form and  
28 rate filing requirement imposed by statute or rule upon licensed insurers,  
29 health maintenance organizations, fraternal benefit societies, and hospital  
30 and medical service corporations.

31           (5) Subdivisions (c)(2) and (c)(4) of this section do not  
32 prohibit release by the commissioner of active investigatory or examination  
33 files:

34                   (A) At the discretion of the commissioner, to a person or  
35 persons that the commissioner determines to be aggrieved or affected by the  
36 examination or investigation; or

1 (B) To state, federal, or local law enforcement or  
2 regulatory agencies or private organizations established for tracking or  
3 preventing insurance violations, or to the National Association of Insurance  
4 Commissioners.

5 (C) This section shall have no effect on or application to  
6 any of the filings gathered or compiled in compliance with § 23-63-1201 et  
7 seq.

8 (6) Release of active investigatory or examination files as  
9 provided in subdivision (c)(4) of this section, does not abrogate or modify  
10 the confidential nature of investigatory or examination files as provided in  
11 subdivision (c)(2) of this section.

12 ~~(d)~~(e)(1) The commissioner may delegate to any assistant, deputy,  
13 examiner, or employee of the department the exercise or discharge in the  
14 commissioner's name of any power, duty, or function, whether ministerial,  
15 discretionary, or of whatever character which may be vested by this code in  
16 the commissioner.

17 (2) The commissioner shall be responsible for the official acts  
18 of his deputy, assistant, examiner, or employee acting in the commissioner's  
19 name and by his authority.

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21 SECTION 3. EMERGENCY CLAUSE. It is found and determined by the  
22 General Assembly that sweeping changes are occurring in financial services  
23 both nationally and internationally; that Arkansas consumers should have  
24 access to the most choices and the most sophisticated products in the modern  
25 marketplace while being protected from mistreatment in the marketplace; that  
26 this act shall be broadly construed to effect these purposes; and that this  
27 act is immediately necessary to enhance the ability of this state to  
28 efficiently and effectively regulate the business of insurance by authorizing  
29 the State Insurance Commissioner to coordinate regulatory activities and  
30 administration with other states and their appropriate regulatory officials  
31 and with the federal government with respect to the regulation of insurance.  
32 Therefore, an emergency is declared to exist and this act being immediately  
33 necessary for the preservation of the public peace, health and safety shall  
34 become effective on the date of its approval by the Governor. If the bill is  
35 neither approved nor vetoed by the Governor, it shall become effective on the  
36 expiration of the period of time during which the Governor may veto the bill.

1 If the bill is vetoed by the Governor and the veto is overridden, it shall  
2 become effective on the date the last house overrides the veto.

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5 **APPROVED: 4/2/2001**  
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