

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
4

As Engrossed: S3/18/03 S3/21/03

A Bill

Act 1099 of 2003
SENATE BILL 891

5 By: Senator Argue
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For An Act To Be Entitled

9 AN ACT CONCERNING CERTIFICATE OF AUTHORITY
10 REQUIREMENTS FOR INSURERS; AND FOR OTHER
11 PURPOSES.
12

Subtitle

14 AN ACT CONCERNING CERTIFICATE OF
15 AUTHORITY REQUIREMENTS FOR INSURERS.
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18 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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20 SECTION 1. Arkansas Code § 23-63-201(d), concerning certificates of
21 authority for insurers, is amended to read as follows:

22 (d)(1)(A) The commissioner may, in his or her reasonable discretion
23 guided by the standards herein contained and consistent with the purpose
24 hereinafter set forth, issue a special permit to make fixed-dollar life-only
25 annuity agreements with donors to any duly organized domestic or foreign
26 nonstock corporation or association conducted without profit and engaged in
27 active operation for at least five (5) years prior thereto solely in bona
28 fide charitable, religious, missionary, educational, or philanthropic
29 activities.

30 (B) The commissioner may approve the issuance of a permit
31 to such a corporation or association that has not itself been engaged in
32 active operation for five (5) years if he or she is reasonably satisfied that
33 the entity is affiliated with a corporation or association of this
34 description that has been in operation for such a period and that there is
35 readily available to the entity requesting the permit an adequate level of
36 management expertise.



1 (C) The permit shall authorize the corporation or
 2 association to receive gifts of money conditioned upon, or in return for, its
 3 agreement to pay an annuity to the donor, or his or her nominee, and to make
 4 and carry out the annuity agreement.

5 (D) Every such corporation or association shall, before
 6 making such agreements, file with the commissioner for his approval either:

7 (i) A schedule of its maximum annuity rates which
 8 shall be computed on the basis of the annuity standard adopted by it for
 9 calculating its reserves; or

10 (ii) A statement certifying that it adopts and will
 11 adhere to the annuity rates as published from time to time by the ~~Committee~~
 12 ~~on Gift Annuities of Dallas, Texas, American Council on Gift Annuities~~ or its
 13 successor, until such corporation or association advises the commissioner to
 14 the contrary in writing. At such latter time, the corporation or association
 15 shall then file a schedule of its new proposed maximum annuity rates for
 16 approval.

17 (E) Filings and approvals required herein shall be subject
 18 to the provisions of §§ 23-79-109 and 23-79-110.

19 (2) *Each such domestic corporation or association shall maintain*
 20 *reserves with respect to the annuity or income stream which it has agreed to*
 21 *pay to a charitable donor either by:*

22 (A) *Calculation of such reserves upon the obligation of*
 23 *the permittee to the donor annuitant in the manner set forth at ~~§ 23-84-106~~*
 24 *and the sections therein incorporated in §§ 23-84-101 through § 23-84-113*
 25 *concerning the standard valuation law for life insurance and annuities; or*

26 ~~(B) Segregating and maintaining in a separate account or~~
 27 ~~accounts reserves in an amount equal to the aggregate values, determined at~~
 28 ~~the dates of contribution, of all assets received from donors with respect to~~
 29 ~~annuities for annuitants who are then living. Provided, that such reserves~~
 30 ~~shall be invested in securities meeting the requirements of §§ 23-63-801—~~
 31 ~~23-63-833, 23-63-835, 23-63-839, and 23-63-840, and provided further that:~~

32 ~~(i) Each such domestic corporation or association~~
 33 ~~maintaining reserves in the manner described at § 23-84-104 et seq. shall~~
 34 ~~maintain net admitted assets at least equal to the greater of:~~

35 ~~(a) The sum of its reserves on its outstanding~~
 36 ~~agreements, calculated in accordance with § 23-84-104, and a surplus of ten~~

1 ~~percent (10%) of such reserves; or~~

2 ~~(b) The amount of fifty thousand dollars~~

3 ~~(\$50,000);~~

4 (B) Maintaining account reserves in an amount equal to the
 5 aggregate values, determined at the dates of contribution, of all assets
 6 received from donors with respect to annuities for annuitants who are then
 7 living; or

8 (C) Calculation of the reserves as the present value of
 9 all future benefits to be paid to the donor annuitant based upon the most
 10 recent mortality table published by the Internal Revenue Service of the
 11 United States of America.

12 (3)(A) Unless otherwise permitted by the commissioner, each
 13 corporation or association shall maintain a segregated account or accounts
 14 for its charitable gift annuities.

15 (B) If the commissioner finds the reserve established by a
 16 permittee inadequate at any time, the commissioner shall order the permittee
 17 to increase its reserve accordingly, or the commissioner may stipulate the
 18 reserving method for the permittee to rectify the reserve deficiency.

19 (4) Each corporation or association, except those identified in
 20 subdivision (d)(5) of this section, shall maintain net admitted assets at
 21 least equal to the greater of:

22 (A) The sum of its reserves on its outstanding agreements,
 23 all other liabilities, and a surplus of at least ten percent (10%) of the
 24 reserves; or

25 (B) The amount of fifty thousand dollars (\$50,000).

26 ~~(ii)(a)~~ (5) Each such domestic corporation or association
 27 maintaining reserves in the manner described at subdivision (d)(2)(B) of this
 28 section shall maintain net admitted assets at least equal to the amount of
 29 the reserves plus all other outstanding liabilities.

30 ~~(b)~~ (6)(A) In determining reserves a deduction shall be made for
 31 all or any portion of an annuity risk which is reinsured by a life insurance
 32 company authorized to do business in this state.

33 ~~(e)~~ (B) The required admitted assets shall be invested only
 34 in securities permitted by the provisions of §§ 23-63-801 - 23-63-833, 23-63-
 35 835, 23-63-839, and 23-63-840;

36 ~~(iii)~~ (7) No such corporation or association organized under the

1 laws of another state shall be permitted to make such annuity agreements in
2 this state unless it complies with all requirements of this subsection
3 imposed upon like domestic corporations or associations, except that it may
4 invest its reserves and surplus funds in securities permitted by the laws of
5 the state of domicile; and

6 ~~(iv)(a)(8)(A)~~ No such corporation or association
7 shall make or issue in this state any annuity contract before obtaining a
8 permit issued in accordance with the provisions of this subsection.

9 ~~(b)(B)~~ If the commissioner finds, after notice and
10 hearing, that any such corporation or association, having such a permit, has
11 failed to comply with the requirements of this subsection, he or she may
12 revoke or suspend such a permit, or order the permittee to cease making new
13 annuity contracts until it complies.

14 ~~(e)(C)~~ All such corporations or associations shall be
15 required to file an annual financial statement of their operations and
16 accounts and schedule of outstanding annuities with reserves applicable
17 thereto within ninety (90) days of the end of their fiscal year. The report
18 is to be prepared by a certified public accountant in accordance with
19 generally accepted accounting principles detailing the financial condition
20 and status of the corporation or association as of the just-concluded fiscal
21 year. ~~The commissioner may, in his or her reasonable discretion, either~~
22 ~~dispense with the requirement of annual statements by such corporations or~~
23 ~~associations or accept a sworn statement by two (2) or more of its principal~~
24 ~~officers in such form as will satisfy the commissioner that the requirements~~
25 ~~of this section are being met.~~

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/s/ Argue

APPROVED: 4/4/2003