

1 **State of Arkansas**  
2 **79th General Assembly**  
3 **Regular Session, 1993**

# **A Bill**

**HOUSE BILL 1257**

4 **By: Representative John E. Miller**

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## **For An Act To Be Entitled**

8 "AN ACT TO AMEND ARKANSAS CODE 23-64-203 (b) TO RESTATE,  
9 CLARIFY AND REINFORCE THE SEPARATION BETWEEN LENDING  
10 INSTITUTIONS AND THE INSURANCE BUSINESS; AND FOR OTHER  
11 PURPOSES."

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## **Subtitle**

14 "AN ACT TO RESTATE, CLARIFY AND REINFORCE THE SEPARATION  
15 BETWEEN LENDING INSTITUTIONS AND THE INSURANCE BUSINESS."

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17 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

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19 SECTION 1. Arkansas Code 23-64-203(b) is hereby amended to read as  
20 follows:

21 *"(b) (1) The Commissioner shall not issue, permit to continue, or renew*  
22 *any agent's, broker's, or solicitor's license to any lending institution, or*  
23 *to any subsidiary or affiliate of any lending institution, or any officer or*  
24 *any employee of any of the foregoing, with the following exceptions:*

25 *(A) Such licenses may be issued, continued and renewed to lending*  
26 *institutions, their affiliates and subsidiaries, and officers and employees of*  
27 *either, if such persons or entities are located or reside in municipalities*  
28 *which have a population which does not exceed five thousand (5,000) according*  
29 *to the latest federal decennial census, and provided that all insurance*  
30 *activities engaged in pursuant to such license, including, but not limited to*  
31 *policy sales, order taking, price quoting, solicitation, marketing,*  
32 *processing, servicing, administering, and advertising are based in or conducted*  
33 *solely out of the offices, locations, branches or places of business of the*  
34 *licensee within the geographical limits of such municipality. The conduct of*  
35 *insurance activities pursuant to such license out of or through locations,*

1 branches, offices or places of business of the licensee or by any person or  
2 entity associated or affiliated with the licensee in municipalities which  
3 exceed the five thousand (5,000) population limitation, shall result in the  
4 suspension of such license for so long as insurance activities are conducted  
5 or attempted to be conducted, as determined by the Commissioner, at or through  
6 such non-qualifying locations; or

7 (B) If an application or licensee is permitted to be licensed or  
8 continued by any other provision of (b) or (c) hereof.

9 (C) Notwithstanding any other provision of this Subsection (b)(1)  
10 and with the exception of the effect of population growth upon the licenses of  
11 lending institutions, their affiliates, subsidiaries, offices and employees,  
12 the Commissioner shall permit to continue and shall renew the licenses of  
13 licensees who may operate in part at or through non-qualifying locations and  
14 who do not meet the foregoing requirements, if such licensee is actively  
15 conducting insurance activities under its license at such locations on the  
16 effective date of this act and for so long as such licensee continues to  
17 function in the manner it was constituted on such date; provided however, that  
18 if any ownership interest in or any right to participate in the profits of a  
19 licensee operating through what might otherwise be non-qualifying locations is  
20 transferred to a new or different lending institution or to an affiliate or  
21 subsidiary of such new or different lending institution, the Commissioner  
22 shall not be allowed to continue or renew the license of such licensee.

23 (2) However, a lending institution, an officer or employee of a  
24 lending institution, a subsidiary or affiliate of a lending institution, or an  
25 officer or employee of a subsidiary or affiliate of a lending institution,  
26 otherwise qualified therefor, may be issued a license to sell mortgagor\_s  
27 decreasing term life insurance, mortgagor\_s accident and health and sickness  
28 insurance, credit life insurance, credit accident, credit property and credit  
29 health and accident insurance.

30 (3) The commissioner may renew or continue a license issued to a  
31 lending institution, an officer or employee of a lending institution, a  
32 subsidiary or affiliate of a lending institution, or an officer or employee of  
33 a subsidiary or affiliate of a lending institution, where such license was  
34 lawfully outstanding on March 25, 1975; and where such licensee was on that  
35 date, and continues to be at the time of renewal or continuance of such

1 license, actively engaged in conducting insurance activities authorized under  
2 such license.

3                   (A) The commissioner may issue to and renew or continue  
4 agent\_s, broker\_s and solicitor\_s license of successor agents, brokers and  
5 solicitors, who are otherwise qualified therefor, who are associated with or  
6 employed by licensees whose licenses are renewed or continued pursuant to  
7 subdivision (b)(3) of this subsection for so long as the licensee renewed or  
8 continued pursuant to subdivision (b)(3) of this subsection continues to  
9 function as it was constituted on March 25, 1975. Such successor agents,  
10 brokers or solicitors may be employed or controlled directly or indirectly  
11 only by the licensee whose license is renewed or continued pursuant to  
12 subdivision (b)(3) of this subsection. The term successor as used herein  
13 means individuals who replace in an identical capacity other individuals who  
14 have left or ceased to be employed by or associated with a lending institution  
15 agency or its subsidiary or affiliate.

16                   (B) The subsequent transfer of ownership or control of a  
17 licensee whose license is renewed or continued pursuant to subdivision (b)(3)  
18 of this subsection to other subsidiaries or affiliates of such licensee with  
19 which such licensee was associated on March 25, 1975 shall not prohibit the  
20 commissioner from granting renewals of or license to successor agents, brokers  
21 and solicitors. However, the restrictions of this subsection shall attach and  
22 the commissioner shall not issue, renew or continue any license of a lending  
23 institution or of any subsidiary or affiliate of a lending institution or to  
24 any officer or employee of either of the above if any ownership interest in or  
25 any right to participate directly or indirectly in the profits of the licensee  
26 whose license has been continued pursuant to subdivision (b)(3) of this  
27 subsection is transferred to a new or different lending institution or to an  
28 affiliate or subsidiary of such new or different lending institution.

29                   (C) Nothing in this subsection shall restrict the  
30 expansion of a licensee other than a lending institution agency by the  
31 acquisition through purchases of or through merger or consolidation with an  
32 existing lending institution agency so long as, following the purchase, merger  
33 or consolidation, no part of the profits of the surviving entity inure  
34 directly or indirectly to the benefit of a lending institution and so long as  
35 no part of its capital stock is owned or controlled directly or indirectly by

1 a lending institution or an affiliate or subsidiary of a lending institution.  
2 No provision of Arkansas Code 23-64-203 shall in any way affect any business  
3 activities of a broker dealer licensed by the state of Arkansas or its  
4 affiliates or subsidiaries nor affect any contracts or agreements such broker  
5 dealer or its affiliates or subsidiaries may have with any entity.

6 (4) For purposes of this subsection:

7 (A) Lending institution means any entity:

8 (i) Which has a place of business at which it  
9 accepts deposits of money from the public and lends money, including banks and  
10 savings and loan associations;

11 (B) Subsidiary means any person or entity which is  
12 controlled by a lending institution or its affiliate;

13 (C) Affiliate means any person or entity which controls,  
14 or is under common control with, a lending institution;

15 (D) Control means the power to exercise a deciding  
16 influence over the management of a lending institution, unless power is  
17 solely the result of an official position with the lending institution.

18 (5) The commissioner is authorized to promulgate regulations in  
19 order to effectuate the purposes of this subsection, which are to help  
20 maintain the separation between lending institutions and the insurance  
21 business and to minimize the possibilities of unfair competitive and deceptive  
22 practices by lending institutions or their subsidiaries or affiliates  
23 affecting agents, brokers, or the public.

24 (6) The provisions of this subsection (b) shall apply only to  
25 transfers of any ownership interest in, or control of, or any right to  
26 participate or share directly or indirectly in the profits of any licensee  
27 that occur on or after January 1, 1993. Such transfers effected prior to  
28 January 1, 1993, shall be governed by the law in effect when the transfer was  
29 made."

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31 SECTION 2. All provisions of this act of a general and permanent nature  
32 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code  
33 Revision Commission shall incorporate the same in the Code.

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35 SECTION 3. If any provision of this act or the application thereof to

1 any person or circumstance is held invalid, such invalidity shall not affect  
2 other provisions or applications of the act which can be given effect without  
3 the invalid provision or application, and to this end the provisions of this  
4 act are declared to be severable.

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6 SECTION 4. All laws and parts of laws in conflict with this act are  
7 hereby repealed.

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9 SECTION 5. EMERGENCY. It is hereby found and determined by the General  
10 Assembly that current laws relating to lending institutions engaged in the  
11 insurance business are in urgent need of clarification, and that this act is  
12 designed to clarify such laws and should be given effect immediately.  
13 Therefore, an emergency is hereby declared to exist, and this act being  
14 immediately necessary for the preservation of the public peace, health, and  
15 safety shall be in full force and effect from and after its passage and  
16 approval.

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/s/John E. Miller

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