

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 84th General Assembly  
3 Regular Session, 2003  
4

*As Engrossed: H3/14/03 H3/26/03*

# A Bill

Act 1203 of 2003  
HOUSE BILL 2729

5 By: Representatives Matayo, *Penix*  
6  
7

## For An Act To Be Entitled

9 AN ACT TO AMEND INSURANCE LAWS REGARDING  
10 RECIPROCITY AND UNIFORMITY IN PRODUCER LICENSING  
11 TO COMPLY WITH THE GRAMM-LEACH-BLILEY ACT OF  
12 1999; TO MAKE TECHNICAL CORRECTIONS TO ARKANSAS'  
13 INSURANCE PRODUCER LAWS; AND FOR OTHER PURPOSES.  
14

### Subtitle

15 OMNIBUS INSURANCE PRODUCER ACT.  
16  
17  
18

19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
20

21 *SECTION 1. Arkansas Code § 8-7-805(b)(2), concerning Arkansas license*  
22 *or permit bonds for individuals to be certified for the installation or*  
23 *testing of an underground storage tank, is amended to read as follows:*

24 *(2) The bond must be issued by a company licensed to do*  
25 *business in the State of Arkansas and executed by a ~~resident~~ an Arkansas*  
26 *agent. ~~The mere countersigning by an Arkansas agent will not suffice.~~*  
27

28 *SECTION 2. Arkansas Code § 23-64-202(a) and (b), concerning general*  
29 *qualifications for licensure, is amended to read as follows:*

30 *(a) For the protection of the people of this state, the Insurance*  
31 *Commissioner shall not, at or before completion of application processing,*  
32 *issue, continue, or permit to exist any license as to insurance unless the*  
33 *licensee is in compliance with this chapter and other applicable laws of this*  
34 *state, and as to any individual who does not also meet the following*  
35 *qualifications:*

36 *(1) To obtain a license as an agent or broker, he or she shall*



1 have complied with § 23-64-501 et seq. and subsection (b) of this section;  
2 and

3 (2) To obtain a license as an adjuster or insurance consultant,  
4 he or she must be:

5 (A) Of legal age of majority, or must have had  
6 disabilities of minority removed for all general purposes and provide  
7 evidence of same;

8 (B)(i) A resident of this state, or of a city or town  
9 through which passes the boundary of this state, qualified as to residence  
10 under § 23-64-102(2)(B) and must have been a resident for not less than the  
11 thirty (30) days immediately prior to the date of application for the  
12 license;

13 (ii) However, upon written request by the applicant,  
14 the commissioner in his or her discretion may waive the thirty-day residence  
15 requirement as to any applicant for license who is a bona fide resident of  
16 this state, and who furnishes proof satisfactory to the commissioner that he  
17 or she is, and intends to be, a permanent resident of Arkansas; and

18 (C)(i) Deemed by the commissioner to be competent,  
19 trustworthy, financially responsible, and of good personal and business  
20 reputation, and these qualifications must continue in order to remain  
21 licensed.

22 (ii) On a case by case basis, the commissioner may  
23 require documentation to verify qualifications for licensure under this  
24 section.

25 (b) All applicants for a license as an agent, broker, adjuster, or  
26 insurance consultant shall:

27 (1) Pass a written examination for the license if required under  
28 this chapter and attest that he or she is familiar with the insurance laws of  
29 this state and will keep himself or herself familiar despite changes in the  
30 law; and

31 (2)(A)(i) Before licensure or examination, if examination is  
32 required, complete specific courses of instruction in the field of insurance  
33 as the commissioner shall by regulation prescribe for the license.

34 (ii) Proof of completion must be presented before  
35 testing is administered.

36 (iii)(a) The courses of instruction shall in the

1 aggregate consist of not less than thirty-six (36) hours of classroom  
2 instruction.

3 (b) All instruction shall be administered by  
4 or under the supervision of persons qualifying with and approved by the  
5 commissioner for that purpose.

6 (c) An instructor deemed qualified and  
7 approved by the commissioner shall monitor attendance and participation and  
8 shall sign a certificate evidencing the licensee's completion of the hours.

9 (d) Applicants for adjuster and consultant  
10 licenses are exempt from prelicensing education, as are nonresident  
11 applicants for producer licenses from states that engage in reciprocal  
12 licensing with Arkansas.

13 (iv) Successful completion of the courses of  
14 instruction shall be certified to the commissioner, on forms prescribed by  
15 him or her, by the person under whose supervision the instruction was  
16 administered.

17 (v) The courses of instruction shall provide the  
18 applicant with basic knowledge of the broad principles of insurance,  
19 licensing and regulatory laws of this state, and the obligations and duties  
20 of an agent, broker, or consultant.

21 (vi) Programs of instruction may be provided by any  
22 authorized insurer, agents' association, or trade association recognized by  
23 the commissioner or by any university, college, or any other institution in  
24 this state having a comprehensive course of instruction approved and  
25 certified by the commissioner.

26 (vii) The commissioner shall issue appropriate  
27 regulations to implement the educational requirements and standards  
28 prescribed in this subdivision (b)(2) and to prescribe the general curriculum  
29 of courses of instruction.

30 (viii) The curriculum shall include not fewer than  
31 five (5) hours of instruction relative to the licensing of agents and  
32 insurance regulatory laws of this state, criteria for approval of the  
33 providers of the courses of instruction, and certifications contemplated  
34 hereunder.

35 (B) None of the provisions of this subsection shall apply  
36 to, and no examination or educational requirements contained in this

1 subsection shall be required of, any applicant for a license presently  
2 exempted by law from an examination.

3 (C) The provisions of subdivision (b)(2)(A) of this  
4 section shall not apply to persons making application for license as an agent  
5 or broker for crop hail insurance, mobile home physical damage insurance,  
6 mortgagor's decreasing term life and disability insurance, prepaid legal  
7 insurance, and fire and marine insurance written in connection with credit  
8 transactions, or any line exempted by law, for which only a limited license  
9 is issued, nor any other insurance for which only a limited license may be  
10 issued and the commissioner, by order or regulation, exempts from the  
11 educational requirements of subdivision (b)(2)(A) of this section.

12

13 SECTION 3. Arkansas Code § 23-64-216(a) as it appears on page 312 of  
14 Title 23 of the Arkansas Code, concerning sanctions for insurance producer,  
15 broker, or producer misconduct, is amended to read as follows:

16 (a) The Insurance Commissioner may suspend for up to thirty-six (36)  
17 months, or may revoke or refuse to continue, or may place in probationary  
18 status, any license issued by him or her if, after notice to the licensee and  
19 after hearing, he or she finds any one (1) or more of the following causes  
20 exist:

21 (1) In the case of an ~~agent~~ insurance producer or broker  
22 licensed as an insurance producer, for any of the causes under § 23-64-512;  
23 or

24 (2) In the case of an adjuster or insurance consultant licensed  
25 under this subchapter:

26 (A) Providing incorrect, misleading, incomplete, or  
27 materially untrue information in the license application;

28 (B) Violating any insurance laws or violating any  
29 regulation, subpoena, or order of the commissioner or of another state's  
30 insurance commissioner;

31 (C) Obtaining or attempting to obtain a license through  
32 misrepresentation or fraud;

33 (D) Improperly withholding, misappropriating, or  
34 converting any moneys or properties received in the course of doing insurance  
35 business;

36 (E) Intentionally misrepresenting the terms of an actual

1 or proposed insurance contract or application for insurance;

2 (F) Having been convicted of a felony;

3 (G) Having admitted or been found to have committed any  
4 insurance unfair trade practice or fraud;

5 (H) Using fraudulent, coercive, or dishonest practices, or  
6 demonstrating incompetence, untrustworthiness, or financial irresponsibility  
7 in the conduct of business in this state or elsewhere;

8 (I) Having an insurance producer, insurance consultant, or  
9 adjuster license, or its equivalent, denied, suspended, or revoked in any  
10 other state, province, district, or territory;

11 (J) Forging another's name to an application for insurance  
12 or to any document related to an insurance transaction;

13 (K) Improperly using notes or any other reference material  
14 to complete an examination for an insurance license;

15 (L) Knowingly accepting insurance business from an  
16 individual who is not licensed;

17 (M) Failing to comply with an administrative or court  
18 order imposing a child support obligation; or

19 (N) Failing to pay state income tax or comply with any  
20 administrative or court order directing payment of state income tax.

21  
22 SECTION 4. Arkansas Code § 23-64-216, concerning the suspension or  
23 revocation of an insurance license, is amending by adding an additional  
24 subsection to read as follows:

25 (h) For purposes of this section, "probationary status" means the  
26 suspended imposition of insurance license sanctions which the commissioner  
27 may impose by law or by informed consent on a licensee subject to this  
28 chapter, upon disclosed terms and for a specified period, contingent upon the  
29 compliance and good conduct of the licensee during that period, and which  
30 would result in imposition of insurance license sanctions upon the licensee's  
31 failure to successfully complete the specified period.

32  
33 SECTION 5. Arkansas Code § 23-64-217(a), concerning notice to  
34 insurance producers regarding licensing sanctions, is amended to read as  
35 follows:

36 (a)(1) Upon the suspension or revocation of a license, the Insurance

1 Commissioner shall immediately notify the licensee of the suspension or  
 2 revocation either in person or by mail addressed to the licensee at the  
 3 licensee's address last of record with the commissioner, ~~or by electronic~~  
 4 notice.

5 (2) Notice by mail or by electronic mail shall be deemed  
 6 effectuated when so mailed.

7 (3) The commissioner shall give like notice to the insurers  
 8 represented by the agent in the case of an agent's license. Upon receipt of  
 9 notice from the commissioner that the license has been revoked, each insurer  
 10 represented by the agent shall take appropriate and prompt action necessary  
 11 to:

12 (A) Retrieve from the agent all solicitation materials,  
 13 policy applications, binders, and any and all other materials in the  
 14 possession of the agent which are the property of such an insurer; and

15 (B) Retrieve the agent's policyholder files and records  
 16 for policies in force at the time such an insurer receives notice of the  
 17 revocation.

18

19 SECTION 6. Arkansas Code § 23-64-219 is amended to read as follows:

20 23-64-219. Appointment of agent - Continuation ~~and~~ or termination of  
 21 appointment.

22 (a) Each insurer appointing an agent in this state shall file with the  
 23 Insurance Commissioner the initial appointment setting out the kinds of  
 24 insurance to be transacted by the agent and pay the fee ~~therefor~~. The  
 25 appointment means the notification filed with the commissioner that an  
 26 insurer has established an agency relationship with a producer. The  
 27 appointing insurer's appointment of an agent shall be an indication to the  
 28 commissioner that the insurer has reviewed the agent's background and fitness  
 29 to be an agent.

30 (b) ~~Subject to a biennial continuation by the insurer not later than~~  
 31 ~~June 1, commencing on January 1, 1988, for life and accident and health~~  
 32 ~~insurers and commencing on January 1, 1989, for all other insurers, each~~  
 33 Each appointment shall remain in effect until the agent's license is revoked  
 34 or otherwise terminated unless written notice of earlier termination of the  
 35 appointment is filed with the commissioner by the insurer or agent.

36 (c)(1) Biennially, prior to June 1 of each even-numbered year, each

1 insurer maintaining a certificate of authority to transact life and accident  
2 and health insurance and, prior to June 1 of each odd-numbered year, all  
3 other insurers maintaining a certificate of authority to transact insurance  
4 in this state shall file with the commissioner an alphabetical list of the  
5 names and addresses of all its agents whose appointments in this state are to  
6 remain in effect, accompanied by payment of the biennial continuation of  
7 appointment fee as provided in § 23-61-401. At the same time, the insurer  
8 shall also file with the commissioner an alphabetical list of the names and  
9 addresses of all its agents whose appointments in this state are not to  
10 remain in effect, accompanied by any documentation the commissioner shall  
11 require.

12 (2) The procedures for renewal and termination of appointments  
13 under subsection (c) of this section shall terminate on December 31, 2003.

14 ~~(d)(1) Subject to the terms of the agency contract, an insurer may~~  
15 ~~terminate an agent's appointment at any time. The insurer shall promptly~~  
16 ~~give written notice of such termination to the commissioner and thirty (30)~~  
17 ~~days' advance notice to the agent by certified mail, return receipt~~  
18 ~~requested. The return receipt shall be retained as part of the insurer's~~  
19 ~~records. However, less than thirty (30) days' notice of cancellation may be~~  
20 ~~given to the agent when the termination is for cause relating to the~~  
21 ~~misconduct of the agent.~~

22 ~~(2) Any information as to the cause of termination of any such~~  
23 ~~appointment furnished the commissioner as part of the notice of termination~~  
24 ~~shall be deemed a privileged communication and shall not be admissible in~~  
25 ~~evidence in any action or proceedings other than those brought by the~~  
26 ~~commissioner, nor shall any agent whose appointment has been so terminated~~  
27 ~~have a cause of action against the insurer or any of its officers, directors,~~  
28 ~~or employees by reason of the furnishing of such information to the~~  
29 ~~commissioner.~~

30 (d) Beginning January 1, 2004, the following annual procedures apply  
31 for appointment terminations and renewals only:

32 (1)(A) No later than June 1, 2004, and no later than June 1  
33 annually thereafter, while maintaining a certificate of authority to transact  
34 insurance in the state, the insurance company shall terminate any  
35 appointments the company does not desire to continue by use of written or  
36 electronic notice to the commissioner on forms prescribed by the

1 commissioner.

2 (B) The terminations shall be transmitted after the  
3 insurer reviews its own agent or agency appointments via the State Insurance  
4 Department website, the National Association of Insurance Commissioners  
5 producer database, or a list requested of the department's Information  
6 Systems Division;

7 (2)(A) After June 1, 2004, and after June 1 annually thereafter,  
8 the State Insurance Department shall issue a written or electronic payment  
9 invoice to the insurer, based on all agent appointments the insurer chose to  
10 renew and keep active after June 1, 2004, and annually thereafter, in the  
11 procedures set out in subdivision (d)(1) of this section.

12 (B) The invoice under this section may not be altered or  
13 amended, or used for appointing or terminating producers;

14 (3)(A) The insurer shall return monetary payment for the  
15 department invoices to the commissioner no later than thirty (30) days after  
16 the department issues the invoice, unless, at the request of the appointing  
17 insurer, the commissioner grants an extension for good cause in writing.

18 (B) An insurer's failure to remit timely invoice payments  
19 in the correct amount may be penalized by the commissioner with a monetary  
20 penalty in an amount not to exceed double the appointment fee; and

21 (4)(A) If the insurer disagrees with the annual invoice amount  
22 for the renewed agent appointments, it shall timely remit the invoice amount  
23 to the department, but may mail or electronically mail under separate cover  
24 adequate documentation to substantiate its proposed invoice for the  
25 department's review.

26 (B) If the insurer underpaid, it shall promptly remit the  
27 monetary balance due the department.

28 (C) If the insurer overpaid, it shall so state in a  
29 written filing to the commissioner.

30 (D) If the department determines that the insurer is  
31 correct as to the overpayment amount, the department shall process a refund  
32 of the excess fees to the prevailing insurer.

33 (E) However, if the department determines the insurer is  
34 not correct, then the department may issue a written notice to the insurer.

35 ~~(e) The insurer shall promptly give written notice of non-renewal of~~  
36 ~~the agent's appointment to the agent by certified mail, return receipt~~



1 ~~requested, and the return receipt shall be retained as part of the insurer's~~  
2 ~~records. The insurer shall give notice, in any written or electronic method~~  
3 ~~prescribed by the commissioner, of nonrenewal or termination of agent or~~  
4 ~~producer appointments to the commissioner and to the producer, and shall~~  
5 ~~retain the notices or electronic transmittals as part of the insurer's~~  
6 ~~records for compliance under this section and under § 23-64-515.~~

7  
8 SECTION 7. Arkansas Code § 23-64-221(a), concerning insurance producer  
9 licenses for vending machines, is amended to read as follows:

10 (a) A licensed ~~resident agent~~ producer may solicit applications for  
11 and issue policies of personal travel and accident insurance by means of  
12 mechanical vending machines supervised by him or her and placed at airports,  
13 railroad stations, bus stations, hotels, and similar places of convenience to  
14 the traveling public if the Insurance Commissioner finds that:

15 (1) The policy to be so sold provides reasonable coverage and  
16 benefits, is reasonably suited for sale and issuance through vending  
17 machines, and that use of such a machine therefor in a particular proposed  
18 location would be of material convenience to the public;

19 (2) The type of vending machine proposed to be used is  
20 reasonably suitable and practical for the purpose;

21 (3) Reasonable means are provided for informing the prospective  
22 purchaser of the policy of the coverage and restrictions of the policy; and

23 (4) Reasonable means are provided for refund to the applicant or  
24 prospective applicant of money inserted in defective machines and for which  
25 no insurance, or a less amount than that paid for, is actually received.

26  
27 SECTION 8. Arkansas Code § 23-64-222 is repealed.

28 ~~23-64-222. Payment of commissions.~~

29 ~~(a) No insurer shall directly or indirectly pay, and no person shall~~  
30 ~~so receive, any fee, commission, or other compensation for services as agent~~  
31 ~~or broker in connection with any insurance of a subject resident, located, or~~  
32 ~~to be performed in this state, or for obtaining any such insurance, unless at~~  
33 ~~the time of the service to which the compensation is related, the person was~~  
34 ~~licensed and appointed as an agent or licensed as a broker or licensed as a~~  
35 ~~nonresident broker or licensed and appointed as a nonresident agent.~~

36 ~~(b) No licensee shall directly or indirectly share his or her~~

1 ~~commission or other compensation received or to be received on account of a~~  
2 ~~transaction under his or her license with any person not also licensed under~~  
3 ~~this chapter as to the same kinds of insurance involved in the transaction.~~  
4 ~~This provision shall not affect payment of the regular salaries due employees~~  
5 ~~of the licensee or the distribution in regular course of business of~~  
6 ~~compensation and profits among members or stockholders if the licensee is a~~  
7 ~~firm, limited liability company, or corporation.~~

8 ~~(c) If a licensed nonresident broker or nonresident agent resides in a~~  
9 ~~state which requires its resident agents to retain all or a stipulated~~  
10 ~~percentage of the commission on coverages placed in such a state by~~  
11 ~~nonresident agents or brokers, the Arkansas agent shall retain not less than~~  
12 ~~a like percentage of the commission for his or her services for like coverage~~  
13 ~~placed in Arkansas by residents of the other state.~~

14 ~~(d) This section shall not apply as to those transactions with surplus~~  
15 ~~line brokers that are lawful under § 23-65-310 nor to life or accident and~~  
16 ~~health insurance placed as provided in § 23-64-225.~~

17  
18 SECTION 9. Arkansas Code § 23-64-304, concerning the failure to report  
19 and maintain mandated educational requirements for insurance licensees, is  
20 amended by adding an additional subsection to read as follows:

21 (e)(1) Any licensee fined under subsection (d) of this section may  
22 request that the commissioner seal the licensee's records regarding the fine.

23 (2) The underlying conduct of any licensee whose record has been  
24 sealed under this section shall be deemed as a matter of law to have never  
25 occurred, and the licensee may state that the conduct or fine ever occurred.

26  
27 SECTION 10. Arkansas Code § 23-64-506 is amended to add a new  
28 subsection to read as follows:

29 (e)(1) To obtain or renew an insurance producer's license, a resident  
30 applicant or producer must be deemed by the commissioner to be competent,  
31 trustworthy, financially responsible, and of good personal and business  
32 reputation.

33 (2) Qualifications for licensure under this section must  
34 continue in order to remain licensed.

35 (3) On a case by case basis, the commissioner may require  
36 documentation to verify qualification for licensure under this section.

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*SECTION 11. Arkansas Code § 23-64-512(a) and (b), concerning the license, denial, nonrenewal, or revocation of an insurance producer's license, is amended to read as follows:*

*(a) The Insurance Commissioner may place on probation, suspend, revoke, or refuse to issue or renew an insurance producer's license or may levy a civil penalty in accordance with § 23-64-216 or any combination of actions, for any one (1) or more of the following causes:*

*(1) Providing incorrect, misleading, incomplete, or materially untrue information in the license application;*

*(2) Violating any insurance laws, or violating any regulation, subpoena or order of the commissioner or of another state's insurance commissioner;*

*(3) Obtaining or attempting to obtain a license through misrepresentation or fraud;*

*(4) Improperly withholding, misappropriating, or converting any moneys or properties received in the course of doing insurance business;*

*(5) Intentionally misrepresenting the terms of an actual or proposed insurance contract or application for insurance;*

*(6) Having been convicted of a felony;*

*(7) Having admitted or been found to have committed any insurance unfair trade practice or fraud;*

*(8) Using fraudulent, coercive, or dishonest practices, or demonstrating incompetence, untrustworthiness, lack of good personal or business reputation, or financial irresponsibility ~~in the conduct of business in this state or elsewhere~~;*

*(9) Having an insurance producer license, or its equivalent, denied, suspended, or revoked in any other state, province, district, or territory;*

*(10) Forging another's name to an application for insurance or to any document related to an insurance transaction;*

*(11) Improperly using notes or any other reference material to complete an examination for an insurance license;*

*(12) Knowingly accepting insurance business from an individual who is not licensed;*

*(13) Failing to provide a written response after receipt of a*

1 written inquiry from the commissioner or his representative as to  
 2 transactions under the license within thirty (30) days after receipt thereof,  
 3 unless the timely written response is knowingly waived in writing by the  
 4 commissioner;

5 (14) Failing to comply with an administrative or court order  
 6 imposing a child support obligation; or

7 (15) Failing to pay state income tax or comply with any  
 8 administrative or court order directing payment of state income tax.

9 (b) In the event that the action by the commissioner is to nonrenew or  
 10 to deny an application for a license, the commissioner shall notify the  
 11 applicant or licensee and advise, in writing, by mail or electronic mail, the  
 12 applicant or licensee of the reason for the denial or nonrenewal of the  
 13 applicant's or licensee's license. The applicant or licensee may make written  
 14 demand by mail or electronic mail upon the commissioner within thirty (30)  
 15 days for a hearing before the commissioner to determine the reasonableness of  
 16 the commissioner's action. The hearing shall be held within thirty (30) days  
 17 and shall be held pursuant to § 23-64-217 and the Arkansas Administrative  
 18 Procedure Act, § 25-15-201 et seq.

19

20 SECTION 12. Arkansas Code § 23-64-513(d), concerning the payment and  
 21 sharing of insurance producer commissions and fees, is amended to read as  
 22 follows:

23 (d) An insurer or insurance producer may pay or assign commissions,  
 24 service fees, brokerages, or other valuable consideration to an insurance  
 25 agency or to persons who do not sell, solicit, or negotiate insurance in this  
 26 state, unless the payment would ~~violate the Trade Practices Act, § 23-66-201~~  
 27 ~~et seq. or § 23-66-301 et seq. so long as the payment is not allowed by any~~  
 28 ~~provisions of the federal Gramm Leach Bliley Act of 1999, Pub. L. 106-102,~~  
 29 ~~113 Stat. 1338.~~ constitute:

30 (1) A rebate, in violation of § 23-66-206(10) or § 23-66-308;

31 (2) A violation of §§ 23-66-201 – 23-66-214, commonly referred  
 32 to as the Trade Practices Act, or a violation of miscellaneous trade  
 33 practices under §§ 23-66-301 – 23-66-316; or

34 (3) A violation of the federal Gramm-Leach-Bliley Act, Pub. L.  
 35 106-102.

36

1           SECTION 13. Arkansas Code § 23-65-308(3), concerning required surplus  
2 line broker deposits, is amended to read as follows:

3           (3)(A) Prior to issuance of the license, ~~the~~ a resident  
4 applicant shall file with the commissioner ~~a bond or other~~ securities  
5 acceptable to the commissioner in favor of the State of Arkansas in the penal  
6 sum of fifty thousand dollars (\$50,000), aggregate liability, with  
7 unaffiliated entities approved by the commissioner. Thereafter for as long  
8 as the license remains in effect, the resident applicant shall keep the ~~bond~~  
9 ~~or other~~ securities in force and unimpaired.

10           (B) The securities shall be conditioned that the broker  
11 will conduct business under the license in accordance with the provisions of  
12 this subchapter and that he or she will promptly remit the taxes provided by  
13 the law.

14           (C) No securities shall be terminated unless not less than  
15 sixty (60) days' prior written notice thereof is filed with the commissioner.

16           (D) No security shall be required of a nonresident  
17 applicant licensed in the applicant's state of residency.

18  
19           SECTION 14. Arkansas Code § 23-66-513, is amended to read as follows:  
20           23-66-513. Initial appointment investigation. [Effective July 1, 2002  
21 - provisional date.]

22           (a)(1)(A) Prior to the approval of any application or request  
23 for appointment by an insurer or company to be added to the license obtained  
24 by an individual resident agent or producer who has had no previous  
25 appointments on his or her Arkansas license prior to this request, the  
26 insurer shall conduct or secure at its expense an investigation as to the  
27 applicant's identity, residence, experience, or instruction as to the kinds  
28 of insurance to be transacted, and as to the agent's or producer's character,  
29 financial condition, and financial history.

30           (B) The commissioner may accept a background check  
31 performed by the National Association of Securities Dealers for any required  
32 broker or producer background check required by this section.

33           (2) The investigation shall include, at a minimum, the following  
34 information disclosed by the investigation:

35           (A) Whether the applicant has been convicted of a felony,  
36 and, if so, the date and nature of the conviction, the name and location of

1 the court, and the penalty imposed or other disposition of the case, for  
 2 review in compliance with the provisions of § 23-66-502(c) and other  
 3 applicable state or federal laws;

4 (B) Whether, at the time of the application, the agent or  
 5 applicant is a named party in any lawsuit, and, if so, the style of the  
 6 lawsuit, a brief description of the litigation, and the name and location of  
 7 the court;

8 (C) Whether a judgment for monetary damages has been  
 9 entered against the applicant within the last five (5) years, and, if so, the  
 10 date of the judgment, the amount of the judgment, whether the judgment has  
 11 been paid or otherwise satisfied, the name and location of the court, and the  
 12 style of the case; and

13 (D) Such other information as the Insurance Commissioner  
 14 shall require.

15 (3) The forms and the requirements of this subsection shall not  
 16 apply to:

17 (A) Any limited or restricted license as defined in § 23-  
 18 64-502(7) or (9), any limited or restricted license which the commissioner  
 19 may exempt, or any temporary license the commissioner may issue;

20 (B) Corporations, partnerships, limited liability  
 21 companies, and partnerships licensed as insurance agencies under this  
 22 chapter; and

23 (C) Any individual requesting a renewal license or  
 24 requesting his or her second or subsequent insurer appointments added after  
 25 the first-time license or appointment.

26 (b) The requirements for broker or producer background checks of  
 27 subdivisions (a)(1) and (2) of this section shall apply to each first-time  
 28 original license applicant for a resident broker's or producer's license in  
 29 this state. However, those requirements shall not be required for any  
 30 renewal broker's or producer's license, and all filings shall exclude  
 31 appointment forms for first or renewal licenses for brokers or producers.  
 32

33 SECTION 15. Arkansas Code § 23-69-114, concerning licensure of non-  
 34 life mutual insurer agents, is amended to read as follows:

35 (e) Solicitation for qualifying applications for insurance shall be by  
 36 licensed agents of the corporation, and the commissioner shall, upon the

1 corporation's application therefor, issue temporary agent's licenses expiring  
 2 on the date specified pursuant to subdivision (c)(3) of this section to  
 3 individuals qualified as for ~~a resident~~ an agent's or producer's license  
 4 except as to the taking or passing of an examination. The commissioner may  
 5 suspend or revoke any license for any of the causes and pursuant to the same  
 6 procedures as are applicable to suspension or revocation of licenses of  
 7 agents and producers in general under §§ 23-64-101 ~~et seq~~ through 23-64-232  
 8 and §§ 23-64-501 through 23-64-519.

/s/ Matayo, et al

APPROVED: 4/9/2003

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