

*As Engrossed: 3/20/91*

1 **State of Arkansas**  
2 **78th General Assembly**  
3 **Regular Session, 1991**

**A BILL ACT 1123 OF 1991**  
**HOUSE BILL 1870**

4 **By: Representatives Newman, Turner and D. Roberts**

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7

**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 23-63-802 THROUGH 23-94-202, AND  
11 RELATED LAWS; AND FOR OTHER PURPOSES."

12

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

14

15 SECTION 1. Arkansas Code 23-63-802 is hereby amended to read as  
16 follows:

17 "23-63-802. Eligible investments.

18 (a) Insurers shall invest in, or lend their funds on the security of,  
19 and shall hold as invested assets only eligible investments as prescribed in  
20 23-63-801 - 23-63-833 and 23-63-835.

21 (b) Any particular investment held by an insurer on January 1, 1960,  
22 and which was a legal investment at the time it was made, or which the insurer  
23 was legally entitled to possess immediately prior to January 1, 1960, shall be  
24 deemed to be an eligible investment.

25 (c) Eligibility of an investment shall be determined as of the date of  
26 its making or acquisition, except as stated in subsection (b) of this section.

27 (d) Any investment limitation based upon the amount of the  
28 insurer's assets or particular funds shall relate to such assets or funds as  
29 shown by the insurer's annual statement as of the December 31 next preceding  
30 the date of acquisition of the investment by the insurer, or as shown by a  
31 current financial statement filed with the commissioner.

32 (e) None of the requirements, restrictions, limitations, or  
33 prohibitions for investments made under this subchapter or contained in any  
34 regulation promulgated pursuant thereto, shall be preempted by the provisions  
35 of section 106 of Title 1 of the Secondary Mortgage Market Enhancement Act  
36 of 1984 (15 U.S.C. §77r-1) (SMMEA). The provisions of this subchapter and

1 any regulations promulgated pursuant thereto that pertain to investments in  
2 the categories of securities specified in paragraphs one and two of  
3 subsection (a) of SMMEA shall remain in full force and effect notwithstanding  
4 the enactment of SMMEA."

5

6 SECTION 2. Arkansas Code 23-65-101 is hereby amended to read as  
7 follows:

8 "23-65-101. Unauthorized insurance transactions prohibited.

9 (a) (1) No person shall in this State act as agent or broker for, or  
10 otherwise represent or aid on behalf of another, any insurer or health  
11 maintenance organization not then authorized to transact insurance in this  
12 State, in the solicitation, negotiation or effectuation of insurance,  
13 inspection of risks, fixing of rates, investigation or adjustment of losses,  
14 collection of premiums, or in any other manner in the transaction of insurance  
15 with respect to subjects of insurance resident, located or to be performed in  
16 this State.

17 (2) No person shall act as a solicitor, adjuster, consultant,  
18 without first obtaining appropriate licensure or registration as required by  
19 the insurance laws of this State for the transaction of insurance with respect  
20 to subjects of insurance or self-insurance resident, located or to be  
21 performed in this State. *No person shall act as a multiple employer trust or*  
22 *self-insurance plan providing disability benefits to citizens of this State*  
23 *without first obtaining appropriate registration as required by §23-92-101;*  
24 *provided, however, this provision shall not be deemed to require registration*  
25 *by multiple employer trusts or self-insurance plans which are exempt from*  
26 *registration under the Employee Retirement Income Security Act of 1974. No*  
27 *person shall act as a third party administrator for multiple employer trusts*  
28 *or self-insurance plans providing disability insurance benefits to the*  
29 *citizens of this State without first obtaining appropriate registration as*  
30 *required by §§ 23-92-102 et seq.*

31 (3) Whenever the commissioner shall have reason to believe that:

32 (A) Any person has been acting as an unauthorized insurer  
33 in this State as defined in §23-60-102(12), in violation of §§23-60-110 and  
34 23-63-201; or

35 (B) Any person has been acting as an agent or broker for,

1 or otherwise aiding on behalf of another, an unauthorized insurer or health  
2 maintenance organization in this State in violation of subsection (1) of this  
3 section; or

4 (C) Any person has been acting as an unauthorized licensee  
5 or registrant in violation of subsection (a) (2) of this section; and that an  
6 action by him in respect thereto would be in the best interests of the public,  
7 he shall issue and serve upon such person by certified mail, return receipt  
8 requested, an order containing a statement of the charges in that respect and  
9 requiring such person immediately to cease and desist from the acts, methods  
10 or practices stated. The commissioner may, in his discretion, order the  
11 immediate suspension of any license or registration issued by him pending  
12 further proceedings under subdivision (4) of this section.

13 (4) The order shall contain a provision that within twenty (20)  
14 days from receipt of the order, the person shall have an opportunity to be  
15 heard in person or by counsel and to show cause why those acts, methods or  
16 practices are not in violation of the Arkansas Insurance Code, and why the  
17 commissioner should modify or set aside any order issued by him under this  
18 section. Upon good cause shown, the commissioner shall permit any person to  
19 intervene, appear, and be heard by counsel or in person at the hearing.

20 (b) Any person who violates or otherwise fails to comply with a cease  
21 and desist order of the commissioner under this section while that order is in  
22 effect may be subject, at the discretion of the commissioner, to any one (1)  
23 or more of the following:

24 (1) A monetary penalty of not more than ten thousand dollars  
25 (\$10,000); and

26 (2) Suspension or revocation of the person's license or  
27 registration; and

28 (3) Upon the commissioner's petition filed in the Circuit or  
29 Chancery Court of Pulaski County, and, upon good cause shown, that Court may  
30 order injunctive relief.

31 (c) The following shall be applicable to hearings held by and orders  
32 issued by the commissioner under this section:

33 (1) The provisions of §23-61-301, as to witnesses and evidence;

34 (2) The provisions of §§23-61-302 and 23-66-214, as to immunity  
35 from prosecution;

1                   (3) The provisions of §§23-61-303, 23-61-304, and 23-61-305, as  
2 to hearings;

3                   (4) The provisions of §§23-61-306 and 23-61-307, as to orders on  
4 hearings and appeals of orders; and

5                   (5) The provisions of §23-66-212, as to judicial review of cease  
6 and desist orders.

7           (d) The commissioner may promulgate such reasonable rules and  
8 regulations as are necessary to carry out the provisions of this section.

9           (e) The commissioner shall have the power to examine and investigate  
10 into the affairs of every person suspected of engaging in activities which  
11 are prohibited by this section or by the Arkansas Insurance Code.

12           (f) The powers vested in the commissioner by this section shall be  
13 additional to any other powers to enforce any penalties, fines, or forfeitures  
14 authorized by law or other provisions of the Arkansas Insurance Code with  
15 respect to activities which are prohibited by this section or the Arkansas  
16 Insurance Code.

17           (g) This section shall not apply to:

18                   (1) Acceptance of service of process by the commissioner under  
19 §23-65-203;

20                   (2) Surplus lines insurance and other transactions as to which a  
21 certificate of authority is not required of an insurer, as stated in  
22 §23-63-201."

23

24           SECTION 3. Repealer. Arkansas Code 23-65-105 is hereby repealed.

25

26           SECTION 4. Arkansas Code 23-65-103 is hereby amended by adding new  
27 Subsection (i), to read as follows:

28           "(i) The tax specified in subsection (c) shall not be due and payable  
29 to this State in the event the unlicensed or unauthorized insurer reports and  
30 pays premium tax to this State pursuant to Ark. Code §26-57-603 et seq. for  
31 these independently procured coverages. Upon receipt of duplicate payment of  
32 tax from the insured and the unlicensed or unauthorized insurer, this State  
33 shall refund to the insured the amount of the duplicate payment."

34

35           SECTION 5. Arkansas Code 23-67-119, Subsection (3), is hereby

1 amended to read as follows:

2       "(3) (A) Every rate service organization and every insurer which makes  
3 its own rates for workers' compensation and employers' insurance, within a  
4 reasonable time after receiving written request therefor and upon payment of  
5 such reasonable charge as it may make, shall furnish to any insured affected  
6 by a rate made by it, or to the authorized representative of the insured, all  
7 pertinent information as to the rate;

8       (B) Every rate service organization and every insurer which  
9 makes its own rates shall provide within this state reasonable means whereby  
10 any person aggrieved by the application of its rating system may be heard, in  
11 person or by his authorized representative, on his written request to review  
12 the manner in which the rating system has been applied in connection with the  
13 insurance afforded him.

14               (i) If the rate service organization or insurer fails to  
15 grant or rejects the request within thirty (30) days after it is made, the  
16 applicant may proceed in the same manner as if his application had been  
17 rejected.

18               (ii) Any party affected by the action of the rate service  
19 organization or the insurer on the request may, within thirty (30) days after  
20 written notice of the action, appeal to the commissioner.

21               (iii) The commissioner shall be furnished a written  
22 transcript of the proceedings before the rate service organization or the  
23 insurer including a written memorandum of decision. The commissioner shall,  
24 within thirty (30) days after submission of the transcript and memorandum of  
25 decision, render his decision on the appeal, which decision shall be based on  
26 the transcript and memorandum of decision submitted. The commissioner shall  
27 promptly notify the appellant and the rate service organization or insurer in  
28 writing of his decision on the appeal."

29

30       SECTION 6. Arkansas Code 23-71-110 is hereby amended to read as  
31 follows:

32       "23-71-110. Guaranty fund deposit.

33       (a) (1) Every insurer shall have deposited and maintain on deposit with  
34 the commissioner cash or acceptable securities in amounts based upon the  
35 amount of the insurer's admitted assets as of December 31st of the preceding

1 calendar year as follows:

- 2 (A) \$000,001 to \$250,000 - \$25,000 minimum deposit;
- 3 (B) \$250,001 to \$500,000 - \$50,000 minimum deposit;
- 4 (C) \$500,001 to \$1,000,000 - \$75,000 minimum deposit;
- 5 (D) Over \$1,000,000 - \$100,000 minimum deposit.

6 The commissioner shall have the discretion to require deposits in excess of  
7 those enumerated if such a deposit is in the best interest of the public and  
8 the insurer's policyholders.

9 (2) This deposit shall be known as the 'guaranty fund' and shall  
10 be held for the purpose of guaranteeing the payment of any final judgment  
11 rendered against the insurer on any claim arising under any of its contracts  
12 of insurance.

13 (3) If the insurer fails to pay the judgment, the commissioner  
14 shall pay the judgment from the insurer's deposit and for that purpose may  
15 liquidate at current market value any securities so deposited.

16 (b) Upon applying the deposit or any part thereof necessary to pay any  
17 judgment, the commissioner shall so notify the insurer, requiring the insurer  
18 to fully replenish and restore the deposit to the amount previously required  
19 as well as any additional amounts the commissioner may require within sixty  
20 (60) days after date of notice. If the deposit is not so restored within  
21 sixty (60) days, the commissioner shall revoke the certificate of authority  
22 until the insurer is fully in compliance with this chapter.

23 (c) The guaranty fund deposit may be either a part of the insurer's  
24 capital stock or part of its surplus or undivided profits and shall be  
25 considered an asset and a part of the insurance fund of the insurer.

26 (d)(1) When an insurer desires to relinquish its business in this  
27 state, the commissioner shall, on application of the insurer under oath of  
28 its president or principal officer and secretary or actuary, publish notice  
29 of such intention at least once a week for four (4) consecutive weeks in a  
30 newspaper of general circulation published at the state capital.

31 (2) If, after the publication, the commissioner is satisfied that  
32 all debts and liabilities of every kind of the insurer are paid or provided  
33 for, the commissioner shall deliver up to the insurer the securities or funds  
34 held by the commissioner belonging to the insurer."

35

1 SECTION 7. Effective Date. Compliance with provisions of Section 6 of  
2 this Act shall be required from and after September 30, 1991.

3

4 SECTION 8. Arkansas Code 23-73-105(e) hereby amended to read as  
5 follows:

6 "(e) (1) The associations may also write burglary and theft,  
7 glass, leakage, and fire extinguisher equipment, livestock, miscellaneous  
8 coverage, liability, and disability insurance, provided those coverages are  
9 written as a supplement, or package commonly referred to as a homeowner or  
10 farmowner policy, to a fire insurance policy, if the liability portions or  
11 obligations under the policy are reinsured to the extent of one hundred  
12 percent (100%) by an insurer duly authorized to do business in this state.

13 (2) Before any association shall be authorized to write these  
14 coverages, the policy form shall have prior approval of the commissioner and  
15 the association shall have and thereafter maintain a minimum surplus of fifty  
16 thousand dollars (\$50,000) to be deposited with the commissioner in the form  
17 of securities eligible for deposit under 23-63-903. The deposit shall be  
18 conditioned for the payment of creditors and the prompt payment of all claims  
19 arising and accruing to any person in this state. The deposit shall be  
20 further subject to the conditions specified in 23-63-909.

21 (3) Premiums received on policies sold containing these coverages  
22 shall be subject to the provisions of §§26-57-601 and following relating to  
23 premium taxes."

24

25 SECTION 9. Arkansas Code 23-75-119 is hereby amended to read as  
26 follows:

27 "23-75-119. Privilege tax.

28 (a) The officers of every foreign or alien corporation, and beginning  
29 the reporting year 1992 the officers of every domestic corporation,  
30 transacting business under this chapter shall, at the time of making its  
31 annual statement, file with the commissioner a sworn statement of its gross  
32 receipts collected for the year ending December 31 next preceding from  
33 subscribers residing in this state and shall pay into the State Treasury a tax  
34 of one percent (1%) of the gross receipts, as a tax for the privilege of  
35 transacting business in this state.

1 (b) No certificate of authority shall be renewed for any corporation  
2 until the tax is paid.

3 (c) (1) The tax shall be in lieu of other taxes, district or state,  
4 county or municipal, based on gross receipts.

5 (2) No subdivision of this state may impose any license fee for  
6 the privilege of conducting business in any portion thereof.

7 (d) In determining gross receipts, the corporation shall not take  
8 credit for any expenditures."

9

10 SECTION 10. Arkansas Code 23-77-108 is hereby amended to read as  
11 follows:

12 "23-77-108. Agent or representative license required - Application and  
13 issuance.

14 (a) Before any agent or representative shall or may represent any  
15 automobile club or association in this state, he or she shall first apply to  
16 the Insurance Commissioner for a license and the commissioner shall have full  
17 power and authority to issue the license upon proof satisfactory to him that  
18 the person is capable of soliciting automobile club or association memberships  
19 and is of good moral character and recommended by the club or association in  
20 behalf of which the membership solicitations are to be made.

21 (b) No license shall be issued by the commissioner until the applicant  
22 has paid to him ten dollars (\$10.00) as an annual license fee.

23 (c) The commissioner may reject the application of any person who does  
24 not meet the requirements set out in this section."

25

26 SECTION 11. Arkansas Code 23-79-109, Subsection (f), is hereby amended  
27 to read as follows:

28 "(f) No policy or contract form providing coverage for personal  
29 automobile liability which provides for a policy term of less than six (6)  
30 months shall be approved by the commissioner or issued for delivery in this  
31 state and used by insurers on and after January 1, 1992; provided, however,  
32 the provisions of this subsection shall not restrict premium payment options  
33 offered by insurers."

34

35 SECTION 12. Arkansas Code 23-79-302 is hereby amended to read as

1 follows:

2 "23-79-302. Definition. For purposes of this subchapter, a \_claims-made  
3 policy\_ as referenced in 23-79-306, means a policy which provides coverage  
4 if a claim for damages is first made during the policy period."

5

6 SECTION 13. Arkansas Code 23-79-306 is hereby amended to read as  
7 follows:

8 "23-79-306. Requirements. The following requirements are applicable only  
9 as to claims-made policies as defined in 23-79-302:

10 (a) The policy application and the initial page of each claims-made  
11 policy must include a conspicuous notice at the top indicating that the  
12 contract is a claims-made policy.

13 (b) The insurer must provide at no additional charge an automatic  
14 sixty-day extended reporting period upon cancellation or termination of the  
15 policy by either the insured or insurer.

16 (c) At the expiration of the automatic sixty (60) day extended  
17 reporting period as required by subsection (b), the insurer must offer an  
18 extended reporting period endorsement. Any notice of termination of a  
19 claims-made policy must include a disclosure advising the insured and his  
20 agent of the availability of and premium for an extended reporting period  
21 endorsement and the importance of purchasing the coverage.

22 (d) The premium for any extended reporting period endorsement shall be  
23 based upon the rates and rating rules in effect at the inception date of the  
24 last policy period of the claims-made policy.

25 (e) Form or rate/rule filings restricting the risks to be covered by an  
26 extended reporting period endorsement shall not be approved or accepted for  
27 use by the commissioner.

28 (f) The limit of liability in the policy aggregate for the optional  
29 extended reporting period endorsement offered by the insurer shall be no less  
30 than the greater of the amount of coverage remaining in the expiring policy  
31 aggregate or fifty percent (50%) of the aggregate at policy inception. The  
32 insurer may offer to increase the original amount of the aggregate limit of  
33 liability applicable during the period of the extended reporting period  
34 endorsement.

35 (g) (1) A retroactive date may only be advanced with the written consent

1 of the first named insured and upon one (1) or more of the following  
2 conditions:

3 (A) If there is a change in insurer other than another  
4 insurer within the same insurance holding company or group;

5 (B) If there is a substantial change in the insured's  
6 operations which would have been a material factor in the insurer's acceptance  
7 or declination of the risk; or

8 (C) At the request of the first named insured.

9 (2) Prior to advancement of the retroactive date under  
10 subdivisions (1) (A), (B), or (C) of this subsection, the insured must receive  
11 a disclosure form for his signature which acknowledges that he has been  
12 advised of his right to purchase an extended reporting period endorsement.

13 (h) The insurer must provide the following loss information to the  
14 named insured within thirty (30) days of the insured's request and within  
15 fifteen (15) days after notice of cancellation or nonrenewal is issued:

16 (1) Description of closed claims including the date and  
17 description of occurrence, amount of payments, if any;

18 (2) Description of open claims including the date and description  
19 of occurrence, amount of payment, if any, and an estimate of reserves, if any;  
20 and

21 (3) Information on notices of occurrence including the date and  
22 an estimate of reserves, if any."

23

24 SECTION 14. Arkansas Code 23-79-307(3) is hereby amended to read as  
25 follows:

26 "(3) Forms or endorsements issued after the policy inception date not at  
27 the request of the named insured which reduce, restrict, or modify the  
28 original policy coverage must be accepted and signed by the named insured."

29

30 SECTION 15. Arkansas Code 23-79-307(5) is hereby amended to read as  
31 follows:

32 "(5) Policies containing provisions which would reduce the limit of  
33 liability available for judgments or settlements by the amount of payment made  
34 for defense cost or claim expenses shall not be approved by the commissioner  
35 unless a separate limit for defense costs equal to one hundred percent (100%)

1 of the annual aggregate limit of liability stated in the policy for judgments  
2 or settlements is offered for defense costs or claims expenses to the insured.  
3 However, no policy covering automobile liability insurance may contain the  
4 defense within the limits concept. This subsection shall not apply to  
5 policies or contracts which the commissioner may exempt by order upon a  
6 finding that this subsection may not practically be applied or that its  
7 application is not necessary or desirable for the protection of the public."  
8

9 SECTION 16. Arkansas Code 23-93-103 is hereby amended to read as  
10 follows:

11 "23-93-103. Definitions. As used in this chapter, unless the context  
12 otherwise requires:

13 (1) Commissioner means the Insurance Commissioner of this state;

14 (2) Continuing care means the furnishing of independent living units  
15 to and either:

16 (A) Furnishing nursing care or personal care services pursuant to  
17 an agreement, whether the nursing care or personal care services are provided  
18 in the facility or in another setting designated by the agreement for  
19 continuing care, to; or

20 (B) Requiring the payment of an entrance fee by an individual not  
21 related by consanguinity or affinity to the provider furnishing the living  
22 unit. Payments may be made by an entrance fee alone, an entrance fee and  
23 periodic payments, or by payment of fees for services. Agreements to provide  
24 continuing care shall include agreements to provide care for any duration  
25 including agreements that are terminable by either party;

26 (3) Department means the Insurance Department of this state;

27 (4) Entrance fee means an initial or deferred transfer to a provider  
28 of a sum of money or other property made or promised to be made as full or  
29 partial consideration for acceptance of a specified individual as a resident  
30 in a facility which exceeds six (6) months rental of the living unit. An  
31 accommodation fee, admission fee, or other fee of similar form and application  
32 shall be considered to be an entrance fee;

33 (5) Facility means a place which provides continuing care;

34 (6) Living unit means a room, apartment, cottage, or other area  
35 within a facility set aside for the exclusive use or control of one (1) or

1 more identified individuals;

2 (7) Nursing care means those services pertaining to the curative,  
3 restorative, and preventive aspects of nursing services that are performed by  
4 or under the supervision of a registered or licensed nurse. Nursing care does  
5 not include general health service such as nutritional counseling, exercise  
6 programs, or other preventive medicine techniques;

7 (8) Personal care services means assistance with meals, dressing,  
8 movement, bathing, or other personal needs of maintenance or other direct  
9 supervision and oversight of the physical and mental well being of a person.  
10 Personal care services does not include general health services such as  
11 nutritional counseling, exercise programs, or other preventive medicine  
12 techniques;

13 (9) Provider means the owner or operator, whether a natural person,  
14 partnership, or other incorporated association, trust, or corporation whose  
15 owner or operator undertakes to provide continuing care for a fee, whether  
16 fixed or variable, for the period of care. The fee may be payable in lump sum  
17 or lump sum and monthly maintenance charges or in installments;

18 (10) Refund reserve means the actuarially determined annual refund  
19 amount required to be maintained by a continuing care provider for service of  
20 its refund amounts during the next fiscal year of the facility;

21 (11) Resident means an individual entitled to receive continuing care  
22 in a facility;

23 (12) Solicit means all actions of a provider in seeking to have  
24 individuals residing in this state pay an application fee and enter into a  
25 continuing care agreement by any means such as, but not limited to, personal,  
26 telephone, or mail communication or any other communication directed to and  
27 received by any individual in this state and any advertisements in any media  
28 distributed or communicated by any means to individuals in this state."

29

30 SECTION 17. Arkansas Code 23-94-202 is hereby amended to read as  
31 follows:

32 "23-94-202. Information to be furnished.

33 (a) Risk retention groups organized and formed under the laws of  
34 states other than this state and seeking to do business as a risk retention  
35 group in this state must apply for and obtain a certificate of registration

1 from the Insurance Commissioner of this state using the forms prescribed by  
2 the Arkansas Insurance Department. Each such applicant for the certificate of  
3 registration must submit the following information on prescribed forms to the  
4 commissioner before offering insurance in this state:

5           (1) A statement identifying the state or states in which the risk  
6 retention group is chartered and licensed as a casualty insurance company,  
7 date of chartering, its principal place of business, and such other  
8 information, including information on its membership as the commissioner of  
9 this state may require to verify that the risk retention group is eligible for  
10 a certificate of registration in this state; and

11           (2) A copy of its plan of operations and revisions of that plan  
12 submitted to its state of domicile, containing the information as required  
13 under 23-94-201(c)(1). However, the provision relating to the submission of a  
14 plan of operation shall not apply with respect to any line or classification  
15 of liability insurance which:

16                   (A) Was defined in the Product Liability Risk Retention Act  
17 of 1981 before October 27, 1986; and

18                   (B) Was offered before that date by any risk retention  
19 group which had been chartered and operating for not less than three (3) years  
20 before that date;

21           (3) An appointment of the commissioner and his successors in  
22 office, on a form furnished by the commissioner, as its agent to receive  
23 service of legal process issued against it in this state. The appointment  
24 shall be irrevocable, shall bind the risk retention group and any successor in  
25 interest, and shall remain in effect as long as there is outstanding in  
26 Arkansas any obligation or liability of the risk retention group resulting  
27 from its transactions therein. The risk retention group shall also file  
28 designation of the name and address of the person to whom process against it  
29 served upon the commissioner is to be forwarded and any subsequent amendments  
30 to that name and address with the commissioner; and

31           (4) Any other document or information which the commissioner may  
32 reasonably request.

33           (b) The commissioner shall issue a certificate of registration to risk  
34 retention groups organized and formed under the laws of other states when the  
35 commissioner is satisfied that the applicant groups have fully complied with

1 the provisions of this chapter."

2

3 SECTION 18. Arkansas Code 26-51-303(6) is hereby amended as follows:

4 "26-51-303. Exempt organizations.

5 (6) Farmers or other mutual hail, cyclone, or fire insurance companies,  
6 or other domestic insurance companies writing lines of insurance other than  
7 those specified in (1) and (2) of this subsection, mutual ditch or irrigation  
8 companies, mutual or cooperative telephone companies, or like organizations of  
9 a purely local character, but only if eighty-five percent (85)% or more of the  
10 income of the organization consists solely of assessments, dues, and fees  
11 collected from members for the sole purpose of meeting losses and expenses."

12

13 SECTION 19. Arkansas Code 23-63-218(a) is hereby amended to read as  
14 follows:

15 "(a) Any insurer which is organized under the laws of any other state  
16 and is admitted to do business in this state for the purpose of writing  
17 insurance may become a domestic insurer by complying with all of the  
18 requirements of law relative to the organization and licensing of a domestic  
19 insurer of the same type and by designating its principal place of business  
20 at a place in this state. The domestic insurer will be entitled to like  
21 certificates and licenses to transact business in this state and shall be  
22 subject to the authority and jurisdiction of this state. An insurer which  
23 changes its status from foreign to domestic shall have all the rights, titles,  
24 and interests in the assets of the original corporation, as well as all of its  
25 liabilities and obligations. The insurer shall be recognized as an insurer  
26 formed under the laws of this state as of the date of its incorporation in its  
27 original domiciliary state."

28

29 SECTION 20. Arkansas Code 23-63-824(a) is hereby amended to read as  
30 follows:

31 "(a) An insurer may make investments, in aggregate amounts not  
32 exceeding five percent (5%) or, with prior approval of the commissioner, ten  
33 percent (10%) of its assets, and not over three percent (3%) of its assets in  
34 any one investment, in securities of or in a foreign country possessing  
35 characteristics and of a quality similar to the investment required pursuant

1 to §§ 23-63-801, 23-63-833 and 23-63-835 for investments in the United States  
2 of America."

3

4 SECTION 21. Subsection (g) of Arkansas Code 23-64-206 is hereby amended  
5 by adding new subdivision (10) to read as follows:

6 "(10) Applicants for licenses to sell mortgagors' decreasing term life  
7 or mortgagors' decreasing term disability insurance to debtors of the  
8 applicant or of his employer."

9

10 SECTION 22. Arkansas Code 23-89-209(a) as amended by Act 209 of 1991 is  
11 hereby amended to read as follows:

12 "(a) Every insurer writing automobile liability insurance covering  
13 liability arising out of the ownership, maintenance, or use of any motor  
14 vehicles in this state shall provide underinsured motorist coverage unless  
15 rejected in writing by a named insured. The notice to policyholders regarding  
16 the right to reject the coverage required in this section applies to policies  
17 issued after February 21, 1991 or the first renewal after February 21, 1991 of  
18 an existing policy unless the coverage has been rejected in writing prior to  
19 February 21, 1991 by a named insured of an existing policy. After a named  
20 insured or applicant for insurance rejects underinsured motorists coverage,  
21 the insurer or any of its affiliates shall not be required to notify any  
22 insured in any renewal, reinstatement, substitute, amended or replacement  
23 policy as to the availability of such coverage. The coverage shall enable the  
24 insured or the insured's legal representative to recover from the insurer the  
25 amount of damages for bodily injury or death to which the insured is legally  
26 entitled from the owner or operator of another motor vehicle. Underinsured  
27 motorist coverage shall be at least equal to the limits prescribed for bodily  
28 injury or death under Arkansas Code 27-19-605. Coverage of the insured  
29 pursuant to underinsured motorist coverage shall not be reduced by the  
30 tortfeasor's insurance coverage except to the extent that the injured party  
31 would receive compensation in excess of his damages."

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33 SECTION 23. Provisions of this Act of a general and permanent nature  
34 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code  
35 Revision Commission shall incorporate the same in the Code.

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SECTION 24. All laws and parts of laws in conflict with the Act are hereby repealed.

SECTION 25. Emergency. It is hereby found and determined by the General Assembly that the laws of this State concerning the insurance matters covered in the subject of this Act are inadequate for the protection of the public. Therefore, an emergency is hereby declared to exist and this Act being necessary for the preservation of the public peace, health and safety all provisions of this Act other than Section 22 shall be in full force and effect from and after July 1, 1991 and Section 22 shall be in full force and effect from and after the passage and approval of this Act.

*/s/ Bobby Newman et al*

APPROVED: 4/9/91

Amended 3/22/07

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