

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.

Act 2004 of the Regular Session

1 State of Arkansas
2 85th General Assembly
3 Regular Session, 2005

As Engrossed: S3/23/05 S4/1/05

A Bill

SENATE BILL 1087

4
5 By: Senator Horn
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8 **For An Act To Be Entitled**

9 AN ACT TO AMEND VARIOUS LAWS CONCERNING FARMERS'
10 MUTUAL AID ASSOCIATIONS OR COMPANIES; AND FOR
11 OTHER PURPOSES.

12
13 **Subtitle**

14 TO AMEND VARIOUS LAWS CONCERNING
15 FARMERS' MUTUAL AID ASSOCIATIONS.
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18 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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20 *SECTION 1. Arkansas Code § 23-73-105(f)(2)(A), concerning an*
21 *association's authorization to write a homeowner or farm owner policy, is*
22 *amended to read as follows:*

23 *(A)(i) Before any association or company shall be*
24 *authorized to write the coverages listed in subdivision (f)(1) of this*
25 *section, the policy form shall have prior approval of the commissioner, in*
26 *accordance with § 23-79-109, ~~and~~ the association shall have and thereafter*
27 *maintain a minimum surplus of fifty thousand dollars (\$50,000) to be*
28 *deposited with the commissioner in the form of securities eligible for*
29 *deposit under § 23-63-903, and the association shall have and thereafter*
30 *maintain with the commissioner a statutory deposit of not less than fifty*
31 *thousand dollars (\$50,000) in the form of securities eligible under § 23-63-*
32 *903.*

33 *(ii)(a) After January 1, 2006, each association or*
34 *company shall maintain an unimpaired minimum surplus of five hundred thousand*
35 *dollars (\$500,000).*



1 (b)(1) If compliance with subdivision
 2 (f)(2)(A)(ii)(a) of this section would cause the association or company to
 3 become impaired or insolvent, the Insurance Commissioner may allow that
 4 domestic association or company to augment incrementally its unimpaired
 5 minimum surplus in order for the association or company to achieve compliance
 6 no later than December 31, 2010.

7 (2) For good cause shown in writing by
 8 an association or company, the commissioner may grant a one-time extension of
 9 the deadline set for compliance in subdivision (f)(2)(A)(ii)(b)(1) of this
 10 section for a period not to exceed two (2) years.

11
 12 SECTION 2. Arkansas Code § 23-73-112 is amended to read as follows:

13 23-73-112. Qualifications for certificate of authority.

14 To qualify for and hold a certificate of authority to insure property
 15 or issue policies, the company or association ~~must~~ shall:

16 (1)(A) Have at least ~~fifty (50)~~ two hundred fifty (250) members
 17 who hold policies or certificates upon at least ~~fifty (50)~~ two hundred fifty
 18 (250) separate risks.

19 (B) An association or company whose membership falls below
 20 ~~fifty (50)~~ two hundred fifty (250) members shall notify the Insurance
 21 Commissioner immediately and shall have ninety (90) days from that date to
 22 bring its membership level back up to the requisite number of ~~fifty (50)~~ two
 23 hundred fifty (250) members.

24 (C) Failure If an association or company fails to restore
 25 the membership level to ~~fifty (50)~~ two hundred fifty (250) members within the
 26 prescribed ninety-day period ~~shall cause,~~ the commissioner may:

27 (i) Direct the association or company to follow a
 28 course of action that will protect the assets of the association and allow
 29 for continued protection of the members; or

30 (ii) ~~to place~~ Place the association or company into
 31 involuntary dissolution as contained in § 23-73-120; and

32 (2)(A)(i) If immediate initial compliance with § 23-73-112(1)
 33 would cause a domestic association or company to be ineligible for a
 34 continued certificate of authority to operate in this state on the effective
 35 date of this section, the commissioner may allow that domestic association or
 36 company to augment its membership in increments in order for it to achieve

1 compliance with the minimum requirements by no later than December 31, 2006.

2 (ii) For good cause shown in writing by an
3 association or company, the commissioner may grant a one-time extension of
4 the deadline set for compliance in subdivision (2)(B)(i) of this section for
5 a period not to exceed one (1) year;

6 (3)(A) Maintain contracts or treaties of reinsurance based on
7 its risk and surplus level with insurance companies, excluding surplus lines
8 insurers, licensed or otherwise registered to conduct that business in the
9 State of Arkansas.

10 (B) Indemnity reinsurance contracts or
11 treaties shall be structured to provide protection to the company or
12 association against a reduction of the surplus to an extent that the
13 reduction:

14 (i) Endangers the solvency of the company or
15 association; or

16 (ii) Hinders the company's or association's ability
17 to pay claims made by policyholders; and

18 (4) Fully comply with and qualify according to the other
19 provisions of this chapter.

20
21 SECTION 3. Arkansas Code § 23-73-113 is amended to read as follows:

22 23-73-113. Continuance of certificate of authority.

23 (a) For continuance of an original certificate of authority, a
24 farmers' mutual aid company or association shall file with the Insurance
25 Commissioner:

26 (1) A concise statement of its financial condition, management,
27 and affairs on a form satisfactory to the commissioner;

28 (2) Other documents or stipulations as the commissioner may
29 reasonably require to evidence compliance with the provisions of this
30 chapter; and

31 (3) Pay any fees required by the Arkansas Insurance Code to be
32 paid for filing the accompanying documents and for the certificate of
33 authority if granted.

34 (b)(1) After September 1, 2005, the commissioner shall prepare and
35 send to each qualified farmers' mutual aid association or company a
36 substitute Arkansas certificate of authority evidencing full licensure from

1 the original date when the association or company was issued a certificate of
2 authority.

3 (2)(A) A certificate issued under subdivision (b)(1) of this
4 section shall:

5 (i) Be and remain the property of the State of
6 Arkansas;

7 (ii) Render any previous certificate of authority
8 null and void as of the effective date of the new certificate;

9 (iii) Remain in force and effect until it expires or
10 is suspended, revoked, or surrendered; and

11 (iv) Be continuous, subject to compliance with
12 annual fee and reporting requirements.

13 (B) The association or company shall promptly deliver the
14 certificate to the commissioner upon the certificate's expiration,
15 suspension, revocation, or surrender.

16 (C)(i) If for any reason the association or company is not
17 entitled to a continuation of the certificate of authority, the commissioner:

18 (a) May refuse to continue the certificate;
19 and

20 (b) Shall give either written or electronic
21 notice of the refusal to continue the certificate to the association or
22 company.

23 (ii) The certificate of authority shall expire on
24 the next May 1 following the notice provided in subdivision (b)(2)(C)(i)(b)
25 of this section.

26 (c) After notice and a hearing, the commissioner may suspend or revoke
27 a certificate of authority if the association or company:

28 (1) No longer meets the requirements for holding a certificate
29 of authority or is impaired or insolvent;

30 (2) Is using methods or practices in the conduct of its business
31 that unreasonably expose its members, policyholders, or the public to injury;

32 (3) Has refused to be examined or to produce its accounts,
33 records or files for examination when required by the commissioner or if any
34 of its officers, directors, or key personnel have refused to give information
35 with respect to the association's or company's affairs when required by the
36 commissioner;

1 (4) Has failed to pay a final judgment against it; or
 2 (5) Has violated or failed to comply with any applicable
 3 provision of the Arkansas Code or any lawful order or regulation of the
 4 commissioner.

5
 6 SECTION 4. Arkansas Code § 23-73-120 is amended to read as follows:
 7 23-73-120. Dissolution.

8 (a)(1) Voluntary. An association or company may at any meeting of its
 9 members, due notice of the time, place, and purpose of which shall have been
 10 given to its members and the Insurance Commissioner, by a vote of two-thirds
 11 (2/3) of the members present or represented by proxy at the meeting,
 12 discontinue its operations and settle its affairs.

13 (2) Voting shall be conducted by written ballot which shall be
 14 signed by the member, on a ballot form approved by the commissioner prior to
 15 voting.

16 ~~(3) Thereupon it shall designate a committee of three (3) of its~~
 17 ~~members who shall, on behalf of the association or company and under the~~
 18 ~~supervision of the commissioner, liquidate its assets, pay its debts and~~
 19 ~~expenses, and divide any remaining surplus among the existing members and~~
 20 ~~those who were members within the preceding three (3) years, as they may be~~
 21 ~~entitled.~~

22 (3)(A) After the members have voted to dissolve, the association
 23 or company shall file a plan of dissolution with the commissioner for
 24 approval.

25 (B) The dissolution plan must include provisions that:

26 (i) Allow current policyholders to obtain similar
 27 coverage with another licensed insurer or farmers' mutual aid association or
 28 company; and

29 (ii) Designate a committee of policyholders to
 30 liquidate assets and pay debts or expenses.

31 (4) After the commissioner has approved the dissolution plan,
 32 the designated committee shall liquidate any assets and pay the debts and
 33 expenses of the association or company.

34 ~~(4)(5)~~ Upon final settlement of all the affairs of the
 35 association by the committee, it shall make a final report and accounting of
 36 the proceedings of the dissolutions which shall be signed by its members and

1 filed with and approved by the commissioner.

2 ~~(5)~~(6) If the commissioner approves the final report, the
3 commissioner shall transmit to the committee a certificate of approval and
4 thereupon the association shall be deemed dissolved and shall cease to exist.
5 The commissioner shall certify the dissolution to the Secretary of State.

6 ~~(6)~~(7) The committee shall have its necessary and reasonable
7 expenses reimbursed in the dissolution of the association or company as
8 approved by the commissioner.

9 (b) Involuntary. An association or company shall be statutorily
10 dissolved in accordance with the provisions of §§ 23-68-101 – 23-68-113 and
11 23-68-115 – 23-68-132.

12
13 SECTION 5. Arkansas Code § 23-88-303 is amended to read as follows:
14 23-88-303. Arkansas Rural Risk Underwriting Association – Plan of
15 property insurance.

16 (a)(1) All insurers licensed to transact property insurance, as
17 defined in § 23-62-104, shall become members of the Arkansas Rural Risk
18 Underwriting Association.

19 (2) For the purposes of this section, farmers' mutual aid
20 associations or companies are insurers and are subject to the assessments and
21 other requirements imposed on insurers under this section.

22 (b) This association or company shall provide a plan of property
23 insurance to insurable rural risk applicants. Rural risk applicants are those
24 applicants seeking insurance on risks located in geographic areas to be
25 determined "rural areas" by the governing board, subject to the approval of
26 the Insurance Commissioner.

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28 SECTION 6. EMERGENCY CLAUSE. It is found and determined by the
29 General Assembly of the State of Arkansas that the laws of this state as to
30 regulation of farmers' mutual aid associations or companies are inadequate
31 for the protection of the public and that this act is immediately necessary
32 in order to provide for the adequate protection of the public. Therefore, an
33 emergency is declared to exist and this act being immediately necessary for
34 the preservation of the public peace, health, and safety shall become
35 effective on:

36 (1) The date of its approval by the Governor;

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(2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or

(3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto.

/s/ Horn

APPROVED: 04/11/2005

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