

1 **State of Arkansas**
2 **78th General Assembly**
3 **Regular Session, 1991**
4 **By: Representative Newman**

A BILL ACT 398 OF 1991
HOUSE BILL 1787

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7 **For An Act To Be Entitled**

8 "AN ACT TO AMEND ARKANSAS CODE §23-79-110 ESTABLISHING THE
9 GROUNDS FOR THE INSURANCE COMMISSIONER'S DISAPPROVAL OF
10 INSURANCE FORMS; AND FOR OTHER PURPOSES."

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

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14 SECTION 1. Arkansas Code 23-79-110 (a) is hereby amended to read as
15 follows:

16 "23-79-110. Forms - Grounds for disapproval.

17 (a) The commissioner shall disapprove any form filed under 23-79-109,
18 or withdraw any previous approval, only if the form:

19 (1) Is in any respect in violation of or does not comply with
20 this code;

21 (2) Contains or incorporates by reference, where the
22 incorporation is otherwise permissible, any inconsistent, ambiguous, or
23 misleading clauses, or exceptions and conditions which deceptively affect the
24 risk purported to be assumed in the general coverage of the contract;

25 (3) Has any title, heading, or other indication of its provisions
26 which is misleading;

27 (4) Is printed or otherwise reproduced in such manner as to
28 render any provision of the form substantially illegible or not easily legible
29 to persons of normal vision;

30 (5) Is an individual disability contract in which the benefits
31 are unreasonable in relation to the premium charge. Rates on a particular
32 policy form will be deemed approved upon filing with the commissioner if the
33 insurer has filed a loss ratio guarantee with the commissioner and complied
34 with the terms of the loss ratio guarantee. Benefits will continue to be
35 deemed reasonable in relation to the premium so long as the insurer complies
36 with the terms of the loss ratio guarantee. This loss ratio guarantee must be

1 in writing, signed by an officer of the insurer, and must contain at least the
2 following:

3 (A) A recitation of the anticipated (target) loss ratio
4 standards contained in the original actuarial memorandum filed with the policy
5 form when it was originally approved.

6 (B) A guarantee that the actual Arkansas loss ratios for
7 the experience period in which the new rates take effect (and for each
8 experience period thereafter until new rates are filed) will meet or exceed
9 the loss ratio standards referred to in subparagraph (A) above. If the annual
10 earned premium volume in Arkansas under the particular policy form is less
11 than \$1,000,000 and therefore not actuarially credible, the loss ratio
12 guarantee will be based on the actual nationwide loss ratio for the policy
13 form. If the aggregate earned premium for all states is less than \$1,000,000,
14 the experience period will be extended until the end of the calendar year in
15 which \$1,000,000 of earned premium is attained.

16 (C) A guarantee that the actual Arkansas (or national, if
17 applicable) loss ratio results for the year at issue will be independently
18 audited at the insurer's expense. This audit must be done in the second
19 quarter of the year following the end of the experience period and the audited
20 results must be reported to the commissioner not later than the date for
21 filing the applicable Accident and Health Policy Experience Exhibit.

22 (D) A guarantee that affected Arkansas policyholders will
23 be issued a proportional refund (based on premium earned) of the amount
24 necessary to bring the actual aggregate loss ratio up to the loss ratio
25 standards referred to in subparagraph (A) above. If nationwide loss ratios
26 are used, then the total amount refunded in Arkansas will equal the dollar
27 amount necessary to achieve the loss ratio standards multiplied by the total
28 premium earned in Arkansas on the policy form and divided by the total premium
29 earned in all states on the policy form. The refund must be made to all
30 Arkansas policyholders who are insured under the applicable policy form as of
31 the last day of the experience period and whose refund would equal \$10.00 or
32 more. The refund will include statutory interest from the end of the
33 experience period until the date of payment. Payment must be made during the
34 third quarter of the year following the experience period for which a refund
35 is determined to be due.

1 (E) A guarantee that refunds of less than \$10.00 will be
2 aggregated by the insurer and paid to the Arkansas Insurance Department.

3 (F) As used herein, the term _loss ratio_ means the ratio
4 of incurred claims to earned premium by number of years of policy duration,
5 for all combined durations.

6 (G) As used herein, the term _experience period_ means, for
7 any given rate filing for which a loss ratio guarantee is made, the period
8 beginning on the first day of the calendar year during which the rates first
9 take effect and ending on the last day of the calendar year during which the
10 insurer earns \$1,000,000 in premium on the form in question in Arkansas or, if
11 the annual premium earned on the form in Arkansas is less than \$1,000,000,
12 nationally. Successive experience periods shall be similarly determined
13 beginning on the first day following the end of the preceding experience
14 period.

15 (H) An insurer whose rates on a policy form are approved
16 pursuant to a loss ratio guarantee shall provide affected policyholders with a
17 notice which advises that rates may be increased more than once a year. For
18 new policyholders with policies subject to the loss ratio guarantee, the
19 notice must be delivered no later than delivery of the policy. Nothing herein
20 shall be deemed to require an insurer to provide the notice required by this
21 paragraph on more than one occasion to any given policyholder while insured
22 under the guaranteed form."

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24 SECTION 2. All provisions of this act of a general and permanent nature
25 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code
26 Revision Commission shall incorporate the same in the Code.

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28 SECTION 3. If any provision of this act or the application thereof to
29 any person or circumstance is held invalid, such invalidity shall not affect
30 other provisions or applications of the act which can be given effect without
31 the invalid provision or application, and to this end the provisions of this
32 act are declared to be severable.

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34 SECTION 4. All laws and parts of laws in conflict with this act are
35 hereby repealed.

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