

1 **State of Arkansas**
2 **79th General Assembly**
3 **Regular Session, 1993**
4 **By: Representative Mike Wilson**

A Bill

HOUSE BILL 1426

For An Act To Be Entitled

8 "AN ACT TO AMEND VARIOUS SECTIONS OF THE ARKANSAS
9 INSURANCE CODE, THE SAME BEING ARKANSAS CODE ANNOTATED
10 SECTIONS 23-61-101 THROUGH 23-92-101 ET SEQ.; AND FOR
11 OTHER PURPOSES."

Subtitle

14 "TO AMEND VARIOUS SECTIONS OF THE ARKANSAS INSURANCE
15 CODE."

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

19 SECTION 1. Chapter 62 of Title 23 of the Arkansas Code is hereby
20 amended by adding the following new Subchapter 4:

21 "23-62-401. Short Title. This act may be cited as the Reinsurance
22 Intermediary Act."

24 23-62-402. Definitions. As used in this act:

25 (a) Actuary means a person who is a member in good standing of the
26 American Academy of Actuaries.

27 (b) Controlling Person means any person, firm, association or
28 corporation who directly or indirectly has the power to direct or cause to be
29 directed, the management, control or activities of the reinsurance
30 intermediary.

31 (c) Insurer means any person, firm, association or corporation duly
32 licensed in this state pursuant to the applicable provisions of the insurance
33 law as an insurer.

34 (d) Licensed Producer means an agent, broker or reinsurance
35 intermediary licensed pursuant to the applicable provision of the insurance

1 law.

2 (e) Reinsurance Intermediary means a reinsurance intermediary - broker
3 or a reinsurance intermediary - manager as these terms are defined in (f) and
4 (g) of this subsection.

5 (f) Reinsurance Intermediary - Broker (RB) means any person, other than
6 an officer or employee of the ceding insurer, firm, association or corporation
7 who solicits, negotiates or places reinsurance cessions
8 or retrocessions on behalf of a ceding insurer without the authority
9 or power to bind reinsurance on behalf of such insurer.

10 (g) Reinsurance Intermediary - Manager (RM) means any person, firm,
11 association or corporation who has authority to bind or manages all or part of
12 the assumed reinsurance business of a reinsurer (including the management of a
13 separate division, department or underwriting office) and acts as an agent for
14 such reinsurer whether known as a RM, manager or other similar term.

15 Notwithstanding the above, the following persons shall not be considered a RM,
16 with respect to such reinsurer, for the purposes of this Act:

17 (1) An employee of the reinsurer;

18 (2) A U.S. Manager of the United States branch of an alien
19 reinsurer;

20 (3) An underwriting manager which, pursuant to contract, manages
21 all the reinsurance operations of the reinsurer, is under common control with
22 the reinsurer, subject to the Holding Company Act, and whose compensation is
23 not based on the volume of premiums written.

24 (4) The manager of a group, association, pool or organization of
25 insurers which engage in joint underwriting or joint reinsurance and who are
26 subject to examination by the Insurance Commissioner of the state in which the
27 manager's principal business office is located.

28 (h) Reinsurer means any person, firm, association or corporation duly
29 licensed in this state pursuant to the applicable provisions of the insurance
30 law as an insurer with the authority to assume reinsurance.

31 (i) To be in violation means that the reinsurance intermediary,
32 insurer or reinsurer for whom the reinsurance intermediary was acting failed
33 to substantially comply with the provisions of this Act.

34

35 23-62-403. Qualified U. S. Financial Institutions. For purposes of this

1 Act, a qualified United States financial institution means an institution
2 that:

3 (1) Is organized or (in the case of a U.S. office of a foreign
4 banking organization) licensed, under the laws of the United States or any
5 state thereof;

6 (2) Is regulated, supervised and examined by U.S. federal or state
7 authorities having regulatory authority over banks and trust companies; and

8 (3) Has been determined by either the Commissioner, or the Securities
9 Valuation Office of the National Association of Insurance Commissioners, to
10 meet such standards of financial condition and standing as are considered
11 necessary and appropriate to regulate the quality of financial institutions
12 whose letters of credit will be acceptable to the Commissioner.

13

14 23-62-404. Licensure.

15 (a) No person, firm, association or corporation shall act as a RB in
16 this state if the RB maintains an office either directly or as a member or
17 employee of a firm or association, or an officer, director or employee of a
18 corporation:

19 (1) In this state, unless such RB is a licensed producer in this
20 state; or

21 (2) In another state, unless such RB is a licensed producer in
22 this state or another state having a law substantially similar to this law or
23 such RB is licensed in this state as a nonresident reinsurance intermediary.

24 (b) No person, firm, association or corporation shall act as a RM:

25 (1) For a reinsurer domiciled in this state, unless such RM is a
26 licensed producer in this state;

27 (2) In this state, if the RM maintains an office either directly
28 or as a member or employee of a firm or association, or an officer,
29 director or employee of a corporation in this state, unless such RM is a
30 licensed producer in this state;

31 (3) In another state for a nondomestic insurer, unless such RM is
32 a licensed producer in this state or another state having a law substantially
33 similar to this law or such person is licensed in this state as a nonresident
34 reinsurance intermediary.

35 (c) The Commissioner may require a RM subject to (b) of this subsection

1 to:

2 (1) File a bond in an amount from an insurer acceptable to the
3 Commissioner for the protection of the reinsurer; and

4 (2) Maintain an errors and omissions policy in an amount
5 acceptable to the Commissioner.

6 (d) (1) The Commissioner may issue a reinsurance intermediary license
7 to any person, firm, association or corporation who has complied with the
8 requirements of this Act. Any such license issued to a firm or association
9 will authorize all the members of such firm or association and any designated
10 employees to act as reinsurance intermediaries under the license, and all such
11 persons shall be named in the application and any supplements thereto. Any
12 such license issued to a corporation shall authorize all of the officers, and
13 any designated employees and directors thereof to act as reinsurance
14 intermediaries on behalf of such corporation, and all such persons shall be
15 named in the application and any supplements thereto.

16 (2) If the applicant for a reinsurance intermediary license is a
17 nonresident, such applicant, as a condition precedent to receiving or holding
18 a license, shall designate the Commissioner as agent for service of process in
19 the manner, and with the same legal effect, provided for by this Act for
20 designation of service of process upon unauthorized insurers; and also shall
21 furnish the Commissioner with the name and address of a resident of this state
22 upon whom notices or orders of the Commissioner or process affecting such
23 nonresident reinsurance intermediary may be served. Such licensee shall
24 promptly notify the Commissioner in writing of every change in its designated
25 agent for service of process, and such change shall not become effective until
26 acknowledged by the Commissioner.

27 (e) The Commissioner may refuse to issue a reinsurance intermediary
28 license if, in his judgment, the applicant, any one named on the application,
29 or any member, principal, officer or director of the applicant, is not
30 trustworthy, or that any controlling person of such applicant is not
31 trustworthy to act as a reinsurance intermediary, or that any of the foregoing
32 has given cause for revocation or suspension of such license, or has failed to
33 comply with any prerequisite for the issuance of such license. Upon written
34 request therefor, the Commissioner will furnish a summary of the basis for
35 refusal to issue a license, which document shall be privileged and not subject

1 to Arkansas Code Annotated §25-19-101, et seq.

2 (f) Licensed attorneys at law of this state when acting in their
3 professional capacity as such shall be exempt from this section.

4

5 23-62-405. Required Contract Provisions - Reinsurance Intermediary -
6 Brokers. Transactions between a RB and the insurer it represents in such
7 capacity shall only be entered into pursuant to a written authorization,
8 specifying the responsibilities of each party. The authorization shall, at a
9 minimum, provide that:

10 (a) The insurer may terminate the RB's authority at any time.

11 (b) The RB will render accounts to the insurer accurately detailing all
12 material transactions, including information necessary to support all
13 commissions, charges and other fees received by, or owing, to the RB, and
14 remit all funds due to the insurer within thirty (30) days of receipt.

15 (c) All funds collected for the insurer's account will be held by the RB
16 in a fiduciary capacity in a bank which is a qualified U.S. financial
17 institution as defined herein.

18 (d) The RB will comply with *Arkansas Code Section 23-62-406* of this Act.

19 (e) The RB will comply with the written standards established by the
20 insurer for the cession or retrocession of all risks.

21 (f) The RB will disclose to the insurer any relationship with any
22 reinsurer to which business will be ceded or retroceded.

23

24 23-62-406. Books and Records - Reinsurance Intermediary Brokers.

25 (a) For at least ten (10) years after expiration of each contract of
26 reinsurance transacted by the RB, the RB will keep a complete record for each
27 transaction showing:

28 (1) The type of contract, limits, underwriting restrictions,
29 classes or risks and territory;

30 (2) Period of coverage, including effective and expiration dates,
31 cancellation provisions and notice required of cancellation;

32 (3) Reporting and settlement requirements of balances;

33 (4) Rate used to compute the reinsurance premium;

34 (5) Names and addresses of assuming reinsurers;

35 (6) Rates of all reinsurance commissions, including the

1 commissions on any retrocessions handled by the RB;

2 (7) Related correspondence and memoranda;

3 (8) Proof of placement;

4 (9) Details regarding retrocessions handled by the RB including
5 the identity of retrocessionaires and percentage of each contract
6 assumed or ceded;

7 (10) Financial records, including but not limited to, premium and
8 loss accounts; and

9 (11) When the RB procures a reinsurance contract on behalf of a
10 licensed ceding insurer:

11 (A) Directly from any assuming reinsurer, written evidence
12 that the assuming reinsurer has agreed to assume the risk; or

13 (B) If placed through a representative of the assuming
14 reinsurer, other than an employee, written evidence that such reinsurer has
15 delegated binding authority to the representative.

16 (b) The insurer will have access and the right to copy and audit all
17 accounts and records maintained by the RB related to its business in a form
18 usable by the insurer.

19

20 23-62-407. Duties of Insurers Utilizing the Services of a Reinsurance
21 Intermediary - Broker.

22 (a) An insurer shall not engage the services of any person, firm,
23 association or corporation to act as a RB on its behalf unless such
24 person is licensed as required by Section 4 of this Act.

25 (b) An insurer may not employ an individual who is employed by a RB with
26 which it transacts business, unless such RB is under common control with the
27 insurer and subject to the Holding Company Act.

28 (c) The insurer shall annually obtain a copy of statements of the
29 financial condition of each RB with which it transacts business.

30

31 23-62-408. Required Contract Provisions - Reinsurance Intermediary -
32 Managers. Transactions between a RM and the reinsurer it represents in such
33 capacity shall only be entered into pursuant to a written contract, specifying
34 the responsibilities of each party, which shall be approved by the reinsurer's
35 Board of Directors. At least thirty (30) days before such reinsurer assumes

1 or cedes business through such producer, a true copy of the approved contract
2 shall be filed with the Commissioner for approval. The contract shall, at a
3 minimum, contain provisions that:

4 (a) The reinsurer may terminate the contract for cause upon written
5 notice to the RM. The reinsurer may immediately suspend the
6 authority of the RM to assume or cede business during the pendency of any
7 dispute regarding the cause for termination.

8 (b) The RM will render accounts to the reinsurer accurately detailing
9 all material transactions, including information necessary to support all
10 commissions, charges and other fees received by, or owing to the RM, and remit
11 all funds due under the contract to the reinsurer on not less than a monthly
12 basis.

13 (c) All funds collected for the reinsurer's account will be held by the
14 RM in a fiduciary capacity in a bank which is a qualified U.S.
15 financial institution as defined herein. The RM may retain no more
16 than three (3) months estimated claims payments and allocated loss
17 adjustment expenses. The RM shall maintain a separate bank account
18 for each reinsurer that it represents.

19 (d) For at least ten (10) years after expiration of each contract of
20 reinsurance transacted by the RM, the RM will keep a complete record for each
21 transaction showing:

22 (1) The type of contract, limits, underwriting restrictions,
23 classes or risks and territory;

24 (2) Period of coverage, including effective and expiration dates,
25 cancellation provisions and notice required of cancellation, and disposition
26 of outstanding reserves on covered risks;

27 (3) Reporting and settlement requirements of balances;

28 (4) Rate used to compute the reinsurance premium;

29 (5) Names and addresses of reinsurers;

30 (6) Rates of all reinsurance commissions, including the
31 commissions on any retrocessions handled by the RM;

32 (7) Related correspondence and memoranda;

33 (8) Proof of placement;

34 (9) Details regarding retrocessions handled by the RM, as
35 permitted by Section 10(d) of this Act, including the identity of

1 retrocessionaires and percentage of each contract assumed or ceded;

2 (10) Financial records, including but not limited to, premium and
3 loss accounts; and

4 (11) When the RM places a reinsurance contract on behalf of a
5 ceding insurer:

6 (A) Directly from any assuming reinsurer, written evidence
7 that the assuming reinsurer has agreed to assume the risk; or

8 (B) If placed through a representative of the assuming
9 reinsurer, other than an employee, written evidence that such reinsurer has
10 delegated binding authority to the representative.

11 (e) The reinsurer will have access and the right to copy all accounts
12 and records maintained by the RM related to its business in a form usable by
13 the reinsurer.

14 (f) The contract cannot be assigned in whole or in part by the RM.

15 (g) The RM will comply with the written underwriting and rating
16 standards established by the insurer for the acceptance, rejection or cession
17 of all risks.

18 (h) Sets forth the rates, terms and purposes of commissions, charges and
19 other fees which the RM may levy against the reinsurer.

20 (i) If the contract permits the RM to settle claims on behalf of the
21 reinsurer:

22 (1) All claims will be reported to the reinsurer in a timely
23 manner;

24 (2) A copy of the claim file will be sent to the reinsurer at its
25 request or as soon as it becomes known that the claim:

26 (A) Has the potential to exceed the lesser of an amount
27 determined by the Commissioner or the limit set by the reinsurer;

28 (B) Involves a coverage dispute;

29 (C) May exceed the RM's claims settlement authority;

30 (D) Is open for more than six (6) months; or

31 (E) Is closed by payment of the lesser of an amount set by
32 the Commissioner or an amount set by the reinsurer;

33 (3) All claim files will be the joint property of the reinsurer
34 and RM. However, upon an order of liquidation of the reinsurer such
35 files shall become the sole property of the reinsurer or its estate; the RM

1 shall have reasonable access to and the right to copy the files on a timely
2 basis;

3 (4) Any settlement authority granted to the RM may be terminated
4 for cause upon the reinsurer's written notice to the RM or upon the
5 termination of the contract. The reinsurer may suspend the settlement
6 authority during the pendency of the dispute regarding the cause of
7 termination.

8 (j) If the contract provides for a sharing of interim profits by the RM,
9 that such interim profits will not be paid until one (1) year after the end of
10 each underwriting period for property business and five (5) years after the
11 end of each underwriting period for casualty business (or a later period set
12 by the Commissioner for specified lines of insurance) and not until the
13 adequacy of reserves on remaining claims has been verified pursuant to Section
14 10(c) of this Act.

15 (k) The RM will annually provide the reinsurer with a statement of its
16 financial condition prepared by an independent certified accountant.

17 (l) The reinsurer shall periodically (at least semi-annually) conduct an
18 on-site review of the underwriting and claims processing operations of the RM.

19 (m) The RM will disclose to the reinsurer any relationship it has with
20 any insurer prior to ceding or assuming any business with such insurer
21 pursuant to this contract.

22 (n) The acts of the RM shall be deemed to be the acts of the reinsurer
23 on whose behalf it is acting.

24

25 23-62-409. Prohibited Acts. The RM shall not:

26 (a) Bind retrocessions on behalf of the reinsurer, except that the RM
27 may bind facultative retrocessions pursuant to obligatory facultative
28 agreements if the contract with the reinsurer contains reinsurance
29 underwriting guidelines for such retrocessions. Such guidelines shall include
30 a list of reinsurers with which such automatic agreements are in effect, and
31 for each such reinsurer, the coverages and amounts or percentages that may be
32 reinsured, and commission schedules.

33 (b) Commit the reinsurer to participate in reinsurance syndicates.

34 (c) Appoint any producer without assuring that the producer is lawfully
35 licensed to transact the type of reinsurance for which he is appointed.

1 (d) Without prior approval of the reinsurer, pay or commit the reinsurer
2 to pay a claim, net of retrocessions, that exceeds the lesser of an amount
3 specified by the reinsurer or one (1) percent of the reinsurer's
4 policyholder's surplus as of December 31 of the last complete calendar year.

5 (e) Collect any payment from a retrocessionaire or commit the reinsurer
6 to any claim settlement with a retrocessionaire, without prior approval of the
7 reinsurer. If prior approval is given, a report must be promptly forwarded to
8 the reinsurer.

9 (f) Jointly employ an individual who is employed by the reinsurer.

10 (g) Appoint a sub-RM.

11

12 23-62-410. Duties of Reinsurers Utilizing the Services of a Reinsurance
13 Intermediary - Manager.

14 (a) A reinsurer shall not engage the services of any person, firm,
15 association or corporation to act as a RM on its behalf unless such person is
16 licensed as required by Section 4 of this Act.

17 (b) The reinsurer shall annually obtain a copy of statements of the
18 financial condition of each RM which such reinsurer has engaged
19 prepared by an independent certified accountant in a form acceptable
20 to the Commissioner.

21 (c) If a RM establishes loss reserves, the reinsurer shall annually
22 obtain the opinion of an actuary attesting to the adequacy of loss reserves
23 established for losses incurred and outstanding on business produced by the
24 RM. This opinion shall be in addition to any other required loss reserve
25 certification.

26 (d) Binding authority for all retrocessional contracts or participation
27 in reinsurance syndicates shall rest with an officer of the reinsurer who
28 shall not be affiliated with the RM.

29 (e) Within thirty (30) days of termination of a contract with a RM, the
30 reinsurer shall provide written notification of such termination to the
31 Commissioner.

32 (f) A reinsurer shall not appoint to its board of directors, any
33 officer, director, employee, controlling shareholder or subproducer of its RM.
34 This subsection shall not apply to relationships governed by Ark. Code Ann.
35 §23-63-501, et seq.

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23-62-411. Examination Authority.

(a) A reinsurance intermediary shall be subject to examination by the Commissioner. The Commissioner shall have access to all books, bank accounts and records of the reinsurance intermediary in a form usable to the Commissioner.

(b) A RM may be examined as if it were the reinsurer.

23-62-412. Penalties and Liabilities.

(a) A reinsurance intermediary, insurer or reinsurer found by the Commissioner, after a hearing conducted in accordance with Ark. Code Ann. §§23-61-301-307, to be in violation of any provision[s] of this Act, shall:

(1) For each separate violation, pay a penalty in an amount not exceeding five thousand dollars (\$5,000);

(2) Be subject to revocation or suspension of its license; and

(3) If a violation was committed by the reinsurance intermediary, such reinsurance intermediary shall make restitution to the insurer, reinsurer, rehabilitator or liquidator of the insurer or reinsurer for the net losses incurred by the insurer or reinsurer attributable to such violation.

(b) The decision, determination or order of the Commissioner pursuant to (a) of this subsection shall be subject to judicial review pursuant to Ark. Code Ann. §23-61-307.

(c) Nothing contained in this section shall affect the right of the Commissioner to impose any other penalties provided in the insurance law.

(d) Nothing contained in this Act is intended to or shall in any manner limit or restrict the rights of policyholders, claimants, creditors or other third parties or confer any rights to such persons.

23-62-413. Rules and Regulations. The Commissioner may adopt reasonable rules and regulations for the implementation and administration of the provisions of this Act."

SECTION 2. Arkansas Code 23-63-216 - Annual Statement and Other Information - is hereby amended to read as follows:

"(a) (1) The statement shall be the appropriate National Association of

1 Insurance Commissioners' annual statement blank which shall be prepared in
2 accordance with the National Association of Insurance Commissioners_
3 instructions handbook and follow those accounting procedures and practices
4 prescribed by the National Association of Insurance Commissioners' Accounting
5 Practices and Procedures Manual."

6

7 SECTION 3. Arkansas Code 23-63-216 - Annual Statement and Other
8 Information - is hereby amended to add the following subsection at the end of
9 the existing subsections:

10 "(i) Each domestic insurer authorized to transact business in this state
11 shall include in its annual statement an opinion, as is relevant to the lines
12 of business the domestic insurer is authorized to write, on its life and
13 health policy and claim reserves and its property and liability loss and loss
14 adjustment expense reserves by a qualified actuary. Such opinion shall be in
15 the format prescribed by the National Association of Insurance Commissioners'
16 Annual Statement Instruction Handbook."

17

18 SECTION 4. Arkansas Code 23-63-801 is hereby amended to read as
19 follows:

20 "Except as to §23-63-835, the provisions of this subchapter shall apply
21 to domestic insurers only."

22

23 SECTION 5. Arkansas Code 23-63-802, Subsection (a), is hereby amended
24 to read as follows:

25 "(a) Insurers shall invest in, or lend their funds on the security of,
26 and shall hold as invested assets only eligible investments as prescribed in
27 this subchapter."

28

29 SECTION 6. Arkansas Code 23-63-803, Subsection (b), is hereby amended
30 to read as follows:

31 "(b) No provision of this subchapter shall prohibit the acquisition by
32 an insurer of other or additional securities or property if received as a
33 dividend or as a lawful distribution of assets, or under a lawful and bona
34 fide agreement of bulk reinsurance, merger, or consolidation. Any investment
35 so acquired which is not otherwise eligible under this subchapter shall be

1 disposed of pursuant to §23-63-830 if personal property or securities, or
2 pursuant to §23-63-829 if real property."

3

4 SECTION 7. Arkansas Code 23-63-805, Subsection (3), is hereby amended
5 to read as follows:

6 "(3) LIFE INSURANCE RESERVES. A life insurer shall also invest and
7 keep invested its funds in amount not less than seventy-five percent (75%) of
8 the reserves under its life insurance policies and annuity contracts, other
9 than variable annuities, in force, in cash, securities, or investments allowed
10 under this subchapter, other than stocks of subsidiaries of the insurer;"

11

12 SECTION 8. Arkansas Code 23-63-805 is hereby amended by adding new
13 subsection (7) to read as follows:

14 "(7) Notwithstanding any other provision of this subchapter to the
15 contrary:

16 (a) No insurer shall acquire, directly or indirectly, any medium
17 grade or lower grade obligation of any institution if, after giving effect to
18 any such acquisition, the aggregate amount of all medium grade and lower grade
19 obligations then held by the domestic insurer would exceed twenty percent
20 (20%) of its admitted assets, provided that; no more than ten percent (10%) of
21 its admitted assets consists of obligations rated four (4), five (5) or six
22 (6) by the Securities Valuation Office; and no more than three percent (3%) of
23 its admitted assets consists of obligations rated five (5) or six (6) by the
24 Securities Valuation Office, and no more than one percent (1%) of its admitted
25 assets consists of obligations rated six (6) by the Securities Valuation
26 Office. Attaining or exceeding the limit of any one category shall not
27 preclude an insurer from acquiring obligations in other categories subject to
28 the specific and multi-category limits.

29 (A) No insurer may invest more than an aggregate of one (1)
30 percent of its admitted assets in medium grade obligations issued, guaranteed
31 or insured by any one institution nor may it invest more than one-half of one
32 percent (.5%) of its admitted assets in lower grade obligations issued,
33 guaranteed or insured by any one institution. In no event, however, may an
34 insurer invest more than one percent (1%) of its admitted assets in any medium
35 or lower grade obligations issued, guaranteed or insured by any one

1 institution.

2 (B) An insurer may acquire an obligation of an institution
3 in which the insurer already has one or more obligations, if the obligation is
4 acquired in order to protect an investment previously made in the obligations
5 of the institution; provided that all such acquired obligations shall not
6 exceed one-half of one percent (.5%) of the insurer's admitted assets.

7 (C) Nothing contained in this subsection:

8 (i) shall prohibit an insurer from acquiring any
9 obligations which it has committed to acquire if the insurer would have been
10 permitted to acquire that obligation pursuant to this Act on the date on which
11 such insurer committed to purchase that obligation;

12 (ii) shall prohibit an insurer from acquiring an
13 obligation as a result of restructuring of a medium or lower grade obligation
14 already held;

15 (iii) shall require an insurer to sell or otherwise
16 dispose of any obligation legally acquired prior to the effective date of this
17 Act.

18 (D) The board of directors of any insurer which acquires
19 or invests, directly or indirectly, more than two percent (2%) of its admitted
20 assets in medium grade and lower grade obligations of any institution, shall
21 adopt a written plan for the making of such investments. The plan, in
22 addition to the guidelines with respect to the quality of the issues invested
23 in, shall contain diversification standards including, but not limited to,
24 standards for issuer, industry, duration, liquidity and geographic location.

25 (b) For purposes of this subsection:

26 (A) Admitted assets means the amount thereof as of the last day
27 of the most recently concluded annual statement year, computed in the same
28 manner as admitted assets pursuant to §§ 23-63-601, et seq.;

29 (B) Aggregate amount of medium grade and lower grade
30 obligations means the aggregate statutory statement value thereof;

31 (C) Institution means a corporation, a joint-stock company, an
32 association, a trust, a business partnership, a business joint venture or
33 similar entity;

34 (D) Lower grade obligations means obligations which are rated
35 four (4), five (5) or six (6) by the Securities Valuation Office of the

1 National Association of Insurance Commissioners; and

2 (E) Medium grade obligations means obligations which are rated
3 three (3) by the Securities Valuation Office of the National Association of
4 Insurance Commissioners."

5

6 SECTION 9. Arkansas Code 23-63-815, Subsection (a), is hereby amended
7 to read as follows:

8 "(a) An insurer may invest in preferred or guaranteed stocks or shares
9 of any solvent institution existing under the laws of the United States of
10 America or of Canada, or of any state or province thereof, if all of the prior
11 obligations and prior preferred stocks, if any, of the institution at the date
12 of the acquisition of the investment by the insurer are eligible as
13 investments under this subchapter and if the net earnings of the institution
14 available for its fixed charges during each of the last two (2) years have
15 been, and during each of the last five (5) years have averaged, not less than
16 one and one-half (1 1/2) times the sum of its average annual fixed charges, if
17 any, its average annual maximum contingent interest, if any, and its average
18 annual preferred dividend requirements."

19

20 SECTION 10. Arkansas Code 23-63-822 is hereby amended to read as
21 follows:

22 "(a) An insurer may lend and invest its funds upon the pledge of
23 securities eligible for investment under this subchapter.

24 (b) As at date made, no loan shall exceed in amount ninety percent
25 (90%) of the market value of such collateral pledged.

26 (c) The amount so loaned shall be included pro rata in determining the
27 maximum percentage of funds permitted under this subchapter to be invested in
28 the respective categories of securities so pledged."

29

30 SECTION 11. Arkansas Code 23-63-824, Subsection (b), is hereby amended
31 to read as follows:

32 "(b) Canadian securities eligible for investment under other provisions
33 of this subchapter are not subject to this section."

34

35 SECTION 12. Arkansas Code 23-63-825 is hereby amended to read as

1 follows:

2 "(a) An insurer may make loans or investments not otherwise expressly
3 permitted under this subchapter, in aggregate amount not over ten percent
4 (10%) of the insurer's assets and not over three percent (3%) of the assets as
5 to any one such loan or investment, if that loan or investment fulfills the
6 requirements of §23-63-803 and otherwise qualifies as a sound investment. No
7 such loan or investment shall be represented by:

8 (1) Any item described in §23-63-603 concerning assets not
9 allowed, or any loan or investment otherwise expressly prohibited;

10 (2) Any category of loans or investments eligible under any other
11 provisions of this subchapter;

12 (3) Any asset theretofore acquired or held by the insurer under
13 any other category of loans or investments eligible under this subchapter.

14 (b) The insurer shall keep a separate record of all loans and
15 investments made under this section.

16 (c) If, subsequent to its acquisition under this section, an investment
17 becomes eligible as an investment under any other section of this subchapter,
18 then the insurer may consider the investment as held under that other section,
19 and if so considered, the investment shall thereafter not be subject to this
20 section."

21

22 SECTION 13. Arkansas Code 23-63-827, Subsection (d), is hereby amended
23 to read as follows:

24 "(d) This section shall not prohibit an insurer from taking liens on
25 personal property as additional security for any investment otherwise eligible
26 under this subchapter."

27

28 SECTION 14. Arkansas Code 23-63-831, Subsection (a), is hereby amended
29 to read as follows:

30 "(a) Any real estate, personal property, or securities lawfully
31 acquired and held by an insurer after expiration of the period for disposal
32 thereof, or any extension of period granted by the commissioner as provided in
33 §23-63-829 or §23-63-830, or any investments otherwise lawful which are in
34 excess of the aggregate amount the insurer is authorized to invest in that
35 category of investments under this subchapter shall not be allowed as an asset

1 of the insurer."

2

3 SECTION 15. Arkansas Code 23-63-832, Subdivision (a)(1), is hereby
4 amended to read as follows:

5 "(a) (1) In addition to other investments eligible under this
6 subchapter a title insurer may invest and have invested an amount not
7 exceeding fifty percent (50%) of its paid-in capital stock in its abstract
8 plant and equipment and, with the commissioner's consent, in stocks of
9 abstract companies."

10

11 SECTION 16. Arkansas Code 23-63-835, Subsection (a), is hereby amended
12 to read as follows:

13 "(a) The investments of a foreign or alien insurer shall be as
14 permitted by the laws of its domicile but shall be of a quality substantially
15 as high as those required under this subchapter for similar funds of like
16 domestic insurers."

17

18 SECTION 17. All provisions of this act of a general and permanent
19 nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas
20 Code Revision Commission shall incorporate the same in the Code.

21

22 SECTION 18. If any provision of this act or the application thereof to
23 any person or circumstance is held invalid, such invalidity shall not affect
24 other provisions or applications of the act which can be given effect without
25 the invalid provision or application, and to this end the provisions of this
26 act are declared to be severable.

27

28 SECTION 19. All laws and parts of laws in conflict with this act are
29 hereby repealed.

30

31 SECTION 20. EMERGENCY. It is hereby found and determined by the
32 General Assembly of the State of Arkansas that the laws of this State
33 concerning the insurance matters covered in the subject of this Act are
34 inadequate for the protection of the public and the immediate passage of this
35 Act is necessary in order to provide for the adequate protection of the

1 public. Therefore, an emergency is hereby declared to exist, and this Act
2 being immediately necessary for the preservation of the public peace, health
3 and safety shall be in full force and effect from and after its passage and
4 approval.

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/s/Mike Wilson

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