

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

# A Bill

SENATE BILL 312

4  
5 By: Senator Brown  
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## For An Act To Be Entitled

9 AN ACT TO REQUIRE INSURERS TO PROVIDE CURRENT  
10 INFORMATION REGARDING THEIR RATES AND RATING  
11 CRITERIA TO THE ARKANSAS INSURANCE COMMISSIONER  
12 NO LATER THAN JULY 1, 2003; TO REQUIRE THE  
13 COMMISSIONER TO REPORT TO CERTAIN CONSTITUTIONAL  
14 OFFICERS AND MEMBERS OF THE GENERAL ASSEMBLY NO  
15 LATER THAN THIRTY (30) CALENDAR DAYS AFTER THE  
16 EFFECTIVE DATE OF THIS ACT; AND FOR OTHER  
17 PURPOSES.

## Subtitle

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20 AN ACT TO REQUIRE INSURERS TO PROVIDE TO  
21 THE STATE INSURANCE COMMISSIONER CURRENT  
22 INFORMATION REGARDING THEIR RATES AND  
23 RATING CRITERIA AND TO REQUIRE THE  
24 COMMISSIONER TO REPORT TO THE GENERAL  
25 ASSEMBLY.  
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28 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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30 SECTION 1. This act may be referred to as "The Insurance Ratepayers  
31 Relief Act".  
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33 SECTION 2. Definitions.

34 As used in this act:

35 (1) "Insurance" is defined as that term is used in Arkansas Code § 23-  
36 60-102, and includes insurance for any loss;



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2       (2)(A) "Insurer" means an insurance company, reciprocal  
3 or interinsurance exchange, mutual, capital stock company, county  
4 mutual insurance company, association, Lloyd's plan company, or  
5 other entity writing insurance in Arkansas.

6       (B) "Insurer" means a person or entity providing insurance and  
7 includes an affiliate as described under Arkansas Code § 23-63-503, if the  
8 affiliate writes insurance in Arkansas; and

9       (3)(A) "Supplementary rating information" means any manual, rating  
10 schedule, plan of rules, rating rules, classification systems, territory  
11 codes and descriptions, rating plans, and other similar information used by  
12 the insurer to determine the applicable premium for an insured.

13       (B)(i) "Supplemental rating information" includes factors and  
14 relativities, such as increased limits factors, classification relativities,  
15 deductible relativities, premium discount; and

16       (ii) Other similar factors and rating plans such as  
17 experience, schedule, and retrospective rating.

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19       SECTION 3. Authority to require rate information.

20       (a) To assist the General Assembly in determining the reasonableness  
21 of current insurance rates in Arkansas, the Arkansas Insurance Commissioner  
22 may require an insurer to file a one-time report, under this act, containing  
23 the insurer's rates and supporting information by an insurer.

24       (1) After the initial filing by an insurer, the commissioner may  
25 require additional, reasonable information only as needed to clarify or  
26 complete the initial rate submission.

27       (b)(1) The commissioner shall determine:

28       (A) Whether an insurer is required to make a filing under  
29 this act;

30       (B) The type of information to be included in the  
31 insurer's filing; and

32       (C) The date on which the insurer's filing is due.

33       (2) However, the commissioner shall require the filing to be  
34 made no later than July 1, 2003.

35       (c)(1) If the commissioner determines that an insurer is required to  
36 submit a filing, the commissioner shall issue an order specifying the

1 information that an insurer must file and the date on which the filing is  
 2 due.

3 (2) The commissioner shall notify an affected insurer of the  
 4 order requiring the rate filing information on the day the order is issued.

5 (3) The commissioner is not required to hold a hearing before  
 6 issuing the order required under this section.

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 8 SECTION 4. Rate information.

9 (a) Each insurer must provide in its filing required under section 2  
 10 of this act its current rates and estimated rates for the six-month period  
 11 following the effective date of this act, based upon information reasonably  
 12 known to the insurer at the time of filing.

13 (b) The commissioner may also require an insurer to include in its  
 14 filing the following information:

15 (1) Any insurance rate, supplementary rating information,  
 16 applicable rating manual, and relevant supporting information for risks  
 17 written in Arkansas;

18 (2) Any statistics or other information to support the  
 19 rates to be used by the insurer;

20 (3) The policy fees, service fees, and other fees that  
 21 are charged under the Arkansas Insurance Code, Arkansas Code § 23-60-101, et  
 22 seq; and

23 (4)(A) Information regarding the credit scoring formulas and  
 24 methodologies used by the insurer to determine insurance premiums or  
 25 underwriting; and

26 (B) Any other information required by the commissioner  
 27 relating to the insurer's use of credit scoring to determine premiums or  
 28 underwriting for insurance.

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 30 SECTION 5. Use of filed rate information.

31 (a) Rate information filed with the Arkansas Insurance Department  
 32 under this act may not be used as the basis for a rate hearing or any  
 33 disciplinary action by the department except for:

34 (1) A disciplinary action against an insurer for a violation of  
 35 a statute that applied to the insurer before the effective date of this act;  
 36 or

1           (2) A violation of this act.

2           (b)(1) Information filed with the department under this  
 3 act is confidential and not subject to disclosure under the Arkansas Freedom  
 4 of Information Act, Arkansas Code §§ 25-19-101 through 25-19-109, except that  
 5 the information may be disclosed as allowed under Arkansas law for  
 6 legislative purposes.

7           (2) The information filed with the department under this act may  
 8 not be released to the public except in summary form in the report required  
 9 under this act.

10          (c)(1) If information filed with the department under this  
 11 act is disclosed for legislative purposes, the department shall require the  
 12 requesting member, agency, or committee of the legislature, and the employees  
 13 of the requesting member or the members or employees of the requesting entity  
 14 who will view or handle the confidential information, to sign a  
 15 confidentiality agreement regarding the information.

16          (2) The confidentiality agreement shall require that:

17           (A) The information will not be disclosed outside of the  
 18 requesting entity, or within the requesting entity for purposes other than  
 19 the purposes for which it was received;

20           (B) The information will be labeled as confidential;

21           (C) The information will be securely kept;

22           (D) The number of copies of the information and any  
 23 notes taken from the confidential information will be controlled; and

24           (E) All copies and notes that are not destroyed or  
 25 returned to the insurer or department will remain confidential under the  
 26 confidentiality agreement.

27          (d)(1) Subsection (b) of this section does not preclude the use  
 28 of information filed under this act as evidence in prosecuting  
 29 a violation of the Insurance Code, § 23-60-101, et seq. under subsection (a)  
 30 of this section.

31          (2) Confidential information that is used in prosecuting a  
 32 violation shall be subject to a protective order until all appeals of the  
 33 case have been exhausted.

34          (3) If an insurer has been found to have committed a violation  
 35 under subsection (a) of this section after all appeals have been exhausted,  
 36 the confidential information used as evidence of the violation is no longer

1 presumed to be confidential.

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3 SECTION 6. Report by State Insurance Commissioner.

4 (a) Not later than the 30th calendar day after the effective date of  
5 this act, the Arkansas Insurance Commissioner shall submit a report based on  
6 the information contained in the filings required under this act to the  
7 Governor, the Attorney General, the Speaker of the Arkansas House of  
8 Representatives, and President Pro Tempore of the Arkansas Senate.

9 (b) The report required under this section shall provide  
10 a summary review of the rates currently charged and estimated to be  
11 charged over the six (6) months following the effective date of this  
12 act, and shall be presented in a manner that protects the identity of the  
13 individual insurers.

14 (c) The purposes of the report are to:

15 (1) Inform the General Assembly as to whether insurance rates  
16 are just, adequate, and reasonable and are not excessive or unfairly  
17 discriminatory; and

18 (2) Assist the General Assembly in determining the most  
19 effective and efficient regulatory system for insurance in Arkansas.

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21 SECTION 7. Penalty.

22 After notice and opportunity for hearing, any insurer that fails to  
23 comply with a request for information issued by the Arkansas Insurance  
24 Commissioner under this act is subject to sanctions as provided by Arkansas  
25 Code § 23-61-110.

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27 SECTION 8. EMERGENCY CLAUSE. It is found and determined by the  
28 General Assembly of Arkansas that insurance companies derive substantial  
29 premiums from consumers in Arkansas; that, due to rising insurance premiums,  
30 many Arkansas residents have cancelled their insurance coverage; that the  
31 General Assembly does not have the most current information regarding  
32 insurance rates being charged to Arkansas consumers; and that this act is  
33 immediately necessary to assist the General Assembly in determining whether  
34 insurance rates are just and reasonable and are not excessive or unfairly  
35 discriminatory. Therefore, an emergency is declared to exist and this act  
36 being immediately necessary for the preservation of the public peace, health,

1 and safety shall become effective on:

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

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

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

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