

1 **State of Arkansas**
2 **80th General Assembly**
3 **Regular Session, 1995**
4 **By: Representatives Miller, Maddox, Capps, Newman, M. Wilson, Beatty, Purdom, Allen, and**
5 **Young**

A Bill

ACT 621 OF 1995
HOUSE BILL 1720

For An Act To Be Entitled

9 "AN ACT TO AMEND TITLE 23, CHAPTER 84 OF THE ARKANSAS CODE
10 TO REQUIRE AN ACTUARIAL OPINION OF RESERVES SO THAT THE
11 ARKANSAS INSURANCE COMMISSIONER CAN BETTER REGULATE THE
12 FINANCIAL SOLVENCY OF INSURANCE COMPANIES; AND FOR OTHER
13 PURPOSES."

Subtitle

"ACTUARIAL OPINION"

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

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22 SECTION 1. Title 23, Chapter 84 of the Arkansas Code is hereby amended
23 by adding a new subsection at the end thereof to read as follows:

24 "23-84-112. Actuarial Opinion of Reserves.

25 A. General.

26 Every life insurance company doing business in this state shall annually
27 submit the opinion of a qualified actuary as to whether the reserves and
28 related actuarial items held in support of the policies and contracts
29 specified by the commissioner by regulation are computed appropriately, are
30 based on assumptions which satisfy contractual provisions, are consistent with
31 prior reported amounts and comply with applicable laws of this state. The
32 commissioner by regulation shall define the specifics of this opinion and add
33 any other items deemed to be necessary to its scope.

34 B. Actuarial Analysis of Reserves and Assets Supporting Such Reserves.

35 1. Every life insurance company, except as exempted by or
36 pursuant to regulation, shall also annually include in the opinion required by

1 Subsection A, an opinion of the same qualified actuary as to whether the
2 reserves and related actuarial items held in support of the policies and
3 contracts specified by the commissioner by regulation, when considered in
4 light of the assets held by the company with respect to the reserves and
5 related actuarial items, including but not limited to the investment earnings
6 on the assets and the considerations anticipated to be received and retained
7 under the policies and contracts, make adequate provision for the company's
8 obligations under the policies and contracts, including but not limited to the
9 benefits under and expenses associated with the policies and contracts.

10 2. The commissioner may provide by regulation for a transition
11 period for establishing any higher reserves which the qualified actuary may
12 deem necessary in order to render the opinion required by this section.

13 C. Requirements for Opinion Under B.

14 Each opinion required by Subsection B shall be governed by the following
15 provisions:

16 1. A memorandum, in form and substance acceptable to the
17 commissioner as specified by regulation, shall be prepared to support each
18 actuarial opinion.

19 2. If the insurance company fails to provide a supporting
20 memorandum at the request of the commissioner within a period specified by
21 regulation or the commissioner determines that the supporting memorandum
22 provided by the insurance company fails to meet the standards prescribed by
23 the regulations or is otherwise unacceptable to the commissioner, the
24 commissioner may engage a qualified actuary at the expense of the company to
25 review the opinion and the basis for the opinion and prepare such supporting
26 memorandum as is required by the commissioner.

27 D. Requirement for All Opinions.

28 Every opinion shall be governed by the following provisions:

29 1. The opinion shall be submitted with the annual statement
30 reflecting the valuation of such reserve liabilities for each year ending on
31 or after December 31, 1995.

32 2. The opinion shall apply to all business in force including
33 individual and group health insurance plans, in form and substance acceptable
34 to the commissioner as specified by regulation.

35 3. The opinion shall be based on standards adopted from time to

1 time by the Actuarial Standards Board and on such additional standards as the
2 commissioner may by regulation prescribe.

3 4. In the case of an opinion required to be submitted by a
4 foreign or alien company, the commissioner may accept the opinion filed by
5 that company with the insurance supervisory official of another state if the
6 commissioner determines that the opinion reasonably meets the requirements
7 applicable to a company domiciled in this state.

8 5. For the purposes of this section 'qualified actuary' means a
9 member in good standing of the American Academy of Actuaries who meets the
10 requirements set forth in such regulations.

11 6. Except in cases of fraud or willful misconduct, the qualified
12 actuary shall not be liable for damages to any person, other than the
13 insurance company and the commissioner, for any act, error, omission, decision
14 or conduct with respect to the actuary's opinion.

15 7. Disciplinary action by the commissioner against the company or
16 the qualified actuary shall be defined in regulations by the commissioner.

17 8. *Any memorandum in support of the opinion, and any other*
18 *material provided by the company to the commissioner in connection therewith,*
19 *shall be kept confidential by the commissioner and shall not be made public*
20 *and shall not be subject to subpoena, other than for the purpose of defending*
21 *an action seeking damages from any person by reason of any action required by*
22 *this section or by regulations promulgated hereunder; provided, however, that*
23 *the memorandum or other material may otherwise be released by the commissioner*
24 *(a) with the written consent of the company or (b) to the American Academy of*
25 *Acturaries upon request stating that the memorandum or other material is*
26 *required for the purpose of professional disciplinary proceedings and setting*
27 *forth procedures statisfatory to the commissioner for preserving the*
28 *confidentiality of the memorandum or other material. Once any portion of the*
29 *confidential memorandum is cited by the company in its marketing or is cited*
30 *before any governmental agency other than a state insurance department or is*
31 *released by the company to the news media, all portions of the confidential*
32 *memorandum shall be no longer confidential."*

33 SECTION 2. All 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 3. If any provision of this Act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or application of the Act which can be given effect without the invalid provision or application, and to this end the provisions of the Act are declared to be severable.

SECTION 4. All laws and parts of laws in conflict with this Act are hereby repealed.

SECTION 5. EMERGENCY. It is hereby found and determined by the General Assembly of the State of Arkansas that the present insurance laws are not sufficient to protect the Arkansas insurance buying public. It is determined that it is in the best interests of the State of Arkansas that the laws in this Act be adopted immediately so that the Arkansas Insurance Department can better regulate the insurance industry. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval.

/s/Rep. Miller, et al

APPROVED: 3-14-95

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