

**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 76 of the Regular Session**

1 State of Arkansas  
2 86th General Assembly  
3 Regular Session, 2007  
4

# A Bill

HOUSE BILL 1303

5 By: Representative Wells  
6 By: Senator Horn  
7  
8

## For An Act To Be Entitled

10 AN ACT TO AMEND SELECT LAWS FOR FARMERS' MUTUAL  
11 AID ASSOCIATIONS OR COMPANIES; TO PERMIT THE  
12 INSURANCE COMMISSIONER TO EXTEND THE TIME LIMIT  
13 FOR THE ASSOCIATION OR COMPANY TO MEET STATUTORY  
14 MINIMUM MEMBERSHIP REQUIREMENTS; TO CLARIFY THAT  
15 INDEMNITY REINSURANCE FOR FARMERS' MUTUAL AID  
16 ASSOCIATIONS AND COMPANIES SHALL BE PURCHASED AS  
17 NECESSARY BASED ON SURPLUS AND RISK LEVELS; AND  
18 FOR OTHER PURPOSES.  
19

## Subtitle

20  
21 TO PERMIT THE INSURANCE COMMISSIONER TO  
22 EXTEND THE TIME LIMIT FOR A FARMERS'  
23 MUTUAL AID ASSOCIATION TO MEET STATUTORY  
24 MINIMUM MEMBERSHIP REQUIREMENTS AND TO  
25 CLARIFY THE OBLIGATION TO PURCHASE ANY  
26 NECESSARY INDEMNITY REINSURANCE.  
27  
28

29 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
30

31 SECTION 1. Arkansas Code § 23-73-105 is amended to read as follows:  
32 23-73-105. Organization - Membership - Insurance coverage.

33 (a) Twenty (20) or more farmers, all of whom shall be residents of  
34 this state, may make mutual pledges and give valid obligations to each other  
35 for their insurance against loss or damage by fire, tornado, lightning,



1 cyclone, windstorm, hail, explosion with or without fire ensuing, smoke, or  
 2 direct loss or damage to insured property caused by moving vehicles and  
 3 airplanes, riot, riot attending a strike, and civil commotion.

4 (b) These associations shall not insure any property not owned by one  
 5 (1) of its members.

6 (c) Directors of public school districts of any kind and trustees of  
 7 churches may become members of such an association in their representative  
 8 capacities, for the purpose of insuring schoolhouses and churches.

9 (d) These associations may write coverage, at their election, for  
 10 collapse of buildings from the weight of ice and snow.

11 (e) An association shall file all forms, including policy forms,  
 12 application forms, rider or endorsement forms, or forms of renewal  
 13 certificate for the coverages contained in subsections (a) and (d) of this  
 14 section with the Insurance Commissioner. These filings shall be for  
 15 informational purposes only.

16 (f)~~(1)~~ The associations may also write burglary and theft, glass,  
 17 leakage, and fire extinguisher equipment, livestock, miscellaneous coverage,  
 18 and liability, provided those coverages are written as a supplement, or  
 19 package commonly referred to as a homeowner or farmowner policy, to a fire  
 20 insurance policy, if the Insurance Commissioner approves the reinsurance  
 21 agreement as to the liability portions or obligations under these policies.

22 ~~(2)(A)(i)~~ (g)(1) Before any association or company shall be authorized  
 23 to write the coverages: ~~listed in subdivision (f)(1) of this section.~~

24 ~~(a)(A)~~ (A) The policy form shall have prior approval of the  
 25 commissioner, in accordance with § 23-79-109;

26 ~~(b)(B)~~ (B) The association shall have and thereafter maintain  
 27 a minimum surplus of fifty thousand dollars (\$50,000) to be deposited with  
 28 the commissioner in the form of securities eligible for deposit under § 23-  
 29 63-903; and

30 ~~(e)(C)~~ (C) The association shall have and thereafter maintain  
 31 with the commissioner a statutory deposit of not less than fifty thousand  
 32 dollars (\$50,000) in the form of securities eligible under § 23-63-903.

33 ~~(ii)(a)(2)(A)~~ (2)(A) ~~After January 1, 2006, each~~ Each association or  
 34 company shall maintain an unimpaired minimum surplus of five hundred thousand  
 35 dollars (\$500,000).

36 ~~(b)(1)(B)(i)~~ (i) If compliance with ~~subdivision~~

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

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

10 ~~(B)(3)~~ However, if the association reinsures its obligations  
 11 under the coverages listed in ~~subdivision (f)(1)~~ of this section to the  
 12 extent of one hundred percent (100%), the commissioner, in his or her  
 13 discretion, may waive the deposit requirement under this section.

14 ~~(C)(4)~~ The deposit shall be conditioned for the payment of  
 15 creditors and the prompt payment of all claims arising and accruing to any  
 16 person in this state. The deposit shall be further subject to the conditions  
 17 specified in § 23-63-909.

18 ~~(3)(h)~~ Premiums received on policies sold containing the coverages  
 19 listed in ~~subdivision~~ subsection ~~(f)(1)~~ of this section shall be subject to  
 20 the provisions of § 26-57-601 et seq. relating to premium taxes.

21  
 22 SECTION 2. Arkansas Code § 23-73-112 is amended to read as follows:  
 23 23-73-112. Qualifications for certificate of authority.

24 To qualify for and hold a certificate of authority to insure property  
 25 or issue policies, the company or association shall:

26 (1)(A)(i) Have at least two hundred fifty (250) members who hold  
 27 policies or certificates upon at least two hundred fifty (250) separate  
 28 risks.

29 (ii) An association or company whose membership  
 30 falls below two hundred fifty (250) members shall notify the Insurance  
 31 Commissioner immediately and shall have ninety (90) days from that date to  
 32 bring its membership level back up to the requisite number of two hundred  
 33 fifty (250) members.

34 (iii) If an association or company fails to restore  
 35 the membership level to two hundred fifty (250) members within the prescribed  
 36 ninety-day period, the commissioner may:

1 (a) Direct the association or company to  
2 follow a course of action that will protect the assets of the association and  
3 allow for continued protection of the members; or

4 (b) Place the association or company into  
5 involuntary dissolution as contained in § 23-73-120.

6 (B)(i) If immediate initial compliance with subdivision  
7 (1)(A) of this section would cause a domestic association or company to be  
8 ineligible for a continued certificate of authority to operate in this state  
9 on April 11, 2005, the commissioner may allow that domestic association or  
10 company to augment its membership in increments in order for it to achieve  
11 compliance with the minimum requirements by no later than December 31, 2006.

12 (ii) For good cause shown in writing by an  
13 association or company, including planned action steps to achieve the minimum  
14 membership, the commissioner may grant ~~a one-time extension~~ one (1) or more  
15 extensions of the deadline set for compliance in subdivision (1)(B)(i) of  
16 this section for a period or periods not to exceed one (1) year;

17 (2)(A) Maintain contracts or treaties of reinsurance as  
18 necessary based on its risk and surplus level with insurance companies,  
19 excluding surplus lines insurers, licensed or otherwise registered to conduct  
20 that business in the State of Arkansas.

21 (B) Indemnity reinsurance contracts or treaties shall be  
22 structured to provide protection to the company or association against a  
23 reduction of the surplus to an extent that the reduction:

24 (i) Endangers the solvency of the company or  
25 association; or

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

28 (3) Fully comply with and qualify according to the other  
29 provisions of this chapter.

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31 **APPROVED: 2/8/2007**